

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council passes Law 22-103, Office-to-Affordable-Housing Task Force Establishment Act of 2018
- D.C. Council passes Law 22-108, Senior Dental Services Program Act of 2018
- D.C. Council passes Law 22-111, Maternal Mortality Review Committee Establishment Act of 2018
- D.C. Council schedules a public hearing on Bill 22-738, Office of Special Capital Projects Establishment Act of 2018
- D.C. Board of Elections schedules a public hearing to consider the proposed initiative “Delegate Voting Rights Act of 2018”
- Department of Human Services announces funding availability for the Outreach Access and Recovery (SOAR) Advocacy project
- Department of Small and Local Business Development schedules a public hearing on the extension and expansion of the Golden Triangle Business Improvement District

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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

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MAYOR

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ADMINISTRATOR

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COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 22-99

"Injured Metropolitan Police Officer Relief Amendment Act of 2018"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 22-287 on first and second readings February 6, 2018, and March 6, 2018, respectively. Following the signature of the Mayor on April 2, 2018, pursuant to Section 404(e) of the Charter, the bill became Act 22-300 and was published in the April 13, 2018 edition of the D.C. Register (Vol. 65, page 3766). Act 22-300 was transmitted to Congress on April 23, 2018 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 22-300 is now D.C. Law 22-99, effective June 5, 2018.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

April	23, 24, 25, 26, 27, 30
May	1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 29, 30, 31
June	1, 4

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 22-100

"Child Neglect and Sex Trafficking Temporary Amendment Act of 2018"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 22-694 on first and second readings February 6, 2018, and March 6, 2018, respectively. Following the signature of the Mayor on April 2, 2018, pursuant to Section 404(e) of the Charter, the bill became Act 22-301 and was published in the April 13, 2018 edition of the D.C. Register (Vol. 65, page 3769). Act 22-301 was transmitted to Congress on April 23, 2018 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 22-301 is now D.C. Law 22-100, effective June 5, 2018.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

April	23, 24, 25, 26, 27, 30
May	1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 29, 30, 31
June	1, 4

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 22-101

"Pools Without Penalties Temporary Act of 2018"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 22-696 on first and second readings February 6, 2018, and March 6, 2018, respectively. Following the signature of the Mayor on April 4, 2018, pursuant to Section 404(e) of the Charter, the bill became Act 22-302 and was published in the April 13, 2018 edition of the D.C. Register (Vol. 65, page 3771). Act 22-302 was transmitted to Congress on April 23, 2018 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 22-302 is now D.C. Law 22-101, effective June 5, 2018.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

April	23, 24, 25, 26, 27, 30
May	1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 29, 30, 31
June	1, 4

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 22-102

"Deferred Compensation Program Enrollment Amendment Act of 2018"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 22-68 on first and second readings February 6, 2018, and March 6, 2018, respectively. Following the signature of the Mayor on April 4, 2018, pursuant to Section 404(e) of the Charter, the bill became Act 22-303 and was published in the April 13, 2018 edition of the D.C. Register (Vol. 65, page 3774). Act 22-303 was transmitted to Congress on April 23, 2018 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 22-303 is now D.C. Law 22-102, effective June 5, 2018.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

April	23, 24, 25, 26, 27, 30
May	1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 29, 30, 31
June	1, 4

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 22-103

"Office-to-Affordable-Housing Task Force Establishment Act of 2018"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 22-289 on first and second readings February 6, 2018, and March 6, 2018, respectively. Following the signature of the Mayor on April 4, 2018, pursuant to Section 404(e) of the Charter, the bill became Act 22-304 and was published in the April 13, 2018 edition of the D.C. Register (Vol. 65, page 3777). Act 22-304 was transmitted to Congress on April 23, 2018 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 22-304 is now D.C. Law 22-103, effective June 5, 2018.


Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

April	23, 24, 25, 26, 27, 30
May	1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 29, 30, 31
June	1, 4

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 22-104

"Community Residential Facilities Third-Party Notice of Utility Disconnection Requirement Act of 2018"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 22-353 on first and second readings February 6, 2018, and March 6, 2018, respectively. Following the signature of the Mayor on April 4, 2018, pursuant to Section 404(e) of the Charter, the bill became Act 22-305 and was published in the April 13, 2018 edition of the D.C. Register (Vol. 65, page 3780). Act 22-305 was transmitted to Congress on April 23, 2018 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 22-305 is now D.C. Law 22-104, effective June 5, 2018.


Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

April	23, 24, 25, 26, 27, 30
May	1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 29, 30, 31
June	1, 4

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 22-105

"Great Streets Technical Amendment Act of 2018"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 22-431 on first and second readings February 6, 2018, and March 6, 2018, respectively. Following the signature of the Mayor on April 4, 2018, pursuant to Section 404(e) of the Charter, the bill became Act 22-306 and was published in the April 13, 2018 edition of the D.C. Register (Vol. 65, page 3784). Act 22-306 was transmitted to Congress on April 23, 2018 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 22-306 is now D.C. Law 22-105, effective June 5, 2018.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

April	23, 24, 25, 26, 27, 30
May	1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 29, 30, 31
June	1, 4

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 22-106

"Medical Assistance Program Modernization Amendment Act of 2018"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 22-481 on first and second readings February 6, 2018, and March 6, 2018, respectively. Following the signature of the Mayor on April 4, 2018, pursuant to Section 404(e) of the Charter, the bill became Act 22-307 and was published in the April 13, 2018 edition of the D.C. Register (Vol. 65, page 3791). Act 22-307 was transmitted to Congress on April 23, 2018 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 22-307 is now D.C. Law 22-106, effective June 5, 2018.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

April	23, 24, 25, 26, 27, 30
May	1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 29, 30, 31
June	1, 4

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 22-107

"Dupont Circle Business Improvement District Amendment Act of 2018"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 22-559 on first and second readings February 6, 2018, and March 6, 2018, respectively. Following the signature of the Mayor on April 4, 2018, pursuant to Section 404(e) of the Charter, the bill became Act 22-308 and was published in the April 13, 2018 edition of the D.C. Register (Vol. 65, page 3793). Act 22-308 was transmitted to Congress on April 23, 2018 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 22-308 is now D.C. Law 22-107, effective June 5, 2018.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

April	23, 24, 25, 26, 27, 30
May	1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 29, 30, 31
June	1, 4

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 22-108

"Senior Dental Services Program Act of 2018"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 22-171 on first and second readings February 6, 2018, and March 6, 2018, respectively. Following the signature of the Mayor on April 6, 2018, pursuant to Section 404(e) of the Charter, the bill became Act 22-312 and was published in the April 13, 2018 edition of the D.C. Register (Vol. 65, page 3806). Act 22-312 was transmitted to Congress on April 23, 2018 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 22-312 is now D.C. Law 22-108, effective June 5, 2018.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

April	23, 24, 25, 26, 27, 30
May	1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 29, 30, 31
June	1, 4

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 22-109

"Interstate Medical Licensure Compact Enactment Act of 2018"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 22-177 on first and second readings February 6, 2018, and March 6, 2018, respectively. Following the signature of the Mayor on April 6, 2018, pursuant to Section 404(e) of the Charter, the bill became Act 22-313 and was published in the April 13, 2018 edition of the D.C. Register (Vol. 65, page 3809). Act 22-313 was transmitted to Congress on April 23, 2018 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 22-313 is now D.C. Law 22-109, effective June 5, 2018.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

April	23, 24, 25, 26, 27, 30
May	1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 29, 30, 31
June	1, 4

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 22-110

"Nurse Staffing Agency Amendment Act of 2018"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 22-424 on first and second readings February 6, 2018, and March 6, 2018, respectively. Following the signature of the Mayor on April 6, 2018, pursuant to Section 404(e) of the Charter, the bill became Act 22-314 and was published in the April 13, 2018 edition of the D.C. Register (Vol. 65, page 3826). Act 22-314 was transmitted to Congress on April 23, 2018 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 22-314 is now D.C. Law 22-110, effective June 5, 2018.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

April	23, 24, 25, 26, 27, 30
May	1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 29, 30, 31
June	1, 4

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 22-111

"Maternal Mortality Review Committee Establishment Act of 2018"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 22-524 on first and second readings February 6, 2018, and March 6, 2018, respectively, pursuant to Section 404(e) of the Charter, the bill became Act 22-315 and was published in the April 20, 2018 edition of the D.C. Register (Vol. 65, page 4278). Act 22-315 was transmitted to Congress on April 23, 2018 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 22-315 is now D.C. Law 22-111, effective June 5, 2018.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

April	23, 24, 25, 26, 27, 30
May	1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 29, 30, 31
June	1, 4

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 22-112

"Office of Administrative Hearings Jurisdiction Expansion Amendment Act of 2018"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 22-352 on first and second readings February 6, 2018, and March 6, 2018, respectively. Following the signature of the Mayor on April 19, 2018, pursuant to Section 404(e) of the Charter, the bill became Act 22-317 and was published in the April 27, 2018 edition of the D.C. Register (Vol. 65, page 4600). Act 22-317 was transmitted to Congress on April 27, 2018 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 22-317 is now D.C. Law 22-112, effective June 9, 2018.


Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

April	27, 30
May	1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 29, 30, 31
June	1, 4, 5, 6, 7, 8

ENROLLED ORIGINAL

A RESOLUTION

22-515

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 5, 2018

To declare the existence of an emergency with respect to the need to amend the Helicopter Landing Pad Public Nuisance Act of 1987 to permit the operation of a singular helicopter landing pad at a hospital that is certified as a Level One Trauma Center as of the date of the construction of the helicopter landing pad, to require the Mayor to conduct an analysis of newly constructed helicopter landing pads used for more than 175 round-trip flights in a calendar year and to take further action as appropriate, to require the Mayor to determine whether to curtail helicopter flights between the hours of 11:00 p.m. and 6:00 a.m. from newly constructed helicopter landing pads at hospitals that are certified as Level One Trauma Centers, and to grant the Mayor rulemaking authority.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Helicopter Landing Pad Emergency Declaration Resolution of 2018”.

Sec. 2. (a) There exists an immediate need to amend the Helicopter Landing Pad Public Nuisance Act of 1987, effective October 9, 1987 (D.C. Law 7-40; D.C. Official Code § 9-1211.01), to allow a hospital that is certified as a Level One Trauma Center to commence construction of a helicopter landing pad.

(b) Under current law, it is considered a public nuisance to operate a helicopter landing pad that was not in operation prior to July 14, 1987 in any area zoned residential. Consequently, George Washington University Hospital (“GW Hospital”), which is certified as a Level One Trauma Center and a Comprehensive Stroke Center, is prohibited from operating a helicopter landing pad.

(c) MedStar Washington Hospital Center is the only other hospital in the District that is certified as a Level One Trauma Center and a Comprehensive Stroke Center. Further, MedStar Washington Hospital Center has a helicopter landing pad.

(d) Currently, a medivac helicopter that transfers a patient to GW Hospital must land at the South Capitol Street Heliport (“Heliport”), which is located by Nationals Park. From there an ambulance is used to transport the patient to GW Hospital. The Heliport is over four and a half miles from GW Hospital. Depending on the time of day and the traffic, the time it takes an ambulance to transport a patient can be substantial.

ENROLLED ORIGINAL

(e) In response to the need to ensure that District residents have greater access to life-saving care and to help the District be better prepared for mass casualty events, the Council has passed on first reading the Helicopter Landing Pad Amendment Act of 2018, passed on 1st reading on May 1, 2018 (Engrossed version of Bill 22-579) (“Permanent Act”). The Permanent Act is scheduled to have its second and final reading before the Council on June 5, 2018.

(f) Passage of emergency legislation similar to the Permanent Act is necessary because, even though GW Hospital has been given initial approval by the Federal Aviation Administration (FAA) to operate a helicopter landing pad, the helicopter landing pad must be fully constructed and ready for inspection by the FAA by June 13, 2019 to receive final approval.

(g) As time is of the essence, and the Permanent Act most likely will not become law until the fall, emergency legislation will allow the construction of the helicopter landing pad at GW Hospital to commence as soon as possible.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Helicopter Landing Pad Emergency Amendment Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-516

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 5, 2018

To declare the existence of an emergency with respect to the need to ensure that students who were deemed ineligible for promotion to the next grade or graduation or who received a reduced grade for a course due solely to unexcused absences accrued between August 8, 2017, and April 6, 2018, will be promoted to the next grade or graduate or not receive a reduced grade for the 2017-2018 school year.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "School Promotion and Graduation Fairness Emergency Declaration Resolution of 2018".

Sec. 2. (a) There exists an immediate need to ensure academically qualified students are promoted to the next grade or are able to graduate by the end of the 2017-2018 school year.

(b) In the 2015-2016 school year, District of Columbia Public Schools ("DCPS") announced a new Secondary School Grading Policy that linked attendance in a course to a student's final grade.

(c) In November 2017, local and national media outlets published several stories alleging that DCPS had improperly allowed many students to graduate.

(d) In response to these reports, Mayor Muriel Bowser directed the Office of the State Superintendent of Education ("OSSE") to analyze student-level attendance and graduation outcomes at all public high schools.

(e) On January 16, 2018, OSSE released a report that found that in the 2014-2015 through the 2016-2017 school years, seniors graduated despite failing to meet attendance requirements.

(f) OSSE also contracted with performance-improvement firm Alvarez & Marsal to conduct an audit and investigation of DCPS high schools' graduation policy adherence during the 2016-2017 school year.

(g) On January 26, 2018, Alvarez & Marsal released the "Final Report: District of Columbia Public Schools Audit and Investigation" ("Report"), which found many inconsistencies with DCPS' policies and processes, including the misuse of credit recovery, failure to follow attendance-related grading policies, and a lack of training, support, and oversight from DCPS across all high schools.

(h) The Report also noted that the District of Columbia Municipal Regulations do not clearly outline the standards for grade reduction and failure due to absences or the operation of credit recovery programs.

ENROLLED ORIGINAL

(i) Additionally, the Report noted that high school administrators and staff misinterpreted a clause in the Washington Teacher's Union Collective Bargaining Agreement to mean that teachers have complete autonomy over how they grade students and that the attendance-related grading policy was an optional guideline rather than a mandate.

(j) On February 28, 2018, DCPS sent a response to Councilmember David Grosso's February 12, 2018, letter stating that all scheduled in-person training sessions to review attendance and grading policies with high school teams concluded on March 13, 2018, in the middle of the third term of the 2017-2018 school year, which ended on April 6, 2018.

(k) From the beginning of the 2017-2018 school year through March 13, 2018, students relied on teachers' understanding of the discretionary application of DCPS attendance and grading policies.

(l) The earliest due date for final grades for the 2017-2018 school year was May 31, 2018.

(m) Therefore, Council approval is necessary to ensure that students who were penalized by being deemed ineligible for promotion to the next grade or graduation or who received a reduced grade for a course due solely to unexcused absences accrued between August 8, 2017, and April 6, 2018, will be promoted to the next grade or graduate or not receive a reduced grade for the 2017-2018 school year.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the School Promotion and Graduation Fairness Emergency Amendment Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

22-518

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 5, 2018

To declare the existence of an emergency with respect to the need to amend the Neighborhood Engagement Achieves Results Amendment Act of 2016 to require the Mayor to encourage the use of donations to leverage local funds appropriated to fund community violence interruption and prevention and expanded mental health responses to incidents of violence.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Community Violence Intervention Fund Emergency Declaration Resolution of 2018”.

Sec. 2. (a) There exists an immediate need to ensure the safety of all District of Columbia residents, especially those who live in high crime areas. Violence intervention prevention efforts combat violence before it occurs.

(b) Over the past several months and especially in the past few days, there has been a surge in violent crime across the District. This past weekend there were 4 people left dead following 10 shootings. Compared to 2017, the number of homicides (year to date) in Ward 8 has increased by 72% with 18 homicides having occurred as of this time last year compared to 31 homicides having occurred so far this year. With the summer approaching, there is an immediate need to utilize resources to prevent violence in the District now before these statistics get worse.

(c) Violence interrupters and outreach workers seek to prevent shootings by identifying and mediating potentially lethal conflicts in the community and following up to ensure that the conflicts do not reignite. Trained, culturally appropriate outreach workers work with the highest-risk individuals to make them less likely to commit violence by meeting them and talking to them about the costs of using violence and helping them to obtain social services. Violence prevention workers also engage community members to get involved in violence prevention efforts, making sure they have a stake in ensuring safety in their community as well.

(d) In order to reduce the number of violent crimes in the District, we must continue to invest in efforts that will stop crime before it happens while also encouraging suspected criminals to pursue alternative lifestyles.

ENROLLED ORIGINAL

(e) Council approval is necessary to ensure that violence prevention is a priority and that work can be done to combat the increase in violence as soon as possible.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Community Violence Intervention Fund Emergency Amendment Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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

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

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

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

- | | |
|----------|--|
| PR22-899 | 1735-1737 10th Street, N.W., Disposition Approval Resolution of 2018

Intro. 6-14-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Neighborhood Revitalization |
| <hr/> | |
| PR22-900 | 700 Brandywine Street, S.E., Disposition Approval Resolution of 2018

Intro. 6-14-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Neighborhood Revitalization |
| <hr/> | |
| PR22-901 | 1620-1626 Galen Street, S.E., Disposition Approval Resolution of 2018

Intro. 6-14-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Neighborhood Revitalization |
| <hr/> | |

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

NOTICE OF PUBLIC HEARING ON

B22-662, the DC Water Consumer Protection Amendment Act of 2018

Thursday, July 12, 2018 at 10:00 AM
in Room 412 of the John A. Wilson Building
1350 Pennsylvania Avenue, NW, Washington, DC 20004

On Thursday, July 12, 2018, Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment, will hold a public hearing on B22-662, the DC Water Consumer Protection Amendment Act of 2018. The hearing will begin at 10:00 AM in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

B22-662 would require DC Water to provide the Council and the Mayor with an annual report detailing customer inquiries and complaints and the outcome of those matters. The bill would also give the Office of the People's Counsel the authority to represent residents at hearings and legal proceedings regarding DC Water matters.

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

If you are unable to testify in person, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Benjamin at the following address: Committee on Transportation and the Environment, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 108, Washington, D.C. 20004. Statements may also be e-mailed to abenjamin@dccouncil.us or faxed to (202) 724-8118. The record will close at the end of the business day on Thursday, July 26, 2018.

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

NOTICE OF PUBLIC HEARING ON

B22-738, the Office of Special Capital Projects Establishment Act of 2018

Monday, July 9, 2018 at 11:00 AM
in Room 500 of the John A. Wilson Building
1350 Pennsylvania Avenue, NW, Washington, DC 20004

On Monday, July 9, 2018, Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment, will hold a public hearing on B22-738, the Office of Special Capital Projects Establishment Act of 2018. The hearing will begin at 11:00 AM in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

B22-738 would establish the Office of Special Capital Projects as a subordinate agency within the executive branch responsible for managing the capital improvement and construction programs for public schools, District-owned short-term family housing, parks, public recreations centers, and any other projects designated by the Mayor.

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

If you are unable to testify in person, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Benjamin at the following address: Committee on Transportation and the Environment, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 108, Washington, D.C. 20004. Statements may also be e-mailed to abenjamin@dccouncil.us or faxed to (202) 724-8118. The record will close at the end of the business day on Monday, July 23, 2018.

**Council of the District of Columbia
COMMITTEE ON HUMAN SERVICES
COMMITTEE ON TRANSPORTATION AND THE ENVIRONMENT
NOTICE OF PUBLIC OVERSIGHT ROUNDTABLE
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004**

**COUNCILMEMBER BRIANNE K. NADEAU, CHAIRPERSON
COMMITTEE ON HUMAN SERVICES**

AND

**COUNCILMEMBER MARY M. CHEH, CHAIRPERSON
COMMITTEE ON TRANSPORTATION AND THE ENVIRONMENT**

ANNOUNCE A PUBLIC OVERSIGHT ROUNDTABLE ON

SHORT-TERM FAMILY HOUSING CONSTRUCTION PROGRESS

**Monday, June 25, 2018, 12:00 p.m.
Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

On Monday, June 25, 2018, Councilmember Brianne K. Nadeau, Chairperson of the Committee on Human Services and Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment, will hold a public oversight roundtable on short-term family housing construction progress. The roundtable will take place in Room 412, of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, at 12:00 p.m.

In February 2016, the Mayor announced a plan to close DC General Family Shelter and replace it with smaller family programs in neighborhoods in all eight wards. This replacement plan is underway and three of the new short-term family housing locations are slated to open later this year in Wards 4, 7, and 8. Even with this, it became apparent there may be potential delays and mismanagement in construction for Wards 7 and 8. This roundtable will provide an opportunity to further explore certain issues in these two wards as well as examine overall progress in other wards where the sites are in various stages of planning and construction.

The Committees invite the public to testify or to submit written testimony. Anyone wishing to testify at the hearing should contact the Committee on Human Services via email at humanservices@dccouncil.us or at (202) 724-8170, and provide their name, telephone number, organizational affiliation, and title (if any), by **close of business Friday, June 22, 2018.**

Representatives of organizations will be allowed a maximum of five minutes for oral testimony, and individuals will be allowed a maximum of three minutes. Witnesses are encouraged to bring **twenty single-sided copies** of their written testimony.

For witnesses who are unable to testify, written statements will be made part of the official record. Copies of written statements should be submitted either to the Committee on Human Services at humanservices@dccouncil.us or to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, D.C. 20004. **The record will close at the end of the business day on Friday, July 13, 2018.**

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

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

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

ANNOUNCES A PUBLIC ROUNDTABLE ON:

PR 22-839, “Commission on the Arts and Humanities Quanice G. Floyd Confirmation Resolution of 2018”

PR 22-877, “Fiscal Year 2019 Income Tax Secured Revenue Bond, General Obligation Bond and Income Tax Secured Bond Anticipation Note Issuance Authorization Resolution of 2018”

PR 22-894, “Real Property Tax Appeals Commission Mr. Roderick Davis Confirmation Resolution of 2018”

Monday, June 25, 2018

11:30 a.m.

**Room 120 - John A. Wilson Building
1350 Pennsylvania Avenue, NW, Washington, D.C. 20004**

Councilmember Jack Evans, Chairman of the Committee on Finance and Revenue, announces a public roundtable to be held on Monday, June 25, 2018 at 11:30 a.m. in Room 120, of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

PR 22-839, the “Commission on the Arts and Humanities Quanice G. Floyd Confirmation Resolution of 2018” would appoint Ms. Quanice Floyd as a member of the Commission on the Arts and Humanities.

PR 22-877, “Fiscal Year 2019 Income Tax Secured Revenue Bond, General Obligation Bond and Income Tax Secured Bond Anticipation Note Issuance Authorization Resolution of 2018” would approve, the borrowing of funds by the District through the issuance and sale of income tax secured revenue bonds and notes and general bonds and notes and general obligation bonds and notes in an aggregate principal amount not to exceed \$1.3 million and to approve the execution and delivery of documents connected to the issuance, sale and delivery of the bonds or notes.

PR22-894, the “Real Property Tax Appeals Commission Mr. Roderic Davis Confirmation Resolution of 2018” would appoint Mr. Roderick Davis as a part-time Commissioner of the Real Property Tax Appeals Commission, for a term to end April 30, 2022.

The Committee invites the public to testify at the roundtable. Those who wish to testify should contact Sarina Loy, Committee Assistant at (202) 724-8058 or sloy@dccouncil.us, and provide your name, organizational affiliation (if any), and title with the organization by 11:30 a.m. on Friday, June 22, 2018. Witnesses should bring 15 copies of their written testimony to the roundtable. The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to sloy@dccouncil.us or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 114, Washington D.C. 20004.

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

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

on

**PR 22-878, Not-For-Profit Hospital Corporation Board of Directors Malika Fair
Reappointment Resolution of 2018**

on

**Monday, July 2, 2018
9:00 a.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces the scheduling of a public roundtable of the Committee of Whole on PR 22-878, the “Not-For-Profit Hospital Corporation Board of Directors Malika Fair Reappointment Resolution of 2018.” The roundtable will be held Monday, July 2, 2018 at 9:00 a.m. in Hearing Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW.

The stated purpose of PR 22-878 is to reappoint Dr. Malika Fair to the Not-For-Profit Hospital Corporation Board of Directors for a 3-year term. The Not-For-Profit Hospital Corporation operates the United Medical Center hospital in Ward 8. The mission of the Not-For-Profit Hospital Corporation is dedicated to the health and well-being of individuals and communities entrusted in its care. The purpose of this roundtable is to receive testimony from public witnesses as to the fitness of this nominee for the Board.

Those who wish to testify are asked to email the Committee of the Whole at cow@dccouncil.us, or call Peter Johnson, Special Counsel at (202) 724-8083, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business Thursday, **June 28, 2018**. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on June 28, 2018 the testimony will be distributed to Councilmembers before the roundtable. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses. Copies of the legislation can be obtained through the Legislative Services Division of the Secretary of the Council’s office or on <http://lims.dccouncil.us>. Roundtable materials, including a draft witness list, can be accessed 24 hours in advance of the roundtable at <http://www.chairmanmendelson.com/circulation>.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on July 9, 2018.

COUNCIL OF THE DISTRICT OF COLUMBIA
Notice of Grant Budget Modifications

Pursuant to the Consolidated Appropriations Act of 2017, approved May 5, 2017 (P.L. 115-31), the Council of the District of Columbia gives notice that the Mayor has transmitted the following Grant Budget Modification (GBM).

A GBM 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 GBM 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 the GBMs are available in the Legislative Services Division, Room 10.
Telephone: 724-8050

GBM 22-98: FY 2018 Grant Budget Modifications of June 4, 2018

RECEIVED: 14 day review begins June 15, 2018

GBM 22-99: FY 2018 Grant Budget Modifications of June 7, 2018

RECEIVED: 14 day review begins June 15, 2018

GBM 22-100: FY 2018 Grant Budget Modifications of June 7, 2018

RECEIVED: 14 day review begins June 15, 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

Reprog. 22-131 Request to reprogram \$7,971,000 of Fiscal Year 2018 Special Purpose Revenue funds budget authority within the D.C. Public Charter School Board (DCPCSB) was filed in the Office of the Secretary on June 14, 2018. This reprogramming is needed to support expenditures that are now being recorded in the District's System of Accounting and Reporting (SOAR).

RECEIVED: 14 day review begins June 15, 2018

Reprog. 22-132 Request to reprogram \$1,889,245 of Fiscal Year 2018 Local funds budget authority within the Department of Housing and Community Development (DHCD) was filed in the Office of the Secretary on June 14, 2018. This reprogramming is needed to align program budgets with forecasted expenditures in adherence to the agency's cost allocation plan.

RECEIVED: 14 day review begins June 15, 2018

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: June 22, 2018
Protest Petition Deadline: August 6, 2018
Roll Call Hearing Date: August 20, 2018
Protest Hearing Date: October 17, 2018

License No.: ABRA-110083
Licensee: Hemen, LLC
Trade Name: Addis Paris Cafe
License Class: Retailer's Class "C" Restaurant
Address: 3103 Mt. Pleasant Street, N.W.
Contact: Hemen Solomon: (202) 588-9061

WARD 1

ANC 1D

SMD 1D04

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 August 20, 2018 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The **Protest Hearing date** is scheduled on **October 17, 2018 at 1:30 p.m.**

NATURE OF OPERATION

New Restaurant serving Ethiopian cuisine. 18 seats inside. Summer Garden with 10 seats. Total Occupancy Load of 28.

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

Sunday 10am – 10pm, Monday through Wednesday 9:30am – 10pm, Thursday 9:30am – 11pm, Friday and Saturday 9:30am – 12:30am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: June 22, 2018
Protest Petition Deadline: August 6, 2018
Roll Call Hearing Date: August 20, 2018

License No.: ABRA-087422
Licensee: Dangerously Delicious DC, LLC
Trade Name: Dangerously Delicious DC
License Class: Retailer’s Class “C” Restaurant
Address: 1339 H Street, N.E.
Contact: Cheryl Webb: (202) 277-7461

WARD 6 ANC 6A SMD 6A06

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 August 20, 2018 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petition and/or request to appear before the Board must be filed on or before the Petition Date.

NATURE OF SUBSTANTIAL CHANGE

Applicant requests an expansion to increase the Total Occupancy Load of the establishment from 32 to 155. The first floor of the establishment will have 30 seats, and the second floor will have 57 seats. Summer Garden seating will increase from 20 to 45.

HOURS OF OPERATION INSIDE PREMISES

Sunday – Thursday 8am – 3am, Friday – Saturday 8am – 4am

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION INSIDE PREMISES

Sunday 10am – 2am, Monday – Thursday 8am – 2am, Friday – Saturday 8am – 3am

HOURS OF LIVE ENTERTAINMENT INSIDE PREMISES

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

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION FOR THE OUTDOOR SUMMER GARDEN

Sunday – Thursday 8am – 11pm, Friday – Saturday 8am – 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: June 22, 2018
 Protest Petition Deadline: August 6, 2018
 Roll Call Hearing Date: August 20, 2018
 Protest Hearing Date: October 17, 2018

License No.: ABRA-110140
 Licensee: Wharf Rapp, LLC
 Trade Name: Rappahannock Oyster Bar
 License Class: Retailer’s Class “C” Tavern
 Address: 1150 Maine Avenue, S.W.
 Contact: Risa Hirao, Esq.: (202) 544-2200

WARD 6

ANC 6D

SMD 6D04

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on August 20, 2018 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The **Protest Hearing date** is scheduled on **October 17, 2018 at 4:30 p.m.**

NATURE OF OPERATION

A new Tavern and upscale oyster bar. Seating Capacity of 95 inside. Summer Garden with 104 seats. Total Occupancy Load of 199.

HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION INSIDE PREMISES AND FOR THE OUTDOOR SUMMER GARDEN

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: June 22, 2018
Protest Petition Deadline: August 6, 2018
Roll Call Hearing Date: August 20, 2018
Protest Hearing Date: October 17, 2018

License No.: ABRA-110237
Licensee: Da Noi Hospitality, LLC
Trade Name: TBD
License Class: Retailer's Class "C" Restaurant
Address: 5014 Connecticut Avenue, N.W.
Contact: Sidon Yohannes: (202) 686-7600

WARD 3

ANC 3F

SMD 3F06

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 August 20, 2018 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The **Protest Hearing date** is scheduled on **October 17, 2018 at 1:30pm**.

NATURE OF OPERATION

New Class "C" Restaurant serving Italian cuisine. Includes a Sidewalk Café with 40 seats and a Summer Garden with 50 seats. Total Occupancy Load is 155.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE PREMISES AND FOR SUMMER GARDEN AND SIDEWALK CAFE

Sunday through Thursday 11am – 12am, Thursday and Friday 11am – 1am

HISTORIC PRESERVATION REVIEW BOARD**NOTICE OF PUBLIC HEARING**

The D.C. Historic Preservation Review Board will hold a public hearing to consider an application to designate the following property a historic landmark in the D.C. Inventory of Historic Sites. The Board will also consider the nomination of the property to the National Register of Historic Places:

**Case No. 16-07: Washington Animal Rescue League Animal Shelter
71 O Street NW
Square 616, Lot 110
Affected Advisory Neighborhood Commission: 5E**

The hearing will take place at **9:00 a.m. on Thursday, July 26, 2018**, at 441 Fourth Street, NW (One Judiciary Square), in Room 220 South. It will be conducted in accordance with the Review Board's Rules of Procedure (10C DCMR 2). A copy of the rules can be obtained from the Historic Preservation Office at 1100 4th Street, SW, Suite E650, Washington, DC 20024, or by phone at (202) 442-8800, and they are included in the preservation regulations which can be found on the Historic Preservation Office website.

The Board's hearing is open to all interested parties or persons. Public and governmental agencies, Advisory Neighborhood Commissions, property owners, and interested organizations or individuals are invited to testify before the Board. Written testimony may also be submitted prior to the hearing. All submissions should be sent to the address above.

For each property, a copy of the historic designation application is currently on file and available for inspection by the public at the Historic Preservation Office. A copy of the staff report and recommendation will be available at the office five days prior to the hearing. The office also provides information on the D.C. Inventory of Historic Sites, the National Register of Historic Places, and Federal tax provisions affecting historic property.

If the Historic Preservation Review Board designates a property, it will be included in the D.C. Inventory of Historic Sites, and will be protected by the D.C. Historic Landmark and Historic District Protection Act of 1978. The Review Board will simultaneously consider the nomination of the property to the National Register of Historic Places. The National Register is the Federal government's official list of prehistoric and historic properties worthy of preservation. Listing in the National Register provides recognition and assists in preserving our nation's heritage. Listing provides recognition of the historic importance of properties and assures review of Federal undertakings that might affect the character of such properties. If a property is listed in the Register, certain Federal rehabilitation tax credits for rehabilitation and other provisions may apply. Public visitation rights are not required of owners. The results of listing in the National Register are as follows:

Consideration in Planning for Federal, Federally Licensed, and Federally Assisted Projects: Section 106 of the National Historic Preservation Act of 1966 requires that Federal agencies allow the Advisory Council on Historic Preservation an opportunity to comment on all projects

affecting historic properties listed in the National Register. For further information, please refer to 36 CFR 800.

Eligibility for Federal Tax Provisions: If a property is listed in the National Register, certain Federal tax provisions may apply. The Tax Reform Act of 1986 (which revised the historic preservation tax incentives authorized by Congress in the Tax Reform Act of 1976, the Revenue Act of 1978, the Tax Treatment Extension Act of 1980, the Economic Recovery Tax Act of 1981, and the Tax Reform Act of 1984) provides, as of January 1, 1987, for a 20% investment tax credit with a full adjustment to basis for rehabilitating historic commercial, industrial, and rental residential buildings. The former 15% and 20% Investment Tax Credits (ITCs) for rehabilitation of older commercial buildings are combined into a single 10% ITC for commercial and industrial buildings built before 1936. The Tax Treatment Extension Act of 1980 provides Federal tax deductions for charitable contributions for conservation purposes of partial interests in historically important land areas or structures. Whether these provisions are advantageous to a property owner is dependent upon the particular circumstances of the property and the owner. Because the tax aspects outlined above are complex, individuals should consult legal counsel or the appropriate local Internal Revenue Service office for assistance in determining the tax consequences of the above provisions. For further information on certification requirements, please refer to 36 CFR 67.

Qualification for Federal Grants for Historic Preservation When Funds Are Available: The National Historic Preservation Act of 1966, as amended, authorizes the Secretary of the Interior to grant matching funds to the States (and the District of Columbia) for, among other things, the preservation and protection of properties listed in the National Register.

Owners of private properties nominated to the National Register have an opportunity to concur with or object to listing in accord with the National Historic Preservation Act and 36 CFR 60. Any owner or partial owner of private property who chooses to object to listing must submit to the State Historic Preservation Officer a notarized statement certifying that the party is the sole or partial owner of the private property, and objects to the listing. Each owner or partial owner of private property has one vote regardless of the portion of the property that the party owns. If a majority of private property owners object, a property will not be listed. However, the State Historic Preservation Officer shall submit the nomination to the Keeper of the National Register of Historic Places for a determination of eligibility for listing in the National Register. If the property is then determined eligible for listing, although not formally listed, Federal agencies will be required to allow the Advisory Council on Historic Preservation an opportunity to comment before the agency may fund, license, or assist a project which will affect the property. If an owner chooses to object to the listing of the property, the notarized objection must be submitted to the above address by the date of the Review Board meeting.

For further information, contact Tim Dennee, Landmarks Coordinator, at 202-442-8847.

DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD**NOTICE OF PUBLIC HEARING ON FACILITY AND VOTE ON FULL CHARTER APPROVAL****Statesmen College Preparatory Academy for Boys PCS**

ACTION: Open for Public Comment

PUBLIC COMMENT ACCEPTED UNTIL: **June 29, 2018**

SUMMARY: The District of Columbia Public Charter School Board (DC PCSB) announces an opportunity for the public to submit comment on a request by Statesmen College Preparatory Academy for Boys Public Charter School (Statesmen PCS), formerly North Star College Preparatory Academy for Boys PCS¹, to co-locate its facility with Rocketship Legacy Prep PCS at 4250 Massachusetts Ave SE, Washington DC, 20019. The public hearing on the proposed facility is scheduled for June 25, 2018, and the vote for full charter approval, which includes the facility, is scheduled for June 29, 2018.

Statesmen PCS received conditional approval to operate a public charter school on May 22, 2017. Its mission is to “create a boy-friendly, pedagogy-informed academic environment within which young men are equipped with the academic skills, social competencies, and personal development necessary to navigate life challenges, attend and complete the college of their choice, and return to become the premier agents of social change within and for the communities they serve.” Pending full charter approval, the school will open in school year 2018-19 and serve grade 4, adding a grade each year until it serves grades 4-8.

DATES:

- Comments must be submitted on or before Friday, June 29 at 12 p.m.
- The public hearing on facility is scheduled for Monday, June 25 at 6:30 p.m. at IDEA PCS at 1027 45th St. NE, Washington, DC 20019.
- The vote for full charter approval is scheduled for a special meeting on Friday, June 29, 2018 at 4:00 p.m.

ADDRESSES: You may submit comments, identified by “Statesmen PCS – Public Hearing on Facility,” by any of the following methods:

- Submit a written comment via:
 - E-mail* – public.comment@dcpcsb.org
 - Postal mail* – Attn: Public Comment, DC Public Charter School Board, 3333 14th ST. NW., Suite 210, Washington, DC 20010
 - Hand Delivery/Courier* – Same as postal address above
- Sign up to testify in-person at the public hearing by emailing a request to public.comment@dcpcsb.org no later than 4 pm on Thursday, June 14.

*Please select only one of the actions listed above.

¹ The school applied as North Star College Preparatory for Boys but has amended its name with the DC Department of Consumer and Regulatory Affairs to Statesmen College Preparatory for Boys PCS. If the Board votes to approve the school’s charter, it will be under this new name.

FOR FURTHER INFORMATION CONTACT: Hannah Cousino, Specialist, Equity and Fidelity Team at (202) 328-2673 or hcousino@dcpcsb.org.

DC PCSB reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission that it may deem to be inappropriate for publication, such as obscene language.

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

NOTICE OF PUBLIC HEARING AND PRELIMINARY FINDING
ON
EXTENSION AND EXPANSION FOR
GOLDEN TRIANGLE BUSINESS IMPROVEMENT DISTRICT

Notice is hereby given that, pursuant to section 6 of the Business Improvement Districts Act of 1996 ("Act"), D.C. Official Code § 2-1215.18, the Department of Small and Local Business Development (DSLBD) will hold a public hearing on the extension and expansion of the Golden Triangle Business Improvement District.

The public hearing will be held at 1:00 pm on Monday, July 16, 2018 in Suite 805S, 441 4th Street NW, Washington, D.C.

DSLBD Director Kristi Whitfield has informed the Golden Triangle Business Improvement District that the filing criteria set forth in D.C. Official Code § 2-1215.18 have been met and their application is otherwise in conformity with the Act.

The BID application is available for review by the public online at <https://dslbd.dc.gov/service/business-improvement-districts-bids>.

DSLBD invites the public to testify at the public hearing. Witnesses should bring a copy of their written testimony to the hearing. Additional written statements may be submitted by e-mail to Jennifer.prats@dc.gov or mailed to: Jennifer Prats, DSLBD, 441 4th Street NW, Suite 850N, Washington, DC 20001.

The public hearing record will close ten business days following the conclusion of the hearing, or Monday, July 30, 2018 before 5:00 p.m. Persons submitting written statements for the record should observe this deadline.

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

TIME AND PLACE: **Thursday, September 20, 2018, @ 6:30 p.m.**
Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220-South
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 04-33I (Office of Planning – Text Amendment to Subtitle C, Chapter 10, Inclusionary Zoning (IZ), and Corresponding Text Amendments to Subtitles D, E, F, G, H, and K)

THIS CASE IS OF INTEREST TO ALL ANCs

On November 3, 2017, the Office of Zoning received a report that served as a petition from the District of Columbia Office of Planning (OP) proposing text amendments to the Zoning Regulations of 2016 (11 DCMR) to Subtitle C, Chapter 10 Inclusionary Zoning, and the corresponding sections for Inclusionary Zoning in Subtitle D – Residential House (R) Zones, Subtitle E – Residential Flats (RF) Zones, Subtitle F – Residential Apartment (RA) Zones, Subtitle G – Mixed Use Zones (MU), Subtitle H - Neighborhood Mixed Use (NC) Zones, and Subtitle K – Special Purpose Zones. The proposed amendments correct errors and omissions, make technical changes, reorganize certain sections, and provide clarifications to language.

On November 13, 2017, the Commission voted to set down the petition for a public hearing. The OP set down report served as a pre-hearing filing.

Summary of Proposed Text:

The proposed amendment to Subtitle C § 1001.1 would clarify that the bonus density is the amount utilized by the project and not the theoretical twenty percent (20%) permitted by § 1002.3

The proposed amendments to Subtitle C §§ 1001.2 and 1001.5 would replace the list of individual zone names in (a) with a general reference to the zone chapters within individual subtitles and clarifies that the ten (10)-unit trigger can apply to multiple contiguous lots if they are under common ownership one (1) year prior to the first building permit in (c). In those zones where IZ is not applicable, a statement to that effect is specifically proposed.

The proposed amendment to Subtitle C § 1001.3 would maintain consistency with § 1001.2(c) and ensure that the IZ requirements apply to one (1) or more contiguous lots if the permit for the tenth unit was applied for within three (3) years of the first building permit application.

The proposed amendment to Subtitle C § 1001.4 would clarify that IZ applies to an existing building if an addition to that building uses bonus density and clarifies that IZ requirements do

not apply to the existing building if the total floor area of a ten (10)-unit expansion is less than fifty percent (50%) of the floor area of the existing building and bonus density is not utilized.

The proposed amendments to Subtitle C § 1001.6 would reinsert (a)(5) which was part of the original 1958 Regulations and adds the university and embassy housing to the section from § 1001.5.

The proposed amendments to Subtitle C §§ 1002.2 and 1002.4 would delete “IZ Dimensional Modifications for Lower Density Residential Zones” and “Modifications to Height and Lot Occupancy for Bonus Density” tables and the proposed amendments to subtitles D, E, F, G, H, and K would include the information from those tables into the respective sections of each zone.

The proposed amendments to Subtitle C §§ 1003.1 and 1003.2 would clarify that the “the greater of” IZ requirements based on bonus density is calculated based on the bonus density achieved and not the full twenty percent (20%) potential bonus. In addition, it would clarify the application of the eight percent (8%)/fifty percent (50%) of bonus density requirement to buildings located in zones that permit heights greater than fifty feet (50 ft.) but using stick frame construction.

The proposed amendment to Subtitle C § 1003.4 represents new language that would convert the “the greater” of calculations of Subtitle C §§ 1003.1 and 1003.2 from gross square feet to net square feet that.

The proposed amendment to Subtitle C § 1005.1 would clarify the proportionality between unit types of IZ units and market rate units and reduce the impact of the proportionality rule on small projects and those without two-bedroom units. The proposed amendment to Subtitle C § 1005.7 would clarify that IZ units shall be located in cellar space.

The proposed amendment to Subtitle C § 1006. would correct the inadvertent deletion of text added by Z.C. Case No. 14-13A, but removed by Z.C. Case No. 04-33G and replace the reference to "low income" with language consistent with the rest of the chapter.

The proposed amendments to Subtitle K, Chapter 7, Capital Gateway Zones, corrects the reference to IZ requirements and bonuses in CG-1 and CG-2.

The proposed amendments to Subtitle K, Chapter 7, Reed-Cooke Zones, would bring the chapter into conformity with the amendments made as part of Z.C. Case No. 04-33G. which changed the terminology from “low and moderate income” to “Median Family Income (MFI)” targets based on the tenure of the building.

The following amendments to Title 11 DCMR are proposed (additions are shown in **bold** underlined text and deleted text is shown in ~~strikethrough~~ text):

1. Changes to Subtitle B, Chapter 1

Amend the text in Subtitle B § 100.2, Definitions, as follows:

~~Development, Inclusionary: A residential development subject to the provisions of Subtitle C, Chapter 10, Inclusionary Zoning~~

Inclusionary Development: A residential development subject to the provisions of Subtitle C, Chapter 10, Inclusionary Zoning, or by an Order of the Zoning Commission.

Inclusionary Unit: A dwelling unit set aside for sale or rental to a targeted household required by Subtitle C, Chapter 10 or **by an Order of the Zoning Commission.**

2. *Changes to Subtitle C, Chapter 10 Inclusionary Zoning*

Amend the text in Subtitle C § 1001, Applicability, as follows:

- 1001.1 Achievable bonus density is the amount of the permitted bonus density that ~~potentially may be~~ **is** utilized within a particular inclusionary development provided in Subtitle C § 1002.
- 1001.2 Except as provided in Subtitle C § 1001.5, the requirements and modifications of this chapter shall apply to developments ~~meeting~~ **in zones in which the requirements of this chapter are identified as applicable; provided the development meets one or more of** the following criteria:
- (a) ~~Are mapped in the R-2, R-3, R-10, R-13, R-17, R-20, RA-1 through RA-4, RA-6, RA-7, RA-8, or RA-9 zone; any RF, ARTS, CG, RC, USN, STE, SEFC, or HE zone; the NC-1 through NC-5 or NC-7 through NC-13 zone; the MU-1 through MU-10 or MU-12 through MU-26, MU-28, MU-29 or MU-30 zone; or the D-2 or D-4 zone.~~
 - (b) Is proposing new gross floor area that would result in ten (10) or more dwelling units;
 - (c) Will have ten (10) or more new dwelling units constructed concurrently or in phases, on **one (1) or more** contiguous lots or lots divided by an alley if such lots were under common ownership, control, or affiliation within one (1) year prior to the application for the first building permit;
 - (d) (c) Consists of a residential building, other than a single dwelling unit or flat, that has penthouse habitable space pursuant to Subtitle C § 1500.11.; or
 - (e) (d) Any semi-detached, attached, flat or multiple dwellings development not described in Subtitle C § ~~1001.2(b) through 1001.2(d)~~ **§§ 1001.2(a) through 1001.2(c)** if the owner voluntary agrees to the requirements of Subtitle C § 1003 and meets all other requirements of this chapter, provided:

- (1) The square footage set aside achieves a minimum of one (1) Inclusionary unit;
- (2) Residential developments located in the areas identified by Subtitle C ~~§ 1001.5(a) may not use the modifications to height and lot occupancy, or minimum lot area or width; and~~ **Modifications to height, lot occupancy, minimum lot area or minimum lot width shall not be applicable in the following areas:**
 - (A) **The R-1-A and R-1-B zones;**
 - (B) **The MU-13 zone in the Georgetown Historic District;**
 - (C) **The R-3 zone in the Anacostia Historic District;**
 - (D) **The MU-27 zone;**
 - (E) **The D-1-R, D-3, D-4-R, and D-5 zones;**
 - (F) **The SEFC zones of Subtitle K, Chapter 2 that are subject to a land disposition or other agreement with the District of Columbia that mandates the provision of affordable housing;**
 - (G) **The WR zones of Subtitle K, Chapter 9; and**
 - (H) **The NC-6 zone.**
- (3) Any use of the bonus density **and modifications** provided in Subtitle C § 1002 in the R-2, R-3, R-10, R-13, R-17, R-20, RF-1, RF-2, RF-3, RF-4, RF-5, or the RA-1 zones shall require special exception approval pursuant to Subtitle X, Chapter 9.

1001.3 If more than one (1) building permit is issued for a development **described in Subtitle C § 1001.2(b)**, the number of dwelling units and new gross floor area used to establish the applicability of the IZ requirements, and associated IZ modifications, shall be based on all the applications occurring within a three (3) year period, starting from the first building permit application.

1001.4 ~~If the new gross floor area comprising ten (10) or more units would result in an increase of fifty percent (50%) or more in the floor area of an existing building, IZ requirements and modifications shall apply to both the existing and the increased gross floor area.~~
For existing buildings that become subject to the requirements of this chapter pursuant to Subtitle C § 1001.2, the requirements of Subtitle C §§ 1003.1 and 1003.2 and the available modifications to applicable development standards shall apply;

- (a) To both the existing and the new gross floor area if the new gross floor area:
- (1) Utilizes bonus density provided by Subtitle C § 1002; or
 - (2) Results in an increase of fifty percent (50%) or more in the building's gross floor area; and
- (b) To only the new gross floor if the new gross floor area:
- (1) Does not utilize the bonus density provided by Subtitle C § 1002; and
 - (2) Does not result in an increase of fifty percent (50%) or more in the building's gross floor area.

1001.5 Except for new penthouse habitable space as described in Subtitle C § 1001.2(d), the ~~IZ~~ requirements of this chapter shall not apply to hotels, motels, or inns.

- (a) ~~Properties located in any of the following areas~~
- (1) ~~The R-1-A and R-1-B zones;~~
 - (2) ~~The MU-13 zone in the Georgetown Historic District;~~
 - (3) ~~The R-3 zone in the Anacostia Historic District;~~
 - (4) ~~The MU-27 zone;~~
 - (5) ~~The D-1-R, D-3, D-4-R, and D-5 zones;~~
 - (6) ~~The SEFC zones of Subtitle K Chapter 2 that are subject to a land disposition or other agreement with the District of Columbia that mandates the provision of affordable housing~~
 - (7) ~~The WR zones of Subtitle K, Chapter 9; and~~
 - (8) ~~The NC-6 zone.~~
- (b) ~~Housing developed by or on behalf of a local college or university exclusively for its students, faculty, or staff;~~
- (c) ~~Housing that is owned or leased by foreign missions exclusively for diplomatic staff; and~~
- (d) ~~Hotels, motels, or inns.~~

1001.6 The ~~IZ~~ requirements of this chapter shall not apply to:

- (a) Any development subject to a mandatory affordable housing requirement that exceeds the requirements of this chapter as a result of District law or financial subsidies funded in whole or in part by the Federal or District

Government and administered and/or monitored by the Department of Housing and Community Development (DHCD), the District of Columbia Housing Finance Agency (DCHFA), or the District of Columbia Housing Authority (DCHA); provided:

- (1) ...
 - (3) The requirements set forth in subparagraphs (1) and (2), of this paragraph, shall be stated as declarations within a covenant approved by the District of Columbia; ~~and~~
 - (4) The approved covenant shall be recorded in the land records of the District of Columbia prior to the date that the first application for a certificate of occupancy is filed for the project; except that for developments that include buildings with only one (1) dwelling unit, the covenant shall be recorded before the first purchase agreement or lease is executed; and
 - (5) The Exempt Affordable Units shall be sold or rented in accordance with the Inclusionary Zoning Program upon the expiration of the affordable housing requirements of the District Law or financial subsidies as shall be described in the covenant.
- (b) Boarding houses, assisted living facilities, community residence facilities, youth residential care homes, substance abuser’s homes, community based institutional facilities; or single room occupancy projects within a single building;
 - (c) Housing developed by or on behalf of a local college or university exclusively for its students, faculty, or staff; and
 - (d) Housing that is owned or leased by foreign missions exclusively for diplomatic or official staff.

1001.7 ...

1001.8 Unless otherwise exempted, any conversion of a development identified in Subtitle C §§ 1001.5 and 1001.6(b)-(d) to a residential use not listed in Subtitle C §§ 1001.5 and 1001.6 within 5 years from the first building permit for the development shall be subject to the requirements of this chapter.

Amend the text in Subtitle C § 1002, Bonuses and Adjustments to Incentivize Inclusionary Units, as follows:

1002 BONUS AND ADJUSTMENTS **MODIFICATIONS** TO INCENTIVIZE INCLUSIONARY UNITS

1002.1

1002.2 ~~Inclusionary developments in the zones identified in the following table may use the minimum lot dimensions identified in the table in lieu of the otherwise required lot dimension required by Subtitles D and E: Modification to certain development standards are available to an Inclusionary Development as indicated in the applicable subtitle, as follows:~~

TABLE C § 1002.2: IZ DIMENSIONAL MODIFICATIONS FOR LOWER DENSITY ZONES

Base Zone	IZ Dimensional Modifications for Lower Density Zones		
	Minimum Lot Area	Minimum Lot Width	Minimum Lot Width with Special Exception
R-2, R-10 Detached	3,200 sq. ft.	40	32
R-2, R-10 Semi-Detached	2,600 sq. ft.	30	25
R-3, R-13, R-17, R-20	1,600 sq. ft.	20	16
RF-1, RF-2, RF-3, RF-4, RF-5	1,500 sq. ft.	18	16

TABLE C § 1002.2: MODIFICATIONS AVAILABLE TO INCLUSIONARY DEVELOPMENTS

<u>Zone(s)</u>	<u>Modification</u>	<u>Subtitle(s)</u>
R and RF	Minimum lot dimensions	D and E
RA	Floor Area Ratio	F
MU, NC, ARTS, RC, & CG	Height and Lot Occupancy	F, G, H, I and K

1002.4 ~~Inclusionary developments in the zones below may use the following modifications to height and lot occupancy in order to achieve the bonus density: (RESERVED)~~

TABLE C § 1002.4: MODIFICATIONS TO HEIGHT AND LOT OCCUPANCY FOR BONUS DENSITY

Base Zone	Matter of Right Zoning Constraints			IZ Zoning Modifications	
	Lot Occupancy	Zoning Height	Zoning FAR	Lot Occupancy	Height (feet)
RA 5, RA 11, D-1	75%	90 ft.	6.00	90%	90
MU 10, MU 22, MU 29, ARTS 4	75%	90 ft.	6.00	80%	100
MU 4, MU 17, MU 24, MU 25, MU 26 through MU 29, MU 33, NC 2, NC 3, NC 4, NC 7, NC 9, NC 14, NC 16 ARTS 1, RC 2	60%	50 ft.	2.50	75%	50
MU 5, MU 18, ARTS 2, RC 3, NC 5, NC 10, NC 17	80%	65 ft.	3.50	80%	70
MU 6, MU 19, NC 11	80%	90 ft.	6.00	80%	100
MU 7, MU 28, ARTS 3, NC 8, NC 12, NC 15	75%	65 ft.	4.00	80%	65
MU 12	80%	40 ft.	2.50	80%	50

Base Zone	Matter of Right Zoning Constraints			IZ Zoning Modifications	
	Lot Occupancy	Zoning Height	Zoning FAR	Lot Occupancy	Height (feet)
MU 13—	75%	60 ft.	4.00	75%	80
MU 13—	75%	90 ft.	6.00	80%	100
MU 1, MU 15	80%	65 ft.	4.00	80%	70
MU 2, MU 16, MU 23, D-2	80%	90 ft.	6.00	90%	90
MU 9, MU 21	100%	90 ft.	6.50	100%	100
CG 1	75%	90 ft.	6.00	90%	90

Amend the text in Subtitle C § 1003, Set-Aside Requirements, as follows:

1003.1 An inclusionary development which does not employ Type I construction as defined by Chapter 6 of the International Building Code as incorporated into District of Columbia Construction Codes (Title 12 DCMR) to construct a majority of dwelling units and which is located in a zone with a by-right height limit **exclusive of any bonus height** of fifty feet (50 ft.) or less shall set aside the greater of ten percent (10%) of the gross floor area dedicated to residential use including penthouse habitable space as described in Subtitle C § 1001.2(d), or seventy-five percent (75%) of its achievable ~~the~~ bonus density **utilized** to inclusionary units plus an area equal to ten percent (10%) of the penthouse habitable space as described in Subtitle C § 1001.2(d).

1003.2 An inclusionary development which employs Type I construction as defined by Chapter 6 of the International Building Code as incorporated into the District of Columbia Construction Codes (Title 12 DCMR) to construct the majority of dwelling units, **or which is located in a zone with a by-right height limit exclusive of any bonus height that is greater than fifty feet (50 ft.)** shall set aside the greater of eight percent (8%) of the gross floor area dedicated to residential use including penthouse habitable space as described in Subtitle C § 1001.2(d), or fifty percent (50%) of its achievable ~~the~~ bonus density **utilized** to inclusionary units plus an area equal to eight percent (8%) of the penthouse habitable space as described in Subtitle C § 1001.2(d).

...

1003.4 ~~[DELETED]~~ **The gross floor area required to be set-aside for Inclusionary Units pursuant to Subtitle C §§ 1003.1 and 1003.2 shall be converted to net square feet based on the ratio of net square footage of residential use to the gross floor area of residential use. For the purpose of this subsection, Net Square Footage means:**

(a) For flats and multiple dwellings, the area of a unit that is bounded by the inside finished surface of the perimeter wall of each unit. Unit area includes all interior walls and column; and

- (b) For single principal dwelling units, the area of a unit that includes the full thickness of exterior enclosing walls and the full thickness of walls between a unit and adjacent common areas.

...

Amend the text in Subtitle C § 1005, Development Standards Regarding Inclusionary Units, as follows:

1005.1 ~~The proportion of studio and one-bedroom inclusionary units shall not exceed the proportion of the comparable market rate units for each unit type.~~ Inclusionary Units shall be allocated as follows:

- (a) Where an inclusionary development provides two (2) or more units of at least two (2)-bedrooms, the proportion of studio and one (1)-bedroom inclusionary units shall not exceed the proportion of the comparable market rate units for each unit type.
- (b) For all other inclusionary developments, the proportion of studio inclusionary units shall not exceed the proportion of the market-rate studio units.

1005.7 Inclusionary Units shall not be located in cellar space.

Amend the text in Subtitle C § 1006, Off-Site Compliance with Inclusionary Zoning, as follows:

1006.10 Inclusionary units resulting from the set-aside required for penthouse habitable space as described in Subtitle C § 1001.2(d) shall be provided within the building, except that the affordable housing requirement may be achieved by providing a contribution to a housing trust fund, consistent with the provisions of Subtitle C §§ 1505.13 through 1505.16, except that the calculation of § 1505.15 shall be based on the maximum permitted residential FAR, when:

- (a) ...
- (c) The building is not otherwise required to provide inclusionary units for ~~low-income~~ eligible households earning equal to or less than fifty percent (50%) of the MFI and the amount of penthouse habitable space would result in a gross floor area set-aside less than the gross floor area of the smallest dwelling unit within the building.

3. *Changes to Subtitle D, Residential House (R) Zones*

Amend the text in Subtitle D § 105, Inclusionary Zoning, as follows:

105.1 ~~Inclusionary zoning requirements for the R zones, except R-1-A and R-1-B, are as specified in Subtitle C, Chapter 10.~~ Inclusionary zoning requirements for the

R zones are as specified in Subtitle C, Chapter 10 and the zone-specific development standards of this Subtitle.

Amend the text in Subtitle D § 302, Density – Lot Dimensions, as follows:

302.1 Except as prescribed in other provisions of this title, the minimum dimensions of lots in the R-1-A, R-1-B, R-2, and R-3 zones shall be as set forth in the following table:

TABLE D § 302.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS

Zone	Minimum Lot Width (ft.) for building type; applicable to all zones in left column	Minimum Lot Area (sq. ft.)
R-1-A	75	7,500
R-1-B	50	5,000
R-2	40 (detached) 32 (IZ detached) 30 (semi detached) 25 (IZ semi detached) 40 (all other structures)	4,000 (detached) 3,200 (IZ detached) 3,000 (semi detached) 2,500 (IZ semi detached) 4,000 (all other structures)
R-3	40 (detached) 30 (semi detached) 20 (attached) 16 (IZ attached) 40 (all other structures)	4,000 (detached) 3,000 (semi detached) 2,000 (attached) 1,600 (IZ attached) 4,000 (all other structures)

Zone	Minimum Lot Area (sq. ft.)	Minimum Lot Width (ft.)
<u>R-1-A</u>	<u>7,500</u>	<u>75</u>
<u>R-1-B</u>	<u>5,000</u>	<u>50</u>
<u>R-2</u>	<u>3,000 (semi-detached)</u>	<u>30 (semi-detached)</u>
	<u>4,000 (all other structures)</u>	<u>40 (all other structures)</u>
<u>R-3</u>	<u>2,000 (attached)</u>	<u>20 (attached)</u>
	<u>3,000 (semi-detached)</u>	<u>30 (semi-detached)</u>
	<u>4,000 (all other structures)</u>	<u>40 (all other structures)</u>

Add a new § 302.2 in Subtitle D § 302, Density – Lot Dimensions, as follows:

302.2 The Inclusionary Zoning requirements and bonuses of Subtitle C, Chapter 10 shall not apply to the R-1-A and R-1-B zones.

302.3 The Inclusionary Zoning requirements and bonuses of Subtitle C, Chapter 10 shall not apply to that portion of the Anacostia Historic District within the R-3 zone.

Add a new § 302.4 and Table D § 302.4 in Subtitle D § 302, Density – Lot Dimensions, as follows:

302.4 **The minimum dimensions of lots for Inclusionary Developments in the R-2 and R-3 zones shall be as set forth in the following table:**

TABLE D § 302.4: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS FOR INCLUSIONARY DEVELOPMENTS

<u>Zone</u>	<u>Minimum Lot Area (sq. ft.)</u>	<u>Minimum Lot Width (ft.)</u>	<u>Minimum Lot Width (ft.) by Special Exception for Inclusionary Developments</u>
<u>R-2</u>	<u>3,200 (detached)</u>	<u>40 (detached)</u>	<u>32 (detached)</u>
	<u>2,500 (semi-detached)</u>	<u>30 (semi-detached)</u>	<u>25 (semi-detached)</u>
<u>R-3</u>	<u>1,600</u>	<u>20</u>	<u>16</u>

Add a new § 402.2 in Subtitle D § 402, Density – Lot Dimensions, as follows:

402.2 **The Inclusionary Zoning requirements and bonuses of Subtitle C, Chapter 10 shall not apply to the R-6 and R-7 zones.**

Amend the text in Subtitle D § 502, Density – Lot Dimensions, as follows:

502.1 Except as prescribed in other provisions of this title, the minimum dimensions of lots in the R-8, R-9, and R-10 zones shall be as set forth in the following table:

TABLE D § 502.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS

<u>Zone</u>	<u>Minimum Lot Width (ft.)</u>	<u>Minimum Lot Area (sq. ft.)</u>
<u>R-8</u>	75	9,500 for lots in Squares 2042, 2043, 2046, 2049, 2231, 2232, 2238, 2239, 2244 through 2248, 2250, 2258, 2272, and 2282 7,500 for all other lots
<u>R-9</u>	50	5,000
<u>R-10</u>	40 (detached) 32 (IZ detached) 30 (semi detached) 25 (IZ semi detached) 40 (all other structures)	4,000 (detached) 3,200 (IZ detached) 3,000 (semi detached) 2,500 (IZ semi detached) 4,000 (all other structures)

<u>Zone</u>	<u>Minimum Lot Area (sq. ft.)</u>	<u>Minimum Lot Width (ft.)</u>
<u>R-8</u>	<u>9,500 for lots in Squares 2042, 2043, 2046, 2049, 2231, 2232, 2238, 2239, 2244 through 2248, 2250, 2258, 2272, and 2282</u>	<u>75</u>

Zone	Minimum Lot Area (sq. ft.)	Minimum Lot Width (ft.)
	<u>7,500 for all other lots</u>	
<u>R-9</u>	<u>5,000</u>	<u>50</u>
<u>R-10</u>	<u>3,000 (residential)</u>	<u>30 (semi-detached)</u>
	<u>4,000 (all other structures)</u>	<u>40 (all other structures)</u>

Add a new § 502.2 in Subtitle D § 502, Density – Lot Dimensions, as follows:

502.2 The Inclusionary Zoning requirements and bonuses of Subtitle C, Chapter 10 shall not apply to the R-8 and R-9 zones.

Add a new § 502.3 and Table D § 502.3 in Subtitle D § 502, Density – Lot Dimensions, as follows:

502.3 The minimum dimensions of lots for Inclusionary Developments in the R-10 zone shall be as set forth in the following table:

TABLE D § 502.3: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS FOR INCLUSIONARY DEVELOPMENTS

<u>Zone</u>	<u>Minimum Lot Area (sq. ft.)</u>	<u>Minimum Lot Width (ft.)</u>	<u>Minimum Lot Width (ft.) by Special Exception for Inclusionary Developments</u>
<u>R-10</u>	<u>3,200 (detached)</u>	<u>40 (detached)</u>	<u>32 (IZ detached)</u>
	<u>2,500 (semi-detached)</u>	<u>30 (semi-detached)</u>	<u>25 (semi-detached)</u>

Add a new § 602.2 in Subtitle D § 602, Density – Lot Dimensions, as follows:

602.2 The Inclusionary Zoning requirements and bonuses of Subtitle C, Chapter 10 shall not apply to the R-11 zone.

Amend the text in Subtitle D § 702, Density – Lot Dimensions, as follows:

702.2 Except as prescribed in other provisions of this title, the minimum dimensions of lots in the R-12 and R-13 zones shall be as set forth in the following table:

TABLE D § 702.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS

<u>Zone</u>	<u>Minimum Lot Width (ft.)</u>	<u>Minimum Lot Area (sq. ft.)</u>
<u>R-12</u>	<u>50</u>	<u>5,000</u>

Zone	Minimum Lot Width (ft.)	Minimum Lot Area (sq. ft.)
R-13	40 (detached) 30 (semi-detached) 20 (attached) 16 (IZ-attached) 40 (all other structures)	4,000 (detached) 3,000 (semi-detached) 2,000 (attached) 1,600 (IZ-attached) 4,000 (all other structures)

Zone	Minimum Lot Area (sq. ft.)	Minimum Lot Width (ft.)
<u>R-12</u>	<u>5,000</u>	<u>50</u>
<u>R-13</u>	<u>2,000 (attached)</u>	<u>20 (attached)</u>
	<u>3,000 (semi-detached)</u>	<u>30 (semi-detached)</u>
	<u>4,000 (all other structures)</u>	<u>40 (all other structures)</u>

Add a new §702.2 in Subtitle D § 702, Density – Lot Dimensions, as follows:

702.2 **The Inclusionary Zoning requirements and bonuses of Subtitle C, Chapter 10 shall not apply to the R-12 zone.**

Add a new §702.3 and Table D § 702.3 in Subtitle D § 702, Density – Lot Dimensions, as follows:

702.3 **The minimum dimensions of lots for Inclusionary Developments in the R-13 zone shall be as set forth in the following table:**

TABLE D § 702.2: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS FOR INCLUSIONARY DEVELOPMENTS

<u>Zone</u>	<u>Minimum Lot Area (sq. ft.)</u>	<u>Minimum Lot Width (ft.)</u>	<u>Minimum Lot Width (ft.) by Special Exception for Inclusionary Developments</u>
<u>R-13</u>	<u>1,600</u>	<u>20</u>	<u>16</u>

Add a new § 802.3 in Subtitle D § 802, Density – Lot Dimensions, as follows:

802.3 **The Inclusionary Zoning requirements and bonuses of Subtitle C, Chapter 10 shall not apply to the R-14 and R-15 zones.**

Add a new § 902.2 in Subtitle D § 902, Density – Lot Dimensions, as follows:

902.2 **The Inclusionary Zoning requirements and bonuses of Subtitle C, Chapter 10 shall not apply to the R-16 zone.**

Amend the text in Subtitle D § 1002, Density – Lot Dimensions, as follows:

1002.1 Except as prescribed in other provisions of this title, the minimum dimensions of a lot in the R-17 zone shall be as set forth in the following table:

TABLE D § 1002.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS

Zone	Minimum Lot Width (ft.) for building type;	Minimum Lot Area (sq. ft.)
R-17	40 (detached)	4,000 (detached)
	30 (semi-detached)	3,000 (semi-detached)
	20 (attached)	2,000 (attached)
	16 (IZ attached)	1,600 (IZ attached)
	40 (all other structures)	4,000 (all other structures)

Zone	Minimum Lot Area (sq. ft.)	Minimum Lot Width (ft.)
R-17	<u>2,000 (attached)</u>	<u>20 (attached)</u>
	<u>3,000 (semi-detached)</u>	<u>30 (semi-detached)</u>
	<u>4,000 (all other structures)</u>	<u>40 (all other structures)</u>

1002.2 **The minimum dimensions of lots for Inclusionary Developments in the R-17 zone shall be as set forth in the following table:**

TABLE D § 1002.2: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS FOR INCLUSIONARY DEVELOPMENTS

<u>Zone</u>	<u>Minimum Lot Area (sq. ft.)</u>	<u>Minimum Lot Width (ft.)</u>	<u>Minimum Lot Width (ft.) by Special Exception for Inclusionary Developments</u>
<u>R-17</u>	<u>1,600</u>	<u>20</u>	<u>16</u>

Amend the text in Subtitle D § 1202, Density – Lot Dimensions, as follows:

1202.1 Except as prescribed in other provisions of this title, the minimum dimensions of a lot in the R-19 and R-20 zones shall be as set forth in the following table:

TABLE D § 1202.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS

Zone	Minimum Lot Width (ft.) for building type;	Minimum Lot Area (sq. ft.)
R-19	50	5,000
R-20	40 (detached)	4,000 (detached)
	30 (semi-detached)	3,000 (semi-detached)
	20 (attached)	2,000 (attached)
	16 (IZ attached)	1,600 (IZ attached)
	40 (all other structures)	4,000 (all other structures)

<u>Zone</u>	<u>Minimum Lot Area (sq. ft.)</u>	<u>Minimum Lot Width (ft.)</u>
<u>R-19</u>	<u>5,000</u>	<u>50</u>
<u>R-20</u>	<u>2,000 (attached)</u>	<u>20 (attached)</u>
	<u>3,000 (semi-detached)</u>	<u>30 (semi-detached)</u>
	<u>4,000 (all other structures)</u>	<u>40 (all other structures)</u>

Add a new § 1202.2 in Subtitle D § 1202, Density – Lot Dimensions, as follows:

1202.2 The Inclusionary Zoning requirements and bonuses of Subtitle C, Chapter 10 shall not apply to the R-19 zone.

Add a new § 1202.3 and Table D § 1202.3 in Subtitle D § 1202, Density – Lot Dimensions, as follows:

1202.3 The minimum dimensions of lots for Inclusionary Developments in the R-20 zones shall be as set forth in the following table:

TABLE D § 1202.3: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS FOR INCLUSIONARY DEVELOPMENTS

<u>Zone</u>	<u>Minimum Lot Area (sq. ft.)</u>	<u>Minimum Lot Width (ft.)</u>	<u>Minimum Lot Width (ft.) by Special Exception for Inclusionary Developments</u>
<u>R-20</u>	<u>1,600</u>	<u>20</u>	<u>16</u>

Add a new § 1302.2 in Subtitle D § 1302, Density – Lot Dimensions, as follows:

1302.2 The Inclusionary Zoning requirements and bonuses of Subtitle C, Chapter 10 shall not apply to the R-21 zone.

4. Changes to Subtitle E, Residential Flat (RF) Zones

Amend the text in Subtitle E § 105, Inclusionary Zoning, as follows:

~~105.1 Inclusionary Zoning (IZ) requirements for the RF zones are as specified in Subtitle C, Chapter 10.~~ **Unless otherwise indicated, the requirements of Subtitle C, Chapter 10 Inclusionary Zoning, shall apply to all zones in this subtitle.**

105.2 Inclusionary zoning requirements for the RF zones are as specified in Subtitle C, Chapter 10 and the zone-specific development standards of this Subtitle.

~~105.2~~ **105.3** Development standards for projects subject to the requirements of Inclusionary Zoning are indicated by “(IZ).”

Amend the text in Subtitle E § 201, Density – Lot Dimensions, as follows:

201.1 The minimum lot width and minimum lot area requirements for the creation of a record lot in an RF zone shall be as set forth in the following table:

~~TABLE E § 201.1: MINIMUM LOT AREA REQUIREMENTS~~

	Lot Width Minimum	Lot Area Minimum
Row Dwelling or Flat	18 ft.	1,800 sq. ft.
Row Dwelling or Flat Inclusionary Zoning	16 ft. as a special exception (IZ)	1,500 sq. ft. (IZ)
Semi-Detached Dwelling	30 ft.	3,000 sq. ft.
All Other Structures	40 ft.	4,000 sq. ft.

TABLE E § 201.1: MINIMUM LOT WIDTH AND AREA REQUIREMENTS

Zone	Minimum Lot Area (sq. ft.)	Minimum Lot Width (ft.)
<u>RF</u>	<u>1,800 (Row Dwelling or flat)</u>	<u>18 (Row Dwelling or flat)</u>
	<u>3,000 (Semi-detached)</u>	<u>30 (semi-detached)</u>
	<u>4,000 (all other structures)</u>	<u>40 (all other structures)</u>

Add a new § 201.2 and Table E § 201.2 in Subtitle E § 201, Density – Lot Dimensions, as follows:

201.2 **The minimum dimensions of lots for Inclusionary Developments in the RF zones shall be as set forth in the following table:**

TABLE E § 201.2: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS FOR INCLUSIONARY DEVELOPMENTS

Zone	Minimum Lot Area (sq. ft.)	Minimum Lot Width (ft.)	Minimum Lot Width (ft.) by Special Exception for Inclusionary Developments
<u>RF</u>	<u>1,500</u>	<u>18</u>	<u>16</u>

5. Changes to Subtitle F, Residential Apartment (RA) Zones

Amend the text in Subtitle F § 105, Inclusionary Zoning, as follows:

105.1 ~~Inclusionary zoning requirements for the RA zones are as specified in Subtitle C, Chapter 10. **The requirements of Subtitle C, Chapter 10, Inclusionary Zoning, shall apply to all zones in this subtitle except the RA-5 or RA-10 zones.**~~

105.2 **Inclusionary zoning requirements for the RA zones are as specified in Subtitle C, Chapter 10 and the zone-specific development standards of this Subtitle.**

105.3 **Development standards for projects subject to the requirements of Inclusionary Zoning are indicated by “(IZ).”**

Amend the table in Subtitle F § 302, Density – Floor Area Ratio, as follows:

TABLE F § 302.1: MAXIMUM PERMITTED FLOOR AREA RATIO

Zone	Maximum FAR	<u>Maximum FAR with IZ</u>
RA-1	0.9	<u>1.08</u>
RA-2	1.8	<u>2.16</u>
RA-3	3.0	<u>3.6</u>
RA-4	3.5	<u>4.2</u>
RA-5	5.0	<u>n/a</u>
	6.0 for an apartment house or hotel	

Amend the text in Subtitle F § 402, Density – Floor Area Ratio, as follows:

402.1 The maximum permitted FAR in the RA-6 zone shall be 0.9 **(1.08 with IZ)**.

Amend the text in Subtitle F § 502, Density – Floor Area Ratio, as follows:

502.1 The maximum permitted FAR in the RA-7 zone shall be 1.8 FAR **(2.16 with IZ)**.

Amend the text in Subtitle F § 504, Lot Occupancy, as follows:

504.1 The maximum permitted lot occupancy in the RA-7 zone shall be sixty percent (60%), **or seventy-five percent (75%) with IZ.**

Amend the table in Subtitle F § 602, Density – Floor Area Ratio, as follows:

TABLE F § 602.1: MAXIMUM PERMITTED FLOOR AREA RATIO

Zone	Maximum FAR	<u>Maximum FAR with IZ</u>
RA-8	1.8	<u>2.16</u>
RA-9	3.5	<u>4.2</u>
RA-10	5.0	N/A
	6.0 for an apartment house or hotel	

6. Changes to Subtitle G, Mixed Use (MU) Zones

Amend the text in Subtitle G, § 104, Inclusionary Zoning, as follows:

104.1 ~~Inclusionary zoning requirements for the MU zones are as specified in Subtitle C, Chapter 10.~~ **The requirements of Subtitle C, Chapter 10**

Inclusionary Zoning, shall apply to all zones in this subtitle except the MU-13 or MU-27 zones.

104.2 Inclusionary zoning requirements for the MU zones are as specified in Subtitle C, Chapter 10 and the zone-specific development standards of this Subtitle.

104.3 Development standards for projects subject to the requirements of Inclusionary Zoning are indicated by “(IZ).”

Amend the table in Subtitle G, § 304, Lot Occupancy, as follows:

TABLE G § 304.1: MAXIMUM PERMITTED LOT OCCUPANCY FOR RESIDENTIAL USE

Zone	Maximum Lot Occupancy
MU-1	80%
	80 % (IZ)
MU-2	80%
	90% (IZ)

Amend the table in Subtitle G, § 403, Height, as follows:

TABLE G § 403.1: MAXIMUM PERMITTED HEIGHT AND #STORIES

Zone	Maximum Height (Feet)	Maximum Stories
MU-3	40	3
MU-4	50	N/A
MU-5-A	65	N/A
	70 (IZ)	
MU-5-B	75	N/A
MU-6	90	N/A
	100 (IZ)	
MU-7	65	N/A
MU-8	70	N/A
MU-9	90	N/A
MU-10	90	N/A
	100 (IZ)	
MU-30	110	N/A

Amend the table in Subtitle G, § 404, Lot Occupancy, as follows:

TABLE G § 404.1: MAXIMUM PERMITTED LOT OCCUPANCY

Zone	Maximum Lot Occupancy for Residential Use
MU 3	60%
	60% (IZ)

Zone	Maximum Lot Occupancy for Residential Use
MU-3	60 %
MU-4	60%
	75% (IZ)
MU-5-A	80%
MU-5-B	80% (IZ)
MU-5-A MU-5-B	80 %
MU-6	80%
	90% (IZ)
MU-7	75%
	80% (IZ)
MU-8	N/A
MU-9	N/A
MU-10	75%
	N/A 80% (IZ)
MU-30	N/A

Amend the table in Subtitle G, § 504, Lot Occupancy, as follows:

TABLE G § 504.1: MAXIMUM PERMITTED LOT OCCUPANCY

Zone	Maximum Lot Occupancy for Residential Use (Percentage)
MU-11	25 %
MU-12	80 %
	80 % (IZ)
MU-12	80 %
MU-13	75 %
	75 % (IZ)
MU-13	75 %
MU-14	75 %
	80 % (IZ)

Amend the table in Subtitle G, § 603, Height, as follows:

TABLE G § 603.1: MAXIMUM PERMITTED BUILDING HEIGHT

Zone	Maximum Height (Feet)
MU-15	65
	70 (IZ)
MU-16	90
MU-17	50
MU-18	65
	70 (IZ)
MU-19	90
	100 (IZ)
MU-19	90

Zone	Maximum Height (Feet)
MU-20	70
MU-21	90
MU-21	90
MU-22	90
	100 (IZ)

Amend the table in Subtitle G, § 604, Lot Occupancy, as follows:

TABLE G § 604.1: MAXIMUM PERMITTED LOT OCCUPANCY

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

Amend the table in Subtitle G, § 702, Density – Floor Area Ratio, as follows:

TABLE G § 702.1: MAXIMUM PERMITTED FLOOR AREA RATIO

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

Amend the text in Subtitle G, § 704, Lot Occupancy, as follows:

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

7. *Changes to Subtitle H, Neighborhood Mixed Use (NC) Zones*

Amend the text in Subtitle H, § 103, Inclusionary Zoning, as follows:

103.1 ~~Inclusionary zoning requirements for the NC zones are as specified in Subtitle C, Chapter 10.~~ **Unless otherwise indicated, the requirements of Subtitle C, Chapter 10 Inclusionary Zoning, shall apply to all zones in this subtitle except the NC-6 zone.**

103.2 Inclusionary zoning requirements for the NC zones are as specified in Subtitle C, Chapter 10 and the zone-specific development standards of this Subtitle.

103.3 Development standards for projects subject to the requirements of Inclusionary Zoning are indicated by “(IZ).”

Add a new § 702.2 in Subtitle H § 702, Density – Lot Dimensions, as follows:

702.2 The Inclusionary Zoning requirements and bonuses of Subtitle C, Chapter 10 shall not apply to the NC-6 zone.

8. *Changes to Subtitle K, Special Purpose Zones*

Amend the text in Subtitle K Chapter 5, CG, Capitol Gateway Zones, § 500 General Provisions, as follows:

500.6 The Inclusionary Zoning requirements and bonuses of Subtitle C, Chapter 10 shall not apply to the CG-1 zone.

Amend the text in Subtitle K Chapter 5, CG, Capitol Gateway Zones, § 501, Development Standards, as follows:

501.3 The maximum permitted floor area ratio (FAR) in the CG-1 zone shall be 6.0, ~~or 7.2 with IZ, with a maximum residential FAR of 6.0 or 7.2 FAR with IZ.~~

Amend the text in Subtitle K Chapter 5, CG, Capitol Gateway Zones, § 502 Lot Occupancy, as follows:

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

Amend the text in Subtitle K, Chapter 7, Reed-Cooke Zones, § 702, Height and Penthouse Regulations, as follows:

702.2 In the RC-3 Zone, a building shall be permitted a maximum height of fifty feet (50ft.), not including the penthouse, provided fifty percent (50%) of the additional gross floor area made possible by the height bonus is devoted to ~~low and moderate income household~~ **inclusionary** units, as defined in Subtitle ~~B~~**C**, Chapter ~~2~~**10**.

9. Changes to Subtitle X, General Procedures

Amend the text in Subtitle X, § 305.5 (g), Planned Unit Development Public Benefits, as follows:

305.5 Public benefits of the proposed PUD may be exhibited and documented in any of the following or additional categories:

...

(g) Affordable housing; except that:

(1) Affordable housing provided in compliance with the Inclusionary Zoning requirements of Subtitle C, Chapter ~~22~~**10**, shall not be considered a public benefit except to the extent it exceeds what would have been required through matter-of-right development under existing zoning. In determining whether this standard has been met, the Zoning Commission shall balance any net gain in gross floor area against any loss of gross floor area that would have been set-aside for ~~“low-income households”~~ **households earning equal to or less than fifty percent (50%) of the MFI** as defined in the Inclusionary Zoning requirements of Subtitle C, Chapter 10; and

(2) **An Application proposing Inclusionary Units with deeper affordability than what would be required by IZ for the existing zone or for the proposed zone if a map amendment is sought, shall propose only a household income level published in the Rent and Price Schedule per the IZ Act and that is in effect as of the date the Application was filed.**

...

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), 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.

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 <http://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, DC 20001; by e-mail to 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 A. SHAPIRO, PETER G. MAY, 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 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 cinco días antes de la sesión. Estos servicios serán proporcionados sin costo alguno.

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

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

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

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

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 ይገናኙ። እንኳን አገልግሎቶች የሚሰጡት በነጻ ነው።

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
CONSTRUCTION CODES COORDINATING BOARD**

NOTICE OF FINAL RULEMAKING

The Chairperson of the Construction Codes Coordinating Board (Chairperson), pursuant to the authority set forth in section 10 of the Construction Codes Approval and Amendments Act of 1986 (Act), effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code § 6-1409 (2012 Repl. & 2016 Supp.)) and Mayor's Order 2009-22, dated February 25, 2009, as amended, hereby adopts the following rulemaking amending Chapters 1 (Administration and Enforcement), 14 (Exterior Walls), 26 (Plastic), and 35 (Referenced Standards) of Subtitle A (Building Code Supplement of 2013) of Title 12 (D.C. Construction Codes Supplement of 2013) of the District of Columbia Municipal Regulations (DCMR).

This rulemaking updates and revises provisions in the D.C. Building Code, as defined in 12-A DCMR § 101.2, relating to exterior wall materials and related sections. It also eliminates a recently added requirement to list, prior to the first inspection, the subcontractors that will work on a job requiring a permit.

A Notice of Emergency and Proposed Rulemaking was published on September 29, 2017 at 64 DCR 9640. A Notice of Second Emergency Rulemaking was published on February 16, 2018 at 65 DCR 1727. A Notice of Third Emergency Rulemaking was published on June 8, 2018 at 65 DCR 6181. No comments were received.

Pursuant to Section 10(a) of the Act, a proposed resolution approving emergency and proposed amendments was submitted to the Council of the District of Columbia, on January 5, 2018 for a forty-five (45) day period of review. The 45-day period of review having expired on March 16, 2018 with no Council action to approve or disapprove the proposed resolution, the proposed amendments are deemed approved.

No substantive changes were made to the final rulemaking. These rules are adopted as final by the Chairperson and will become effective upon publication in the *D.C. Register*.

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

Chapter 1, ADMINISTRATION AND ENFORCEMENT, Section 105, PERMITS, is amended as follows:

105.3 Permit Applications

Amend Section 105.3, Subsection 11, of the Building Code to read as follows:

11. Provide name and contact information, including a valid electronic mailing address, for the general contractor or construction manager, if known, when the application is filed. If the information is not known at the time of filing, the information shall be provided to the *code*

official as soon as the general contractor or construction manager is selected, but no later than the scheduling of the first inspection.

Chapter 14, EXTERIOR WALLS, Section 1403, PERFORMANCE REQUIREMENTS, is amended as follows:

Strike Section 1403.5, Vertical and lateral flame propagation, of the International Building Code in its entirety, and insert a new Section 1403.5 in the Building Code in its place to read as follows:

1403.5 Vertical and lateral flame propagation. Exterior walls on buildings of Type I, II, III or IV construction that are greater than 40 feet (12 192 mm) in height above grade plane and contain a combustible *water-resistive barrier* shall be tested in accordance with and comply with the acceptance criteria of NFPA 285. For the purposes of this section, fenestration products and flashing of fenestration products shall not be considered part of the *water-resistive barrier*.

Exceptions:

1. Walls in which the *water-resistive barrier* is the only combustible component and the *exterior wall* has a wall covering of brick, concrete, stone, terra cotta, stucco or steel with minimum thicknesses in accordance with Table 1405.2.
2. Walls in which the *water-resistive barrier* is the only combustible component and the *water-resistive barrier* has a peak heat release rate of less than 150 kW/m², a total heat release of less than 20 MJ/m² and an effective heat of combustion of less than 18 MJ/kg as determined in accordance with ASTM E1354 and has a flame spread index of 25 or less and a smoke-developed index of 450 or less as determined in accordance with ASTM E84 or UL 723. The ASTM E1354 test shall be conducted on specimens at the thickness intended for use, in the horizontal orientation and at an incident radiant heat flux of 50 kW/m².

Section 1405, INSTALLATION OF WALL COVERINGS, is added as follows:

Amend Table 1405.2, MINIMUM THICKNESS OF WEATHER COVERINGS, of the International Building Code to strike the entry for “Precast stone facing” in its entirety, and revise the entry for “Minimum Thickness” of “Porcelain Tile” to read as follows:

**TABLE 1405.2
MINIMUM THICKNESS OF WEATHER COVERINGS**

Covering Type	Minimum Thickness (inches)
Porcelain tile	0.25

Chapter 26, PLASTIC, Section 2603, FOAM PLASTIC INSULATION, is amended as follows:

2603.5.5 Vertical and lateral fire propagation. The exterior wall assembly shall be tested in accordance with and comply with the acceptance criteria of NFPA 285.

Exceptions:

1. One-story buildings complying with Section 2603.4.1.4.
2. Wall assemblies where the foam plastic insulation is covered on each face by not less than 1-inch (25 mm) thickness of masonry or concrete and meeting one of the following:
 - 2.1. There is no airspace between the insulation and the concrete or masonry.
 - 2.2. The insulation has a flame spread index of not more than 25 as determined in accordance with ASTM E84 or UL 723 and the maximum airspace between the insulation and the concrete or masonry is not more than 1 inch (25 mm).

Chapter 35, REFERENCED STANDARDS, is amended as follows:

Amend Chapter 35, REFERENCED STANDARDS, of the Building Code to read as follows:

Strike the Standard Reference Number ASTM/E 84-09 and insert the new Standard Reference Number ASTM/E 84-2013A in its place, and add code references 1403.5 and 2603.5.5 to this entry; and further, strike the Standard Reference Number ASTM/E 1354-09 and insert the new Standard Reference Number ASTM/E 1354-2013 in its place, and add code reference 1403.5 to this entry, to read as follows:

ASTM	ASTM International 100 Barr Harbor Drive West Conshohocken, PA 19428-2959	
Standard Reference Number	Title	Referenced in code section number

E84-2013A	Test Methods for Surface Burning Characteristics of Building Materials.	202, 402.6.4.4, 406.7.2, 703.5.2, 720.1, 720.4, 803.1.1, 803.1.4, 803.9, 803.13, 806.5, 1404.12.1, 1407.9, 1407.10.1, 1409.9, 1409.10.1, 1509.6.2, 1509.6.3, 2303.2, 2603.3, 2603.4.1.13, 2603.7, 2604.2.4, 2606.3.5.4, 2606.4, 2613.3, 3105.3, 1403.5, 2603.5.5
E1354-2013	Standard Test Method for Heat and Visible Smoke Release Rates for Materials and Products Using an Oxygen Consumption Calorimeter	424.2, 1403.5

Amend the entry for Standard Reference Number UL/723-2008 to add code references 1403.5 and 2603.5.5 to this entry, to read as follows:

UL	Underwriters Laboratories, Inc. 333 Pfingsten Road Northbrook, IL 60062-2096	
Standard Reference Number	Title	Referenced in code section number
723—2008	Standard for Test for Surface Burning Characteristics of Building Materials	202, 402.6.4.4, 406.7.2, 703.5.2, 720.1, 720.4, 803.1.1, 803.1.4, 803.9, 803.13, 806.5, 1404.12.1, 1407.9, 1407.10.1, 1409.9, 1409.10.1, 1509.6.2, 1509.6.3, 2303.2, 2603.3, 2603.4.1.13, 2606.3.5.4, 2603.7, 2604.2.4, 2606.4, 2613.3, 3105.3, 1403.5, 2603.5.5

Strike the entry for Standard Reference Number NFPA 285-06 in its entirety and insert an entry for new Standard Reference Number NFPA 285-12 in its place, to read as follows:

NFPA	National Fire Protection Association 1 Batterymarch Park Quincy, MA 02169-7471	
Standard Reference Number	Title	Referenced in code section number
285-12	Standard Fire Test Method for the Evaluation of Fire Propagation Characteristics of Exterior Nonload-bearing Wall Assemblies Containing Combustible Components	718.2.6, 1407.10.4, 1409.10.4, 1509.6.2, 1403.5, 2603.5.5

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health Care Finance (DHCF or the Department), pursuant to the authority set forth in An Act to enable the District of Columbia (District) to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes. approved December 27, 1967 (81 Stat.744; D.C. Official Code § 1-307.02 (2016 Repl. & 2017 Supp.)), and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2013 Repl.)), hereby gives notice of the adoption of an amendment to Chapter 95 (Medicaid Eligibility) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), by adding a new Section 9514 (Non-MAGI Eligibility Groups: Supplemental Security Income and Optional State Supplemental Payment).

DHCF is the single state agency responsible for the administration of the State Medicaid program under Title XIX of the Social Security Act (the Act) and Children's Health Insurance Program (CHIP) under Title XXI of the Act in the District. This final rule amends Chapter 95 of Title 29 DCMR by incorporating a new section that details the non-Modified Adjusted Gross Income (non-MAGI) Medicaid eligibility factors for the Supplemental Security Income (SSI) eligibility group pursuant to 42 CFR § 435.120, and the Optional State Supplemental Payment (OSP) eligibility group pursuant to Section 1902(a)(10)(A)(ii)(IV) of the Act and 42 CFR § 435.232. An individual shall be deemed categorically eligible for Medicaid under the SSI eligibility category when determined eligible for SSI by the U.S. Social Security Administration. An individual shall be deemed categorically eligible for Medicaid under the OSP eligibility category if found eligible to receive OSP, which is a monthly payment to assist individuals residing in an adult foster care setting with the cost of room and board.

This rulemaking is needed to ensure appropriate codification of existing eligibility requirements for the SSI and OSP non-MAGI eligibility groups and is consistent with current eligibility requirements and practice.

An initial Notice of Proposed Rulemaking was published in the *D.C. Register* on February 23, 2018 at 65 DCR 001890. No comments were received and no changes have been made. The Director has adopted these rules as final on June 12, 2018, and they shall become effective on the date of publication of this rulemaking in the *D.C. Register*.

Chapter 95, MEDICAID ELIGIBILITY, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

A new Section 9514 is added to read as follows:

9514 NON-MAGI ELIGIBILITY GROUPS: SUPPLEMENTAL SECURITY INCOME AND OPTIONAL STATE SUPPLEMENTAL PAYMENT

- 9514.1 This section shall govern eligibility requirements for the following:
- (a) The Supplemental Security Income (SSI) eligibility group pursuant to 42 CFR § 435.120; and
 - (b) The Optional State Supplemental Payment (OSP) eligibility group pursuant to § 1902(a)(10)(A)(ii)(IV) of the Social Security Act (the Act) and 42 CFR § 435.232.
- 9514.2 Consistent with the requirements of 42 CFR § 435.120, the SSI eligibility group shall include aged, blind, and disabled individuals or couples who are receiving or are deemed to be receiving SSI by the U.S. Social Security Administration (SSA), which includes individuals who are:
- (a) Receiving SSI pending a final determination of blindness or disability;
 - (b) Receiving SSI under an agreement with SSA to dispose of resources that exceed the SSI dollar limits on resources; or
 - (c) Receiving benefits under § 1619(a) of the Act or in § 1619(b) status (blind individuals or those with disabling impairments whose income equals or exceeds a specific Supplemental Security Income limit), and those qualified severely impaired individuals defined in § 1905(q) of the Act.
- 9514.3 Aged, blind, and disabled shall have the same meanings as set forth under § 1614 of the Act.
- 9514.4 In order to be eligible for Medicaid under the OSP eligibility group, individuals and couples shall meet the following requirements:
- (a) Be deemed eligible for SSI by SSA or meet SSI disability standards set forth by SSA, consistent with 20 CFR §§ 416.2101 through 416.2176; and
 - (b) Reside in an adult foster care setting, as described in 20 CFR § 416.1143(a)(1), that is located in the District of Columbia.
- 9514.5 SSA shall be responsible for conducting renewals and redeterminations in accordance with SSA's requirements for beneficiaries' continued receipt of SSI and OSP payments from SSA. The Department shall continue to deem beneficiaries with continued eligibility for SSI and OSP payments eligible for Medicaid.
- 9514.6 The Department shall make eligibility for Medicaid for SSI and OSP applicants effective no later than the third month before the month of application if the following requirements are met:

- (a) The applicant received Medicaid services, at any time during that period, of a type covered under the District of Columbia's Medicaid State Plan; and
- (b) The applicant would have been eligible for Medicaid at the time the applicant received the services if the applicant had applied (or someone had applied for the applicant), regardless of whether the individual is alive when application for Medicaid is made.

9514.7 The earliest possible date for retroactive eligibility shall be the first day of the third month preceding the month of application.

9514.8 Eligibility for Medicaid shall include meeting all financial, non-financial, and medical factors (as applicable).

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING
AND
Z.C. ORDER NO. 17-27

Z.C. Case No. 17-27
Spring Flats MD, LLC
(Zoning Map Amendment @ Lots 804 and 807 in Square 2902)
June 11, 2018

The Zoning Commission for the District of Columbia (Zoning Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01 (2012 Repl.)), hereby amends the Zoning Map to rezone Lots 804 and 807 in Square 2902 from RF-1 to the RA-2 zone.

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) (2016 Repl.)) to give great weight to the issues and concerns raised in an affected ANCs’ written report. Advisory Neighborhood Commissions 1A and 4C both submitted reports expressing no issues or concerns. (Exhibits 26 & 27).

A Notice of Proposed Rulemaking was published in the *D.C. Register* on May 4, 2018, at 65 DCR 4899. In response the Commission received no comments.

The Commission therefore took final action at a public meeting on June 11, 2018, to adopt the map amendment as proposed.

The Zoning Map of the District of Columbia is amended as follows:

SQUARE	LOT(S)	Map Amendment
2902	804 and 807	RF-1 to RA-2

On April 23, 2018, upon the motion of Vice Chairman Miller, as seconded by Commissioner Shapiro, the Zoning Commission took **PROPOSED ACTION** to **APPROVE** the petition at the conclusion of the public hearing by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve).

On June 11, 2018, upon the motion of Chairman Hood, as seconded by Vice Chairman Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** the petition at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Michael G. Turnbull, and Peter G. May to approve; Peter A. Shapiro not present, not voting).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *DC Register*; that is on June 22, 2018.

BY THE ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.

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

NOTICE OF SECOND PROPOSED 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 Repl.)), and Mayor's Order 2001-96, dated June 28, 2001, as revised by Mayor's Order 2001-102, dated July 23, 2001, hereby gives notice of proposed rulemaking action to amend Chapters 1 (Provisions of General Applicability), 2 (License and Permit Categories), 3 (Limitations on Licenses), 5 (License Applications), 7 (General Operating Requirements), 8 (Enforcement, Infractions, and Penalties), 9 (Prohibited and Restricted Activities), 10 (Endorsements), 12 (Records and Reports), 13 (Transport of Beverages), 15 (Applications: Notice of Hearings Involving Licenses), 16 (Contested Hearings, Non-Contested Hearings, Protest Hearings and Procedures), and 17 (Procedural Requirements for Board Hearings) of Title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (DCMR).

The proposed amendments to Chapter 1 include clarifying the language in § 100 (Extension of Expiration Dates of Protested Licenses) and revising the definition of "Roll Call Hearings" in § 199 (Definitions). The proposed amendments to Chapter 2 include establishing the reports and records requirements for holders of a storage facility permit. Additionally, the proposed rulemaking would amend Chapter 2 by updating the renewal periods in § 207, and reorganizing the licensing fees, permit and endorsement fees, and the application fees located in §§ 208 through 210.

The proposed amendments to Chapter 3 include reducing the quota limit for off-premises retailer's licenses, Class B, in § 300 (Limitation on the Number of Class A and Class B Retailer's Licenses) and making clear that quota limits on off-premises retailer's license, Class A and B, do not apply to internet licenses (*i.e.*, off-premises retailer's licenses, class IA and IB). Additionally, § 302 (Licenses Near Schools, Colleges, Universities, and Recreation Areas) is amended by exempting off-premises retailer's licenses, class IA and IB, from the four hundred foot (400 ft.) restriction requirement where the establishment is located in a hotel.

The proposed amendments to Chapter 5 would clarify what documentation an applicant seeking to transfer a license to a new owner is required to submit to the Board. Chapter 7 would be amended by requiring the purchaser of an ABC license to apply for a Temporary Operating Retail Permit pending the Board's decision on an application to transfer the license to a new owner. In addition, the proposed rulemaking would amend § 705 (Hours of Sale and Delivery for Off-Premises Retailer Licenses) by correcting the Sunday hours set forth in § 705.9 to make them consistent with the other hours listed in the subsection.

The proposed rulemaking would amend Chapter 8 by limiting the look-back period for mandatory warnings to four years as well as correcting the D.C. Official Code citation in Chapter 9. Chapter 10 is amended by clarifying that holders of tavern, restaurant, and hotel licenses, without an entertainment endorsement, are prohibited from repositioning the establishment's

furniture for purposes of creating a dance floor in excess of one hundred forty square feet (140 ft.²).

In accordance with the Omnibus Alcoholic Beverage Regulation Amendment Act of 2016, effective April 7, 2017 (D.C. Law 21-260; D.C. Official Code §§ 25-101, *et al.* (2017 Supp.)), the proposed rulemaking would amend Chapter 12 by repealing § 1206. Furthermore, technical revisions are proposed for § 1208 (Retention and Inspection of Books and Records). The proposed rulemaking would also amend Chapter 13 by clarifying what information is required for importation permits in § 1301 (Importation Permits for Retailers of Alcoholic Beverages).

The proposed amendments to Chapter 15 include revising the notice requirements for marine vessels and off-premises retailer's licenses, class IA and IB, as provided for in § 1502 (Notice of an Application for a New License, Renewal of a License, or Transfer of a License to a New Location). Section 1502 is further amended by ensuring the language in the regulation is consistent with D.C. Official Code § 25-422, and repealing § 1502.4.

The proposed rulemaking would amend Chapter 16 by (1) requiring Groups of Five or More, or Groups of Three or More located in a moratorium zone, to designate a representative for the group in their protest letter; (2) allowing for the use of electronic signatures; (3) authorizing the Board to dismiss a party for the failure to appear at the Protest Status Hearing; (4) authorizing the expiration of a license in those instances where the licensee's second re-filed renewal application is dismissed due their failing to attend a hearing and the application is not reinstated; (5) prohibiting the use of recording devices or transcription during mediation proceedings; (6) authorizing the Board to deny a settlement agreement when either signatory to the agreement fails to respond to the Board's request for modifications within thirty (30) days; (7) allowing the Board to limit the duration of questioning during Protest Hearings; (8) establishing rules for consolidating cases as well as creating a rule on witnesses; (9) revising the Fact Finding Hearing requirements; and (10) allowing for the dismissal of an application due to the failure of the Applicant to pursue adjudication of an application.

Lastly, the proposed rulemaking amends Chapter 17 by amending (1) the service of papers requirement so that it conforms with the ABC Board's practices; (2) the requirements for obtaining a continuance; (3) the length of time ABRA has for complying with a request for the inspection of documents; (4) the requirements for serving parties to a proceeding with documentary evidence prior to the hearing; (5) the rules for filing motions with the ABC Board; (6) the requirements for submitting Proposed Findings for Fact and Conclusions of Law to the ABC Board; and (7) the requirement that six (6) copies of a petition for reconsideration, reargument, or rehearing must be filed with the ABC Board.

The Board previously adopted the Technical Amendment Notice of Proposed Rulemaking (1st NOPR) on July 12, 2017. The rules were subsequently published in the *D.C. Register* on October 13, 2017, at 64 DCR 10320, for public comment. On October 18, 2017, the Board held a public hearing concerning the proposed rules. The Board received numerous comments from the public and has carefully considered all of them. Below is a summary of the comments the Board received.

PUBLIC COMMENTS

1. Advisory Neighborhood Commission 6D

Advisory Neighborhood Commission (ANC) ANC 6D submitted written comments to the Board concerning the Board's modifications to § 1600. Specifically, ANC 6D requested clarification from the Board about who can have access to items discussed and information shared in the mediation. Instead of dismissing the settlement agreement when a party does not respond to the Board's modifications, ANC 6D suggested the Board should notify the parties of its intent to adopt the Board's modified language if it does not hear from the parties within thirty (30) days. The ANC opposes the Board's modification to § 1610.7 because it believes the amendment would force the ANC to file protests for all license applications even if it does not intend to move forward with the protest because the parties are working on a settlement agreement. Lastly, ANC 6D recommends that the Board afford the parties the opportunity to show that its evidence is not redundant before it disallows the evidence.

2. Naima Jefferson, Resident

Ms. Jefferson submitted written comments which addressed a variety of sections. Regarding § 100.3, Ms. Jefferson contends that the public should receive notice of transfers of ownership, and thus, be allowed to comment. Ms. Jefferson objects to storage facility permit holders being allowed to offer tastings on the premises. She further contends that storage facility permit holders should submit quarterly reports as opposed to annual reports.

Additionally, Ms. Jefferson stated that she opposes the Board's amending the quotas for off-premises retailer's license Class B, as well as the four hundred foot (400 ft.) requirement for internet licenses and licensed establishments within hotels. Ms. Jefferson does not believe the Board should change the operating hours from 10 a.m. to 8 a.m. in § 705.9.

Ms. Jefferson also suggested several proposed changes. First, she recommends that the Board amend § 1000.1 to prohibit CR, DR, CH, and DH from moving furniture for purposes of creating a dance space larger than one hundred forty square feet (140 ft.²). Ms. Jefferson recommends that the Board further amend § 1502.5 to require applicants and licensees to place the placard in a prominent place that is not obstructed by other items. Additionally, Ms. Jefferson recommends the Board modify § 1602.3 to allow for persons who do not have e-mail. Further, Ms. Jefferson suggests that the Board should state that protest hearings are open to the public and transcribed. Lastly, she opposes the provision which would allow the Board to exclude evidence at Fact Finding Hearings.

3. D.C. Association of Beverage Alcohol Wholesalers

The D.C. Association of Beverage Alcohol Wholesalers (DCABAW) raised several concerns regarding the Board's revisions to § 205 (Storage Facility Permit and Off-Premises Storage Permit). To address some of its concerns, DCABAW submitted alternative language for § 205.

First, the DCABAW is concerned that the proposed amendment would prohibit licensees whose licensed location is a storage facility from shipping alcoholic beverage products to Class B retailers. In this same vein, DCABAW wants clarification on the phrase, “separated from any other use” as it is used § 205.6. The DCABAW contends it would be burdensome for a holder of a storage facility permit to have to obtain a tasting permit if all they want to do is sell their products as opposed to allow for on-site consumption. Lastly, the organization argues that the annual reporting requirement is burdensome and duplicative since Chapter 12 (Records and Reports) require licensees to file reports.

DCABAW also addressed two other proposed amendments. The first is regarding § 1208.4. DCABAW seeks clarification as to whether the amendment would prohibit one from possessing electronic records. Finally, DCABAW wants clarification as to whether the Board’s amendment to § 1301.3 is expanding the list of entities which can possess an import permit as otherwise allowed for in D.C. Official Code § 25-119. If so, the organization submitted alternative language.

4. National Nightlife Association of Washington

In response to the proposed rulemaking, the National Nightlife Association of Washington (NNAW) asked the Board to ensure that the ABRA’s investigators understand and uniformly employ the definition of “dance floors” when ensuring licensees are in compliance with § 1000.3. The association supports the Board’s amendment to § 1208.4 but wants to ensure that licensees are still able to possess electronic records. Lastly, the NNAW supports the amendment to § 1713.2 but asks that the Board require the Government disclose its evidence to respondents fourteen (14) days in advance so that respondents would have more time to raise objections if necessary.

5. Kalorama Citizens Association

The Kalorama Citizens Association (KCA) submitted comments objecting to the Board’s amendment to § 1602.3. The KCA opposes the Board’s proposal which would require protestant groups to identify a designated representative when it files its protest petition. The association contends that oftentimes members of the group do not know one another, and thus, do not meet until the Roll Call Hearing. It is the KCA’s position that protestant groups should be permitted to select their designated representative at the Roll Call Hearing.

6. Advisory Neighborhood Commission 6B

Advisory Neighborhood Commission (ANC) 6B raised several concerns regarding the proposed rulemaking to the Board. First, it objects to the Board’s amendment to § 805.3 which would set the “look back” period for warnings to four years. ANC 6B contends discretion should be given to allow ABRA investigators to look further back in an establishment’s investigative history. ANC 6B, like ANC 6D, objects to the Board’s amendment to § 1610.6 which would allow it to dismiss a protest if one or both parties fail to respond to the Board’s modifications. ANC 6D

suggests amending the language to say that the Board would adopt the modification(s) if the ANC consents.

In addition to objecting to the amendment to § 1610.6, ANC 6D objects to the amendment to § 1610.7 for the same reasons stated by ANC 6B. ANC 6B is concerned about situations where the Board rejects a settlement agreement and the ANC had not filed a protest. It is ANC 6B's practice not to always protest license applications, and thus, believes this amendment would encourage them to do so even if they have no intentions of pursuing it.

ANC 6B also noted that there appears to be a conflict between the amendment to §§ 1703.5 and 1703.7. Lastly, the ANC asks the Board for specifics as to what it would deem acceptable forms of proof.

7. Tony Caffrey

Tony Caffrey, a holder of an off-premises retailer's license class IA is concerned that internet licensees would be charged twice under the Board's amendment to § 205. Since internet licensees do not have store fronts, Mr. Caffrey is concerned that licensees like him would have to pay for the off-premises retailer's license class IA and storage facility permit. As such, he requested clarification from the Board.

8. Linden Neighborhood Association, Inc.

Robert Pittman, on behalf of the Linden Neighborhood Association, Inc., (LNA), submitted comments in response to the proposed rulemaking. First, the LNA suggested that the Board amend § 199.1 to allow for an expedited protest path for those protest proceedings involving parties that agree on the items being protested. Secondly, the LNA recommends amending § 208.1 to include a fee for the Clean Hands Certificate biannually. Additionally, LNA recommends that the Board consider waiving the two placard requirements under § 1502.5 for those establishments that do not have enough space for two placards. In that same vein, the association encouraged the Board to consider an alternative to requiring establishments to re-post their placards once the first one is damaged or destroyed. According to the LNA, establishments should not be held responsible if the placard is lost or destroyed.

To assist in the protest process, LNA recommends that applicants should receive a list of common issues that communities, civic associations, and the ANC raise in their protest petitions. LNA believes this may assist in easing or preventing a protest because the applicant may be encouraged to make operational changes voluntarily; thus, avoiding a protest. Lastly, LNA asked the Board to revisit the duration of settlement agreements. The association stated that the Board should consider whether a settlement agreement should continue where the neighborhood or other causes for the settlement agreement have changed or no longer exist.

9. Paula Edwards

Ms. Edwards submitted written comments to the Board asking it to, one, require storage facility permit holders, to submit quarterly reports as opposed to annual reports. She also asked the

Board to retain the quotas in § 302.5, as well as the four hundred foot (400 ft.) restriction in §§ 302.9 and 302.10. Lastly, Ms. Edwards expressed her opposition to changing the time in which one could sell alcohol from 10 a.m. to 8 a.m.

10. Meridian Hill Neighborhood Association

The Meridian Hill Neighborhood Association (MHNA) encouraged the Board to revisit its licensing fees in § 208.8. Like the KCA, the MHNA opposes the proposed amendment to require protest groups to identify a designated representative when it files its protest report. The association expressed its support for the amendment to § 1602.4 to allow for electronic signatures, but it seeks more details from the Board as to what will be required.

In response to the proposed amendment to § 1604.3(e), the MHNA asks the Board for more information about what “good cause for failure to appear at a Protest Status Hearing, includes arriving after the hearing has concluded,” which it finds to be too vague. Along these same lines, MHNA believes that § 1614 needs more specificity as to when a party can object to the Board’s decision to consolidate cases. MHNA also expressed its support of the Board’s amendment to § 1615 but requests that it be applied prospectively and that ABRA ensure that witnesses not talk to one another during the hearing. Finally, the MHNA expressed its opposition to the amendment which would take into consideration attorneys who seek a continuance.

11. Advisory Neighborhood Commission 2F

Advisory Neighborhood Commission (ANC) 2F submitted comments to express its position that the community should be afforded an opportunity to comment on a transfer of ownership application.

12. Abigail Nichols

Ms. Nichols testified at the Board’s public hearing regarding §§ 199, 1604, and 1609. Specifically, Ms. Nichols expressed her position that the Board should require applicants and licensees to appear, personally, at the Roll Call Hearing so that the parties can meet one another. In addition, Ms. Nichols requested clarification as to whether parties can take notes during mediation proceedings and whether non-parties can attend the proceedings. Lastly, Ms. Nichols suggested that the Board provide additional guidance or regulations about settlement agreements, and that the Board should review ABRA’s enforcement practices especially as it relates to noise violations.

BOARD’S RESPONSE

The Board appreciates all of the comments that it has received in response to the Technical Amendment Proposed Rulemaking. The Board has carefully reviewed and considered each of the comments. Although the Board elected not to adopt all of the suggested revisions, it did accept several of them which are substantive in nature. In light of the substantive changes that have been made to the proposed rulemaking, the Board has adopted a second proposed rulemaking which will be published for public comment in the *D.C. Register*.

1. Chapter 1 – Provisions of General Applicability

Ms. Jefferson recommended that the Board amend § 100.3 to allow the public to protest Transfer of Ownership Applications. D.C. Official Code § 25-421 does not require the Board to provide notice of transfer of ownership application. Thus, the amendment Ms. Jefferson is seeking would require a statutory change by the Council of the District of Columbia (Council); not a regulatory amendment by the Board.

Similarly, the LNA asked the Board to amend § 199 by allowing for the creation of expedited protest hearings. The protest hearing process is governed by the regulations and Title 25 of the D.C. Official Code. Title 25 does not recognize expedited protest hearings. In order for the Board to allow expedited protest hearings, the Council would need to amend the Code to include it as a type of hearing that may come before the Board.

2. Chapter 2 – License and Permit Categories

The Board received quite a few comments regarding its proposed amendments to § 205. After further consideration, the Board recognizes additional revisions are necessary. At the outset, it should be noted that storage facility permits are only required for owners of storage facilities storing alcoholic beverages; not the licensee. Mr. Caffrey, a holder of an off-premises retailer's license class IA for example, would not be required to obtain a storage facility permit (or incur additional fees) unless he is planning on storing the alcoholic beverages at a storage facility. If not, as the licensee, he would not be required to obtain the storage facility permit.

Regarding the proposed amendments to § 205, the Board agrees with the DCABAW that the rules should clarify that holders of storage facility permits are permitted to ship products to off-premises retailer's license class B holders. This is consistent with the Board's practice. Therefore, in the present rulemaking, the Board clarifies this in § 205.5.

The Board rejects the other suggested amendments to § 205 at this time. Regarding off-premises retailer's license class B licensees, Title 25 of the D.C. Official Code precludes them from being able to hold storage facility permits. Therefore, in order for a holder of an off-premises retailer's license class B to be able to hold a storage facility permit, the Council would need to amend the Code. Nothing in the proposed amendment would preclude a wholesaler whose licensed premise is the storage facility from being able to return damaged goods to the manufacturer. The Board does not believe requiring a storage facility permit holder to possess a tasting permit to sell, consume, or serve alcoholic beverages at the location is burdensome. Thus, the Board rejects DCABAW's argument against § 205.9. And although Ms. Jefferson does not believe storage facility permit holders should be allowed to serve alcohol at the warehouse, the law already allows it for private collectors who must comply with the District's alcoholic beverage laws pertaining to underage drinking. The Board's amendment is consistent with this practice.

Lastly, the Board does not agree with the argument that requiring storage facility permit holders to file reports would be burdensome or duplicative. The reporting requirements in Chapter 12 of Title 23 DCMR are distinct from those required by § 205.12. This subsection applies solely to

storage facility permit holders and will include different information with some possible overlap. Furthermore, it should be noted that the current law also requires storage facility permit holders to submit reports to the Board. The proposed rulemaking clarifies when those reports are due. The Board does not believe quarterly filings would be necessary.

In response to the comments concerning the Board's licensing fees; the Board rejects them at this time. The Board has not made any changes to the licensing fees in this Technical rulemaking. The Board recognizes changes may be necessary, but it will address those in a separate rulemaking. Finally, the Board does not believe licensees should be required to submit a Clean Hands Certificate biannually as the LNA suggests. As such, the Board will not amend § 208.1.

3. Chapters 3 (Limitations on Licenses) and 5 (License Applications)

Both Ms. Edwards and Ms. Jefferson oppose the Board's amendments to §§ 302.5, 302.9, and 302.10. These amendments are conforming amendments. The Council changed the quota limit for Class B Retailer licenses and the four hundred foot (400 ft.) restriction for internet licenses and licensed establishments in hotels in the Alcoholic Omnibus Regulation Amendment Act of 2016 which took effect on April 7, 2017. The Board's amendment to these sections seeks to ensure that the Code and the regulations are consistent.

In that same vein, ANC 2F suggested that the Board amend § 501 to require applicants seeking to transfer ownership provide notice to the ANC. The Board rejects this recommendation. D.C. Official Code § 25-421 does not require that the Board to provide notice of transfer of ownership applications. What Ms. Jefferson and ANC 2F are seeking would require a statutory change by the Council; not a regulatory amendment by the Board.

4. Chapters 7 (General Operating Requirements) and 8 (Enforcement, Infractions, and Penalties)

The proposed rulemaking seeks to amend § 705.9 by changing 10 a.m. to 8 a.m. The Board received opposition to this change. The purpose of the change is to correct an error in the regulations. D.C. Official Code § 25-723 provides for 8:00 a.m., not 10:00 a.m. This amendment will correct the error and ensure that the regulations and the statute are consistent.

ANC 6B opposes the Board's amendment to § 805.3 which would create a four (4) year look back for warnings. The Board does not believe ABRA's Investigators should have the discretion to determine whether it will consider an establishment's investigative history from more than four (4) years ago. Additionally, applying a four (4) year look back is consistent with how the Board determines the fine amount for other violations. Thus, the Board does not believe the Board's practice should differ for warnings.

5. Chapter 10 (Endorsements)

The proposed rulemaking adds a new § 1000.3 which would clarify that holders of on-premises retailer's licenses, class CT and DT, are precluded from positioning furniture in such a way as to create a dance floor of greater than one hundred forty square feet (140 ft.²). Ms. Jeffers

recommends amending § 1001.1 to prohibit restaurants and hotels from repositioning furniture to create a dance floor in excess of one hundred forty square feet (140 ft.²). The Board agrees with Ms. Jeffers' amendment and will make the change to the proposed § 1000.3 in the present rulemaking.

6. Chapters 12 Records and Reports)

The Board received comments concerning its amendment to § 1208.4. Title 25 of D.C. Official Code requires licensees to retain their original receipts and invoices. The law, however, allows for the retention of electronic copies so long as the originals are made available to ABRA upon request. The Board finds the retention of electronic and original invoices to be sufficient, and therefore no longer believes it is necessary for licensees to also retain duplicates of their invoices.

7. Chapter 13 (Transport of Beverages)

DCABAW commented on the Board's proposed amendment to § 1301. Specifically, it requested clarification on the Board's amendment which it believes may run afoul of D.C. Official Code § 25.119.

The Board's amendment to § 1301 does not seek to expand the list of licensees who are required to obtain an ABC license. The amendment, however, takes into account those manufacturers, wholesalers, and retailers that are not otherwise licensed by the District but shipping alcoholic beverages into the District under certain circumstances. The first is if they are delivering alcoholic beverages to federal property (*e.g.*, embassy) or any other property that is exempt from Title 25 of the D.C. Official Code, and thus, the Board's purview. The other situation involves federally-licensed importers who are shipping alcoholic beverages into the District. The Board does not have jurisdiction over these importers. Lastly, the amendment would apply to state licensed manufacturers or wholesalers who are delivering alcoholic beverages to a non-profit organization, charity, or for another temporary event licensed holder. The Board does not have jurisdiction over the manufacturer or wholesaler, but it does have jurisdiction over the individual hosting the event.

Ultimately, the Board is trying to ensure that alcoholic beverages are entering the District lawfully and trying to come up with a way to track these deliveries. Currently, deliveries which fall under these situations are not being tracked.

8. Chapter 15 (Applications: Notice of Hearings Involving Licenses)

The Board received a few comments in response to its proposed amendments to § 1502 (Notice of an Application for a New License, Renewal of a License, or Transfer of a License to a New Location). Specifically, Ms. Jeffers recommended adding language to clarify that the licensee must place placards in a prominent and unobstructed spot. The LNA suggested that the Board waive the posting of two placards where an establishment does not have the room to post two notices on its building. The LNA also recommended that the Board reconsider how it handles situations where an establishment's placard is damaged or destroyed.

The Board appreciates Ms. Jeffers' and LNA's comments; however, the Board does not believe further action is necessary at this time. The proposed amendments are being made to conform with the recent changes to Title 25 of the D.C. Official Code. Further amendments to the notice requirement would need to be addressed by the Council by amending the Code as opposed to by the Board.

9. Chapter 16 (Contested Hearings, Non-contested Hearings, and Protest Hearings and Procedures)

The majority of the comments the Board received from the public pertained to its amendments to Chapter 16. The Board agrees with Mr. Jeffers' comment that its amendment to § 1602.3 should take into consideration those persons who may not have e-mail addresses. This is consistent with the Board's practice. As such, in the present proposed rulemaking, the Board recognizes this scenario.

The Board understands KCA's and MHNA's concerns about the proposed amendment to §1602.4 which would require Groups of Five or More to name a designated representative in their protest petitions filed with the Board. Although they may find the requirement to be burdensome, the Board believes the benefits outweigh the burden.

Currently, ABRA staff mail notices to each member of the group, regardless of its size. This may not be taxing for small groups, but where there are a large number of group members this is quite expensive and it requires the use of a lot of paper. Although the KCA and MHNA suggest that group members do not ordinarily meet until the Roll Call Hearing and should be allowed to appoint a representative at that time, it is the Board's experience that not all members of the group attend the Roll Call Hearing. This is particularly the case with groups with more than ten (10) members. Thus, for the reasons stated, the Board rejects the KCA's and MHNA's suggestion that it not require protestant groups to identify a designated representative in the protest petition.

The Board notes that it omitted Groups of Three or More. If an establishment is located in a moratorium zone, District law allows Groups of Three or More to file a protest. The Board inadvertently omitted them in the proposed amendments to § 1602.4. Thus, the present proposed rulemaking includes this protestant group as well.

The MHNA also submitted comments in response to the Board's proposed amendment to § 1604. The amendment seeks to correct the erroneous removal of this subsection during the drafting of Technical Amendment 2016. The amendment is consistent with the Board's practice of recognizing parties who are late for their hearing so long as they arrive before the close of the record. Additionally, this language is consistent with § 1603.4(e).

The MHNA also requested clarification about what will be required for an acceptable electronic signature. The Mayor delegated to the Office of the Secretary (OS) the authority to set forth guidelines for acceptable electronic signatures. When these rules take effect, the Board will follow OS's electronic signatures requirements.

Ms. Jeffers suggested that the Board further amend § 1604.3 by stating that protest hearings shall be open to the public and transcribed. The Board rejects this amendment. The Board's proceedings are open to the public in accordance with the District's Open Meetings Act (D.C. Official Code §§ 2-571, *et seq.*) and D.C. Official Code § 25-204.01. Adding this requirement to § 1604.3 is not necessary.

ANC 6B and 6D raised their objection to the Board's amendment to §§ 1610.6 and 1610.7 which would give the Board the authority to dismiss a settlement agreement due to either party's failure to respond to the Board's modifications within thirty (30) days. ANC 6D suggests that the Board should amend § 1610.6 to state that the Board will adopt the modification if neither party responds within thirty (30) days. Conversely, ANC 6B suggests the Board should amend the language to state that the Board will adopt the modification if the ANC approves of the change(s). The Board rejects both of these modifications.

The Board, historically, has been plagued by situations where either party to a settlement agreement either rejects the Board's modifications without explanation or fails to respond to the Board's modifications. These settlement agreements languish to the detriment of applicants and licensees because the Board cannot issue or renew their license until the issues concerning the settlement agreement are addressed. This is not fair to the applicant or the licensee, and it prevents the Board from resolving matters.

The Board appreciates ANC 6B's and ANC 6D's proposed amendments, but it does not believe that adopting either would be advantageous to the licensee or applicant who has entered into an enforceable agreement. The Board is not a party to the agreement, and thus, cannot incorporate its amendments without the parties' agreement. And although the Board must give great weight to the ANC, it does not agree with adopting amendments to the settlement agreement because the ANC agrees with the modification. This recommendation also does not take into account settlement agreements that are not with the ANC or where the ANC is the party that fails to respond. For these reasons, the Board rejects these modifications.

The Board also understands the argument against its amendment to § 1610.7. The amendment, however, is consistent with District law. D.C. Official Code § 25-446 provides that the parties to a protest can enter into settlement agreements. The Board has interpreted this language to allow parties to enter into settlement agreements notwithstanding the absence of a protest. The Board's interpretation of the statute has been upheld by the Court of the Appeals for the District of Columbia. *Kingman Park Civic Association, Et al. v. D.C. Alcoholic Beverage Control Board*, No. 110AA0831 (D.C. 2012)(unpublished). When the Board provides the public with notice of a new license application, renewal, substantial change, or transfer to a new location, persons who are legally permitted to file a protest under Title 25 of the D.C. Official Code may do so. If the application is not protested, the Board may grant the license subject to any conditions it imposes.

In lieu of filing a protest, the potential protestant and the licensee or applicant can enter into a settlement agreement if they choose to do so. When doing so, however, they should weigh the pros and cons. Alternatively, a protest could be filed and withdrawn upon the parties entering into a settlement agreement. After considering the ANCs' arguments, the Board is not persuaded that

further amendment is necessary. The Board however, has amended § 1610 in the present rulemaking to clarify the Board's authority grant an application if a protest has not been filed subject to any Board-imposed conditions.

Regarding settlement agreements, the LPNA suggested that the Board revisit the duration of settlement agreements. It argues that situations change overtime; thereby, no longer necessitating the need for a settlement agreement. The Board agrees with the LPNA's position; however, the law already allows for what it is seeking. At any time, both parties to a settlement agreement may agree to amend or terminate their agreement with the Board's approval. In addition, during the license renewal period, a licensee can unilaterally petition the Board for the termination or amendment of its settlement agreement so long as it meets the statutory requirements set forth in D.C. Official Code § 25-446. Thus, further clarification regarding this matter is not necessary.

In response to the Board's amendment to § 1612.9, ANC 6D suggested that the Board allow parties to show that their evidence is not redundant. Similarly, Ms. Jefferson, in response to the amendments to § 1616.4, recommended that the Board not exclude any evidence introduced at the Fact Finding Hearing. By virtue of the Board's authority to manage and oversee matters before the Board, it already has the authority to determine what evidence it will allow or disallow. The Board recognizes that parties have the right to present argument in support of their position before it decides to admit or reject evidence. Thus, further amendments to these two subsections are not necessary.

The MHNA raises a few additional concerns regarding the Board's proposed amendments to Chapter 16. In regards to § 1614, the MHNA contends that the proposed amendment does not specify how much time a party has to object to the Board's decision to consolidate its cases. This matter, however, is addressed in D.C. Official Code § 25-443(d) and 23 DCMR § 1719.1, which both provide that one has ten (10) days from receiving the Board's decision to request reconsideration. Since this is already addressed elsewhere, the Board does not believe it is necessary to add it to § 1614.

10. Chapter 17 (Procedural Requirements for Board Hearings)

ANC 6B weighed in on the Board's amendments to § 1703. The Board agrees with the ANC, that as drafted, § 1703.5 and 1703.7 conflict. Thus, the Board has removed paragraph (d) from § 1703.7 in the present rulemaking. The Board, however, rejects the ANC's recommendation that further clarification is needed as to what are acceptable forms of proof of service. The regulation, itself, provides examples.

In addition to amending § 1703, the Technical Amendment Proposed Rulemaking sought to amend § 1705.2. Specifically, the Board sought to address those instances where attorneys request continuances the day of or shortly before a hearing. Sometimes these untimely requests are justifiable, but other times they are not. To address this problem, the Board sought to amend § 1705.2. The MHNA, however, opposes the amendment which it interprets as the Board treating attorneys different from other professionals or non-professionals. That is not accurate. The amendment does not preclude anyone from filing a continuance when an emergency arises. See D.C. Official Code § 25-441(d).

Finally, the NNAW weighed in on the Board's amendment to § 1713.2. Specifically, the Board sought to clarify that parties to show cause proceedings are required to share their evidence with the other side seven (7) days prior to the hearing. Currently, the law is silent on this. This amendment is to the respondent's benefit. The NNAW, however, requests ten (10) days' notice. Although the Board understands the NNAW's desire for additional time, it does not believe that it should deviate from its requiring the parties to disclose their evidence seven (7) days prior to the hearing.

BOARD'S ACTION

Due to the Board's decision to make amendments to the proposed rulemaking, many of which are substantive in nature, an additional round of notice and public comment are required. The present Technical Amendment Notice of Second Proposed Rulemaking was adopted by the Board on January 10, 2018, by a vote of five (5) to zero (0). The changes the Board discussed above are reflected in the present rulemaking in **bold underlined text**.

The Board also gives notice of its intent to take final rulemaking action to adopt these rules on a permanent basis in not fewer than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Pursuant to D.C. Official Code § 25-211(b)(2) (2012 Repl. & 2017 Supp.), the proposed rules will be transmitted to the Council of the District of Columbia (Council) for a ninety (90) day period of review. The final rules shall not become effective absent approval by the Council.

Chapter 1, PROVISIONS OF GENERAL APPLICABILITY, of Title 23 DCMR, ALCOHOLIC BEVERAGES, is amended as follows:

Section 100, EXTENSION OF EXPIRATION DATES OF PROTESTED LICENSES, is amended by amending §§ 100.3 and 100.4 as follows:

- 100.3 In the case of protested applications for renewal of a license, the license shall continue in effect until the Board has rendered a final decision.
- 100.4 In the case of protested applications for a transfer to a new location, the license shall continue in effect only for purposes of the original location, and operations at the new location shall be prohibited until the Board has rendered a final decision.

Section 199, DEFINITIONS, Subsection 199.1, is amended by revising the definition of "Roll Call Hearing" as follows:

Roll call hearing – the proceeding specified in a placard posted at an applicant's premises. It is at this hearing that the applicant and the protestant(s) are introduced to each other and where the grounds for objection to the license application are read to the public.

Chapter 2, LICENSE AND PERMIT CATEGORIES, is amended as follows:

Section 205, STORAGE FACILITY PERMIT AND OFF-PREMISES STORAGE PERMIT, is amended in its entirety to read as follows:

205 STORAGE FACILITY PERMIT AND OFF-PREMISES STORAGE PERMIT

- 205.1 A storage facility permit shall allow the holder to establish a bonded warehouse in the District of Columbia for the storage of alcoholic beverages by the holder of a Manufacturer's license, Wholesaler's license, Retailer's license Class A, Class C, Class D, or a Caterer's license who possesses an off-premises storage permit, or for the accounts of other persons.
- 205.2 The holder of a storage facility permit shall be authorized to handle alcoholic beverages. The handling of alcoholic beverages under this subsection shall include packaging and repackaging services; bottle labeling services; creating buckets or variety packs that may include non-alcoholic products; and picking, packing, and shipping alcoholic beverage orders directly to the consumer.
- 205.3 The holder of a Manufacturer's license, Wholesaler's license, Retailer's license Class A, Class C, Class D, or a Caterer's license shall obtain an off-premises storage permit to store alcoholic beverages at a storage facility approved by the Board.
- 205.4 The fee for the off-premises storage permit shall be in accordance with 23 DCMR § 209.
- 205.5 Alcoholic beverages stored in a bonded storage facility pursuant to this section may be removed from the storage facility only for the purpose of being (a) exported from the District; (b) shipped to a holder of a Manufacturer's license, Wholesaler's license, Retailer's license Class A, **B**, C, or D, or a Caterer's license located in the District; (c) returned to a bonded storage facility, (d) shipped or delivered to a consumer, or (e) returned to a private collector who is a tenant.
- 205.6 The Board-approved storage facility shall be physically secure, zoned for the intended use and physically separated from any other use.
- 205.7 Delivery of alcoholic beverages to a Board-approved storage facility shall create a bailment in favor of the holder of a storage facility permit.
- 205.8 Warehousing of alcoholic beverages by any person other than a holder of a Manufacturer's license, Wholesaler's license, Retailer's license Class A, C, or D, a Caterer's license, or a private collector with a tenant agreement is prohibited.
- 205.9 The sale, service, or consumption of alcoholic beverages at a Board-approved storage facility shall be prohibited without a tasting permit.

- 205.10 The holder of a storage facility permit shall post, in a conspicuous place, the following:
- (a) A warning sign, in accordance with the requirements set forth in § 719.1;
 - (b) A copy of the storage permit; and
 - (c) A copy of the Wholesaler's, Manufacturer's, Retailer's Class A, C, or D, or the Caterer's license in its licensed portion of the Board-approved storage facility.
- 205.11 The holder of the storage facility permit shall, upon request, provide an ABRA investigator or member of the Metropolitan Police Department with its permit for inspection.
- 205.12 The holder of a Manufacturer's license, Wholesaler's license, Retailer's license Class A, C, or D, or a Caterer's license, that stores alcoholic beverages at a storage facility shall maintain and report to the Board, on an annual basis, the following:
- (a) Records identifying the kind and quantity of alcoholic beverages being stored at the Board-approved storage facility; and
 - (b) The movement of alcoholic beverages to and from the storage facility.
- 205.13 The Board shall have the right to inspect the warehouse of a storage facility permit holder as it may deem necessary for the proper regulation of the storage of alcoholic beverages.
- 205.14 A storage facility permit shall be valid for three (3) years.

Section 207, LICENSURE PERIODS, is amended to read as follows

207 LICENSURE PERIODS

- 207.1 Except as provided for in § 207.2, the following licenses or permits issued by the Board shall be valid for three (3) years:
- (a) Manufacturer's license;
 - (b) Wholesaler's license;
 - (c) Off-premises Retailer's license;
 - (d) On-premises Retailer's license;

- (e) Caterer’s license;
- (f) Solicitor’s license;
- (g) Farm winery retail licenses;
- (h) Alcohol certification permit;
- (i) Tasting permit; and
- (j) Storage facility permit.

207.2 Licenses issued by the Board shall be valid for less than three (3) years in the following instances:

- (a) When suspended or revoked;
- (b) In the case of Temporary festival, and farmer’s market licenses;
- (c) When the license takes effect on a date in between the dates established by the Board for the regular licenses period of each license class, in which case the license shall be valid only until the end of the licensure period; and
- (d) In the case of stipulated licenses.

207.3 The three (3)-year renewal period for each license listed below shall occur sequentially every three (3) years starting with the following dates:

License Class	Licensure Period	Ending Year
Manufacturer A	Apr. 1 to Mar. 31	2018
Wholesaler A	Apr. 1 to Mar. 31	2018
Retailer A	Apr. 1 to Mar. 31	2018
Manufacturer B	Oct. 1 to Sept. 30	2020
Wholesaler B	Oct. 1 to Sept. 30	2020
Retailer B	Oct. 1 to Sept. 30	2020
Retailer CR	Apr. 1 to Mar. 31	2019
Retailer CT	Oct. 1 to Sept. 30	2019
Retailer CN	Oct. 1 to Sept. 30	2019
Retailer CH	Apr. 1 to Mar. 31	2019
Multipurpose facility CX	Apr. 1 to Mar. 31	2019

Common Carrier CX	Apr. 1 to Mar 31	2019
Retailer Arena CX	Apr. 1 to Mar 31	2019
Retailer DR	Apr. 1 to Mar. 31	2019
Retailer DT	Oct. 1 to Sept. 30	2019
Retailer DN	Oct. 1 to Sept. 30	2019
Retailer DH	Apr. 1 to Mar. 31	2019
Multipurpose facility DX	Apr. 1 to Mar. 31	2019
Common carrier DX	Apr. 1 to Mar 31	2019
Caterer	Apr. 1 to Mar 31	2019
Solicitor	July 1 to June 30	2020
Club CX	Apr. 1 to Mar 31	2019
Club DX	Apr. 1 to Mar 31	2019
Farm winery retail	Oct. 1 to Sept. 30	2018
Alcohol certification provider permit	July 1 to June 30	2020

Section 208, LICENSE FEES, is amended in its entirety to read as follows:

208 LICENSE FEES

- 208.1 All license fees shall be paid by credit card, certified check, money order, business check, attorney's check, or personal check payable to ABRA. Applicants and licensees shall pay the annual license fees specified by the Board in the following manner:
- (a) The fee for the first year shall be paid at the time an application is filed, but shall be returned to an applicant, minus the prescribed processing fee, if the application is denied; and
 - (b) The fees for the second and third year shall be paid no later than one (1) and two (2) years, respectively, from the date of the issuance of the license; provided, that a licensee may pay the second and third year fees when the first year fee is paid. The payment of the second and third year license fees shall not require the filing of a clean-hands certificate by the applicant.
- 208.2 The Board may impose a late fee upon a licensee for failure to timely remit the second or third year fee, or the renewal fee, in the amount of fifty dollars (\$50) for each day after the due date of payment. The total amount of the late fee to be paid to ABRA shall not exceed the annual cost of the license. The Board may suspend a license until the licensee pays the second or third year fee and any additional fee imposed by the Board for late payment. A license not renewed timely shall be

deemed expired and the licensee shall not be permitted to sell or serve alcoholic beverages.

208.3 The Board may suspend a license, permit, or endorsement where payment was made by the applicant to ABRA with a check returned unpaid. The applicant, in addition to any late fees imposed by the Board pursuant to § 208.2, shall also be charged by ABRA with a one hundred dollar (\$100) returned check fee.

208.4 The annual license fees for manufacturer’s licenses shall be as follows:

Class	Fee
Manufacturer’s class A (rectifying plant)	\$ 6,000
Manufacturer’s class A (distillery)	\$ 6,000
Manufacturer’s class A (distillery producing more than 50% non-beverage alcohol)	\$ 3,000
Manufacturer’s class A (winery)	\$ 1,500
Manufacturer’s class B (brewery)	\$ 5,000
Manufacturer’s class C (alcohol-infused confectionary food products)	\$ 1,000

208.5 The annual license fees for wholesaler’s licenses shall be as follows:

Class	Fee
Wholesaler’s class A	\$ 5,200
Wholesaler’s class B	\$ 2,600

208.6 The annual license fees for off-premises retailer’s licenses shall be as follows:

Class	Fee
Retailer’s class A	\$ 2,600
Retailer’s class B	\$ 1,300
Internet retailer’s class IA	\$ 2,600
Internet retailer’s class IB	\$ 1,300
Farmer’s market class J	\$ 300
Farmer’s market class K	\$ 500

208.7 The annual license fees for all Class C licenses, except the D.C. Arena **and the soccer stadium**, shall be based on its capacity load, which shall be defined as the maximum number of patrons that may be in the establishment at any one time. The holder of a Class C license shall submit both its capacity placards identifying the maximum number of patrons and certificate of occupancy identifying the number of seats from the Department of Consumer and Regulatory Affairs with both its initial and renewal license applications.

208.8 The annual license fees are as follows:

Class	Capacity	Fee
CR restaurant	99 or fewer	\$1,000
CR restaurant	100 to 199	\$1,300
CR restaurant	200 to 499	\$1,950
CR restaurant	500 or more	\$2,600
CT tavern	99 or fewer	\$1,300
CT tavern	100 to 199	\$2,080
CT tavern	200 or more	\$3,120
CN nightclub	99 or fewer	\$1,950
CN nightclub	100 to 199	\$2,600
CN nightclub	200 to 499	\$3,250
CN nightclub	500 to 999	\$4,550
CN nightclub	1,000 or more	\$5,850
CH hotel	99 or fewer guest rooms	\$2,600
CH hotel	100 or more guest rooms	\$5,200
CB bed and breakfast		\$ 1,000
CX club		\$1,950
CX multipurpose facility		\$1,950
CX marine vessel, single vessel		\$1,950
CX marine vessel line, for 3 or fewer vessels and dockside waiting areas		\$3,250
For each additional vessel or dockside waiting area		\$1,950
CX railroad dining or club car, single car		\$650
CX railroad company, all dining or club cars		\$1,950

208.9 The annual license fees for all Class D licenses, except the D.C. Arena **and the soccer stadium**, shall be based on its capacity load, which shall be defined as the maximum number of patrons that may be in the establishment at any one time. The holder of a Class D license shall submit both its capacity placards identifying the maximum number of patrons and certificate of occupancy identifying the number of seats from the Department of Consumer and Regulatory Affairs with both its initial and renewal license applications.

208.10 The annual license fees are as follows:

Class	Capacity	Fee
DR restaurant	99 or fewer	\$600
DR restaurant	100 to 199	\$780
DR restaurant	200 to 499	\$1,170
DR restaurant	500 or more	\$1,560
DT tavern	99 or fewer	\$1,000
DT tavern	100 to 199	\$1,300
DT tavern	200 or more	\$1,950
DN nightclub	99 or fewer	\$1,300
DN nightclub	100 to 199	\$1,625
DN nightclub	200 to 499	\$1,950
DN nightclub	500 to 999	\$2,600
DN nightclub	1,000 or more	\$4,550
DH hotel	99 or fewer guest rooms	\$1,300
DH hotel	100 or more guest rooms	\$2,600
DB bed and breakfast		\$ 650
DX club		\$650
DX multipurpose facility		\$650
DX marine vessel, single vessel		\$975
DX marine vessel line, for 3 or fewer vessels and dockside waiting areas		\$1,300
For each additional vessel or dockside waiting area		\$650
DX railroad dining or club car, single car		\$325
DX railroad company, all dining or club cars		\$650

208. 11 The daily fee for a Temporary license shall be as follows:

Class	Fee
Temporary class F	\$ 130
Temporary class G	\$ 300

208. 12 The annual fee for a Solicitor’s and a Manager’s license shall be as follows:

Type	Fee
Solicitor’s license	\$ 325
Manager’s license	\$ 130

208.13 The annual fee for a Class Arena CX license shall be as follows:

Class	Fee
Retailer’s license Class Arena CX multipurpose facility	\$ 10,000

208.14 The annual license fee for a Catering license shall be based on the caterer's annual revenue for the previous year as follows:

Class	Gross Annual Revenue	Fee
Caterer	More than \$1,000,000 per year gross annual revenue	\$5,000
Caterer	\$1,000,000 or less per year gross annual revenue	\$4,000
Caterer	\$500,000 or less per year gross annual revenue	\$3,000
Caterer	\$300,000 or less per year gross annual revenue	\$2,000
Caterer	\$200,000 or less per year gross annual revenue	\$1,500
Caterer	\$100,000 or less per year gross annual revenue	\$1,000
Caterer	\$50,000 or less per year gross annual revenue	\$750
Caterer	\$25,000 or less per year gross annual revenue	\$500

208.15 The annual fee for a Farm Winery license, a Pub Crawl license, and a festival license shall be as follows:

Type/Class	Fee
Farm winery retailer's license	\$ 2,500
Pub crawl license	\$ 500
Festival license class H	\$ 1,000
Festival license class I	\$ 2,000

208.16 For purposes of determining the catering fee set forth in § 208.14, the applicant, as part of its submitted application, shall provide the Board with a signed affidavit on a form provided by ABRA, which shall include a statement of the applicant's annual gross revenue from catering for the previous year, as well as any additional supporting documentation necessary to verify the statement of the applicant.

208.17 The submission of a knowingly false or misleading affidavit shall be grounds for the Board to order the licensee to show cause why the license should not be suspended or revoked, or a civil fine imposed based upon the primary tier schedule set forth in D.C. Official Code § 25-830(c).

208.18 The fee for a duplicate license or replacement of a lost license shall be ten dollars (\$10).

Section 209, PERMIT AND ENDORSEMENT FEES, is amended in its entirety to read as follows:

209 PERMIT AND ENDORSEMENT FEES

209.1 The fee for permits and endorsements shall be as follows:

Permit/Endorsement	Fee
Importation permit	\$ 5
Pool buying group agent importation permit	\$ 1,000/year
Tasting permit for off-premises retailers, wholesalers, manufacturers, and private collectors	\$ 130/year
Brew pub permit	\$ 3,900/year
Storage facility permit	\$ 300/year
Off-premises storage permit	\$ 25/year
Alcohol certification provider permit	\$ 100
Personal auction permit	\$ 30
Nonprofit corporation auction permit	\$ 30
Wine and beer purchasing permit	\$ 35
Wine pub permit	\$ 5,000/year
Distillery pub permit	\$7,500/year
On-site sales and consumption permit	\$ 1,000/year
Sidewalk café or summer garden endorsement	\$ 75/year
Entertainment endorsement (twenty percent (20%) of the base license fee)	20%
Amendment to a license which results in an inspection	\$ 50

Section 210, APPLICATION FEES, is amended in its entirety to read as follows:

210 APPLICATION FEES

210.1 Application fees shall be as follows:

Application	Fee
Filing of a new license (excluding manager and solicitor license applications)	\$ 75
Transfer of a license to a new owner	\$ 250
Transfer of a license to a new location	\$ 250
Change of officer, director, stockholder, or general or limited partner in a partnership	\$ 100
Corporate or trade name change	\$ 50
Keg registration (six dollars (\$6) per keg registration book. A registration book shall be valid for the registration of ten (10) kegs)	\$ 6
Stipulated license	\$100

Chapter 3, LIMITATIONS ON LICENSES, is amended as follows:

Section 300, LIMITATION ON THE NUMBER OF CLASS A AND CLASS B RETAILER'S LICENSES, is amended by (a) amending § 300.2, (b) renumbering the former §§ 300.3 through 300.6 as §§ 300.6 through 300.9, and (c) adding new §§ 300.3 through 300.5 to read as follows:

- 300.2 The two hundred seventy-five (275) quota limit set forth in D.C. Official Code § 25-331(b) shall not apply to Class B Retailer's license renewal applications.
- 300.3 Off-premises Retailer's license Class IA shall not be counted toward the quota limit set forth in § 300.1.
- 300.4 Off-premises Retailer's license Class IB shall not be counted toward the quota limit set forth in § 300.2.
- 300.5 The quotas set forth in § 300.1 and 300.2 shall not prohibit the issuance of a license for an off-premises retailer's license, Class IA or IB.

Section 302, LICENSES NEAR SCHOOLS, COLLEGES, UNIVERSITIES, AND RECREATION AREAS, is amended by adding new §§ 302.9 and 302.10.

- 302.9 The four hundred foot (400 ft.) restriction shall not apply to an application for a Retailer's license, Class IA or IB.
- 302.10 The four hundred foot (400 ft.) restriction shall not apply to an applicant for a Retailer's license Class B if the applicant's establishment will be located inside of a hotel and will have no direct public access to the street or the outside of the hotel's building.

Section 501, REQUIRED STATEMENTS, of Chapter 5, LICENSE APPLICATIONS, is amended by amending § 501.3 to read as follows:

- 501.3 An applicant requesting the transfer of a license to a new owner pursuant to D.C. Official Code § 25-405 shall submit a completed transfer application and any documentation and other written statements evidencing the legal transfer of the license, including the financial details surrounding the transfer, and establishing to the Board's satisfaction that the new owner meets all of the qualifications of D.C. Official Code § 25-301.

Chapter 7, GENERAL OPERATING REQUIREMENTS, is amended as follows:

Section 703, TEMPORARY OPERATING RETAIL PERMIT, is amended by amending § 703.1 to read as follows:

703.1 The purchaser of an ABC licensed establishment that seeks to continue business operations while awaiting Board approval on a transfer of ownership application where no substantial change will occur shall apply to the Board for a permit to temporarily operate under the license pursuant to the following conditions:

- (a) The transfer application must be filed with or before the application for temporary authority;
- (b) The subject premises must not have been closed nor the sale or service of alcoholic beverages discontinued during the thirty (30) days immediately prior to the filing of the permit application; and
- (c) That no substantial changes to the licensed premises will occur.

Section 705, HOURS OF SALE AND DELIVERY FOR OFF-PREMISES RETAIL LICENSEES, is amended by amending § 705.9(c) to read as follows:

705.9

...

- (c) 3:00 a.m. and 8:00 a.m., on Sunday.

Section 805, WARNINGS, of Chapter 8, ENFORCEMENT, INFRACTIONS, AND PENALTIES, is amended by amending § 805.3 to read as follows:

805.3 A licensee entitled to a mandatory administrative written warning for a first violation shall not be entitled to a mandatory administrative written warning for a second or subsequent violation of the same offense committed within four (4) years of issuance of the first mandatory administrative written warning.

Section 905, RESTRICTIONS ON ENTRANCE INTO LICENSED PREMISES, of Chapter 9, PROHIBITED AND RESTRICTED ACTIVITIES, is amended by amending § 905.1 to read as follows:

905.1 The admittance requirement of those persons displaying a valid identification as set forth in D.C. Official Code § 25-782(d) shall not preclude establishments from enforcing a dress code or an age restriction, provided those establishments do not discriminate on any basis prohibited by Chapter 14 of Title 2 of the D.C. Official Code.

Chapter 10, ENDORSEMENTS, is amended as follows:

Section 1000, ENTERTAINMENT ENDORSEMENT, is amended by (a) renumbering the former §§ 1000.3 through 1000.5 as §§ 1000.4 through 1000.6, and (b) adding a new § 1000.3 to read as follows:

1000.3 A licensee under a Class C/R, D/R, C/T, D/T, C/H, or D/H license that does not possess an entertainment endorsement, shall not position furniture in a manner that creates a dance floor area greater than one hundred forty square feet (140 ft.²).

Chapter 12, RECORDS AND REPORTS, is amended as follows:

Section 1206, MANUFACTURER'S REPORTS, is amended in its entirety to read as follows:

1206 [REPEALED]

Section 1208, RETENTION AND INSPECTION OF BOOKS AND RECORDS, is amended by amending §§ 1208.4 and 1208.5 as follows:

1208.4 The holder of a Retailer's, Manufacturer's, or Wholesaler's license may maintain its records at a location in the District of Columbia other than the licensed premises with the approval of the Board. Any requested location must: (1) maintain the original invoices; and (2) be available for inspection by ABRA investigators at any time during business hours.

1208.5 The holder of a Retailer's license may maintain its original invoices outside of the District of Columbia upon a determination by the Board that good cause exists. However, duplicate invoices must be maintained in the District of Columbia at either the licensed premises or a location approved by the Board and the applicant is responsible for providing the original invoices to the Board within three (3) days of receiving a written request from the Board. Failure to make the original invoices available to the Board within three (3) days of its written request shall constitute a violation of § 1208.1.

Section 1301, IMPORTATION PERMITS FOR RETAILERS OF ALCOHOLIC BEVERAGES, of Chapter 13, TRANSPORT OF BEVERAGES, is amended by (a) amending § 1301.1 and (b) adding a new § 1301.3 to read as follows:

1301.1 An importation permit issued under D.C. Official Code § 25-119 to the holder of a Retailer's license Class A, B, C, or D, or any other entity authorized to obtain an importation permit in accordance with 23 DCMR § 1302.3 must bear the full brand or trade name of the alcoholic beverage to be imported. If the brand of alcoholic beverage to be imported is listed by a licensed manufacturer or wholesaler under these regulations, then upon application made to the Board, the retailer shall certify that the brand of alcoholic beverage sought to be imported is

not available from a licensed manufacturer or wholesaler in sufficient kind or quantity to reasonably satisfy the immediate needs of the licensee.

...

- 1301.3 An importation permit issued under D.C. Official Code § 25-119 shall be obtained by:
- (a) Any unlicensed alcohol manufacturer, wholesaler, or retailer located outside of the District of Columbia that ships alcohol to the property of an official embassy, federal exempt property, or any other property exempt from Title 25 of the D.C. Official Code. Federal property exempt from Title 25 includes, but is not limited to, property under the control of the National Park Service and the Smithsonian Institute;
 - (b) A federally licensed importer that does not hold a District of Columbia alcohol license importing alcohol into the District of Columbia. The issuance of this permit shall be conditioned on the importer until an appropriate District alcohol license is obtained; and
 - (c) A state licensed manufacturer or wholesaler that does not hold a District of Columbia alcohol license donating alcoholic beverages to a non-profit organization, charity, or for a temporary event license holder.

Chapter 15, APPLICATIONS: NOTICE OF HEARINGS INVOLVING LICENSES, is amended as follows:

Section 1502, NOTICE OF AN APPLICATION FOR A NEW LICENSE, RENEWAL OF A LICENSE, OR TRANSFER OF A LICENSE TO A NEW LOCATION, is amended in its entirety to read as follows:

1502 NOTICE OF AN APPLICATION FOR A NEW LICENSE, RENEWAL OF A LICENSE, OR TRANSFER OF A LICENSE TO A NEW LOCATION

- 1502.1 The provisions of this section shall govern notice to the public of all applications for new licenses, renewals, or a transfer to a new location, including Manufacturer, Wholesaler, and Retailer licenses, but shall not apply to Solicitor's licenses, Manager's licenses, Caterer's licenses, Wholesaler's licenses, or to Temporary licenses.
- 1502.2 Upon acceptance of an application, the Board shall establish the date for a roll call hearing on the application, which shall be at least forty-five (45) days after the application is accepted.
- 1502.3 At least forty-five (45) days prior to the roll call hearing, the Board shall give notice of an application to the entities set forth in D.C. Official Code § 25-421(a). This notice requirement shall not apply to renewal applications in those instances where the Applicant's new license or transfer to a new location application has a

forty-five (45) day public comment period ending within thirty (30) days of the renewal deadline for that license class.

- 1502.4 [REPEALED].
- 1502.5 Except as provided for in §§ 1502.6 and 1502.7, at least forty-five (45) days before the roll call hearing, the applicant shall post at least two (2) notice placards, provided by the Board, in conspicuous places on the outside of the establishment for the duration of the protest period.
- 1502.6 Subsection 1502.5 shall not apply to new or renewal license applications for a common carrier license for a passenger-carrying marine vessel that does not possess a physical location in the District of Columbia.
- 1502.7 At least forty-five (45) days before the roll call hearing, the applicant for a new or renewal license application for a Retailer's license Class IA or IB shall have a copy of the placard notice provided by the Board on its website.
- 1502.8 The Board shall inspect the premises at least once before the date of the roll call hearing specified on the notice to ensure that the placards continue to be prominently and visibly displayed to the public. If the placards have been removed or are posted in a manner not visible from the street, the establishment shall be re-advertised and replacarded for a further forty-five (45) calendar day period.

Chapter 16, CONTESTED HEARINGS, NON-CONTESTED HEARINGS, PROTEST HEARINGS AND PROCEDURES, is amended as follows:

Section 1602, FILING A PROTEST, is amended by (a) amending § 1602.3, (b) renumbering the former § 1602.4 as § 1602.5 and (c) adding a new § 1602.4 to read as follows:

- 1602.3 All protests shall be signed by the protestant and contain the protestant's full name, e-mail address, **if any, and mailing address. Protestant groups of five or more residents or property owners of the District sharing common ground, or in a moratorium zone established under D.C. Official Code § 25-351, a group of no fewer than three residents or property owners of the District, shall identify a designated representative(s) who shall represent the group and receive correspondence from the Board on the group's behalf.**
- 1602.4 For purposes of § 1602.3, electronic signatures on protest letters are permitted.

Section 1604, PROTEST STATUS HEARING, is amended by (a) renumbering former § 1604.3 as § 1604.4, and (b) adding a new § 1604.3 follows:

- 1604.3 Failure to appear at the Protest Status Hearing either in person or through a designated representative may result in denial of the license application or dismissal of a protest, unless, in the discretion of the Board, good cause is shown for the failure to appear. Examples of good cause for failure to appear include, but are not limited to:
- (a) Sudden, severe illness or accident;
 - (b) Death or sudden illness in the immediate family, such as spouse, partner, children, parents, or siblings;
 - (c) Incarceration;
 - (d) Severe inclement weather; or
 - (e) Arriving after the Protest Status Hearing has concluded.

Section 1606, PARTY DISMISSAL, is amended by amending § 1606.5 as follows:

- 1606.5 In the event that an applicant's re-filed second renewal application is dismissed for failure to appear at a hearing and not reinstated by the Board for good cause, the license renewal application shall be denied and the license expired. The applicant shall be required to file a new license application, unless prohibited by a liquor license moratorium, and shall not be permitted to file a third license renewal application.

Section 1609, MEDIATION, is amended by (a) renumbering former §§ 1609.2 and 1609.3 as §§ 1609.3 and 1609.4, and (b) adding a new § 1609.2 to read as follows:

- 1609.2 Mediation proceedings are confidential to the extent agreed to by the parties or provided by other law or rule of the District of Columbia. Mediation proceedings shall not be recorded or transcribed in any fashion. Statements made during mediation and documents and other evidence disclosed during mediation are not discoverable unless otherwise required by District or Federal law.

Section 1610, SETTLEMENT AGREEMENTS, is amended by (a) renumbering former § 1610.6 as § 1610.9, and (b) adding new §§ 1610.6 through 1610.8 to read as follows:

- 1610.6 The Board shall issue an Order denying the settlement agreement if the parties to a settlement agreement reject the modifications proposed by the Board and fail to submit a new settlement agreement in accordance with § 1610.5 or fail to respond to the Board's modifications within thirty (30) days of receiving notice of the modifications.

1610.7 If the Board issues an Order denying the settlement agreement pursuant to § 1610.6 and a protest has been filed against the Application, the matter will be scheduled for a Protest Hearing.

1610.8 If the Board issues an Order denying the settlement agreement pursuant to § 1610.6, and a protest was not filed against the Application, the Board may grant the Application in accordance with D.C. Official Code § 25-104 if the applicant or licensee meets the requirements set forth in Title 25 of D.C. Official Code.

Section 1612, PROTEST HEARINGS, is amended by adding new § 1612.10 to read as follows:

1612.10 The Board may, on a motion from either party or on its own motion, limit the number of persons who may testify on behalf of the Applicant, Licensee, or protestant if the Board determines the testimony would be redundant.

Section 1614, FACT-FINDING HEARINGS, is renumbered as Section 1616. A new Section 1614, CONSOLIDATED HEARINGS BEFORE THE BOARD, is added to read as follows:

1614 CONSOLIDATED HEARINGS BEFORE THE BOARD

1614.1 A consolidated protest hearing or show cause hearing may be held if the issues to be considered at the hearing are the same issues that are involved in another proceeding with the same Applicant pending before the Board.

1614.2 It is within the discretion of the Board to grant or deny a party's request for consolidation. In considering the request, the Board may consider factors such as whether the issue(s) may be more efficiently decided if the hearings are combined.

1614.3 In considering a party's request for consolidation, the Board must take into account the adjudication deadlines for each case and may require a party to waive the adjudication deadline associated with one (1) or more cases if consolidation otherwise prevents the Board from deciding all of the cases at issue within their respective deadlines.

1614.4 The Board may also propose on its own motion to consolidate two (2) or more cases in one (1) hearing for administrative efficiency.

1614.5 Before consolidating a hearing, the Board must notify the parties of its intention to do so, to provide the parties with an opportunity to file any objection.

1614.6 If the Board decides to hold a consolidated hearing, the Board may make either a consolidated decision and record or a separate decision and record on each issue.

The Board shall ensure that any evidence that is common to all cases and material to the common issue to be decided is included in the consolidated record or each individual record, as applicable.

Section 1615, MORATORIUM HEARINGS, is renumbered § 1617. A new Section 1615, RULE ON WITNESSES, is added to read as follows:

1615 RULE ON WITNESSES

- 1615.1 At the request of a party, or on its own motion, and subject to § 1615.2, the Board shall order witnesses excluded so that they will not hear the testimony of other witnesses.
- 1615.2 Notwithstanding § 1615.1, the following persons shall not be excluded from hearings before the Board:
- (a) The Applicant or the Licensee;
 - (b) The Designated Representative for a party to a proceeding; or
 - (c) Any person whose presence is shown by a party to be essential to the presentation of his or her case.

Former Section 1614, FACT-FINDING HEARINGS, is amended by (a) renumbering it § 1616 and (b) amending it in its entirety to read as follows:

1616 FACT-FINDING HEARINGS

- 1616.1 Prior to rendering a final decision on a licensing request or an ABRA Investigative Report, the Board may hold a non-evidentiary fact-finding hearing to obtain further information from an applicant, licensee, witness, government official, or any other member of the public with the permission of the Board.
- 1616.2 A licensee shall not be fined or have its license suspended or revoked at a fact-finding hearing. However, information provided at a fact-finding hearing may result in the issuance of a show cause notice pursuant to 23 DCMR § 1611 or other enforcement action permitted under the Act or this title. The fact-finding hearing may also result in the Board initiating an action to deny, modify, place conditions, or approve an application, as well as any other action authorized by this title.
- 1616.3 An applicant or licensee that fails to appear at a fact-finding hearing without good cause or refuses to respond to questions asked by the Board may have their application deemed abandoned, which shall result in the denial of the application. A denial issued under this provision shall not be deemed technical or procedural under D.C. Official Code § 25-338(b).
- 1616.4 At any time, in its discretion, the Board may limit or exclude the submission of evidence, statements, and testimony at the hearing.

1616.5 All fact-finding hearings shall be open to the public unless closed to the public in accordance with Section 405 of the Open Meetings Act, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code § 2-575), as amended.

Former Section 1615, MORATORIUM HEARINGS, is renumbered § 1617.

A new Section 1618, DISMISSAL FOR FAILURE TO PURSUE AN APPLICATION OR PROTEST, is added to read as follows:

1618 DISMISSAL FOR FAILURE TO PURSUE AN APPLICATION OR PROTEST

1618.1 Absent good cause, where the applicant to a pending liquor license application fails to appear for a fitness hearing or fact-finding hearing, fails to file requested pleadings, or comply with a Board order, the Board shall, on its own motion, dismiss the application.

1618.2 Examples of good cause include, but are not limited to:

- (a) The Applicant did not receive notice of a scheduled hearing;
- (b) The Applicant had an emergency that prevented him or her from appearing at the hearing; or
- (c) The Applicant was not aware of the Board order or the Board’s pleadings request.

Chapter 17, PROCEDURAL REQUIREMENTS FOR BOARD HEARINGS, is amended as follows:

Section 1703, SERVICE OF PAPERS, is amended by amending § 1703.1 and § 1703.5(e) as follows:

1703.1 Any papers filed with the Board or on opposing parties in a contested case shall be served by personal delivery, first class U.S. mail, registered or certified mail, or by electronic mail. Proof of service shall be shown as required in § 1703.7.

1703.5

...

- (e) By electronic mail at the e-mail address on file with ABRA;

Section 1703 is further amended by amending § 1703.7(d) as follows:

1703.7

...

- (d) [REPEALED].**

Section 1705, CONTINUANCES, is amended by amending § 1705.2 to read as follows:

1705.2 An attorney who knows or should know of a scheduling conflict shall immediately, but no later than two (2) days before the scheduled hearing, file a motion for continuance with the Board, with copies submitted to the opposing party or parties. A scheduling conflict with another tribunal may be considered good cause for continuing the proceeding.

Section 1708, INSPECTION OF BOARD FILES, is amended by amending § 1708.1 to read as follows:

1708.1 The records of the Board shall be available for inspection and copying during normal business hours at the request of any interested party or member of the public. The Board shall make the records available within five (5) business days from when the request is made.

Section 1713, DOCUMENTARY EVIDENCE, is amended by amending § 1713.2 to read as follows:

1713.2 Any party who intends to offer documentary evidence at a hearing shall, seven (7) calendar days prior to the hearing, disclose the evidence to the opposing party. Absent good cause, failure to disclose documentary evidence seven (7) calendar days prior to the hearing may result in the Board excluding the evidence.

Section 1716, MOTIONS, is amended to read as follows:

1716 MOTIONS

1716.1 Any party to a protest may seek relief from the Board against an opposing party by filing a motion with the Board. Unless otherwise specified, motions shall conform to the following requirements:

- (a) Be in writing;
- (b) Served upon the other parties to the protest by electronic mail or the first-class U.S. Postal Service; and
- (c) Filed with the Board.

1716.2 Motions for a continuance shall conform to 23 DCMR § 1705.

1716.3 Any party may file a response in opposition to a motion within seven (7) calendar days after service of the motion. In the case of motions for continuances which have been filed by a party on the sixth (6th) calendar day before a scheduled hearing, pursuant to § 1705.1, responses thereto shall either be made in writing

and served by personal delivery on all parties prior to the hearing or shall be made orally on the date of the hearing.

- 1716.4 A response to a motion shall not include a motion for other affirmative relief against the moving party.
- 1716.5 If a party filing an opposition desires to submit a motion for other affirmative relief, it shall be done by separate pleading.
- 1716.6 [REPEALED].
- 1716.7 A reply may be filed within three (3) calendar days after service of a response in opposition to a motion, but the reply shall not re-argue propositions presented in the motion, nor present matters which are not strictly in reply to the opposition.
- 1716.8 No further pleading shall be filed except by leave of the Board.

Section 1717, POST-HEARING SUBMISSIONS, is amended in its entirety to read as follows:

1717 POST-HEARING SUBMISSIONS

- 1717.1 No document or other information shall be accepted for the record after the close of a hearing except as **follows**:
- (a) Unless accompanied by a Motion to Re-open the Record demonstrating good cause and the lack of prejudice to any party;
 - (b) Until all parties are afforded due notice and an opportunity to rebut the information; or
 - (c) Upon official notice of a material fact not appearing in the evidence in the record in accordance with D.C. Official Code § 2-509(b).
- 1717.2 The Board shall afford parties an opportunity to file Proposed Findings of Fact and Conclusions of Law within thirty (30) calendar days after receipt of the transcript from the hearing. The Board may, in its discretion, grant an extension to file Proposed Findings of Fact and Conclusions of Law for good cause. An extension granted by the Board shall not exceed twenty (20) calendar days after the initial deadline.
- 1717.3 [REPEALED].
- 1717.4 [REPEALED].

- 1717.5 A copy of the Proposed Findings of Fact and Conclusions of Law shall be served on each party.
- 1717.6 Proposed Findings of Fact and Conclusions of Law shall be limited to the record and refrain from including new legal issues or evidence not previously raised at the hearing.

Section 1719, RECONSIDERATION, REHEARING, AND REARGUMENT, is amended by amending § 1719.2 to read as follows:

- 1719.2 An original copy of the Petition shall be filed with the Board, and a copy shall be served on each party and intervenor.

Copies of the proposed rulemaking can be obtained by contacting Martha Jenkins, General Counsel, Alcoholic Beverage Regulation Administration, 2000 14th Street, N.W., 4th Floor, Washington, D.C. 20009. All persons desiring to comment on the proposed rulemaking must submit their written comments, not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*, to the above address or via email to martha.jenkins@dc.gov.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF THIRD EMERGENCY RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs (Director), pursuant to Section 101(b) of the Omnibus Regulatory Reform Amendment Act of 1998, effective April 29, 1998 (D.C. Law 12-86; D.C. Official Code § 47-2851.04(c)(1) (2015 Repl.)), Section 10(b) of An Act To control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes, approved July 8, 1932 (47 Stat. 652; D.C. Official Code § 22-4510(b) (2012 Repl.)), and Section 3 of the Streamlining Regulation Act of 2003, effective October 28, 2003 (D.C. Law 15-38; 50 DCR 6913 (August 22, 2003)), hereby gives notice of the adoption of the following amendment to Chapter 5 (Basic Business License Schedule of Fees) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR).

This emergency rulemaking amends Chapter 5 to add a fee schedule in a new Section 517.

A third notice of emergency rulemaking is required in order for the publication process of the Notice of Final Rulemaking to be completed. Emergency action is needed to ensure that the endorsement for stun gun sales required by the “Stun Gun Regulation Emergency Amendment Act of 2016” (D.C. Bill 21-986), and substantially similar emergency, temporary, and permanent legislation, exists for those wishing to sell stun guns in the District of Columbia.

Identical language was adopted in a Notice of Second Emergency Rulemaking on October 25, 2017 and published into the *D.C. Register* on January 19, 2018 at 65 DCR 459. A Notice of Emergency and Proposed rulemaking was published into the *D.C. Register* on July 28, 2017 at 64 DCR 7274 and received no comments.

Pursuant to D.C. Law 12-86, the Director may issue rules amending the special license and permits fees. This third emergency rulemaking was adopted on April 19, 2018 and became effective immediately on that date. It will remain in effect for up to one hundred and twenty (120) days, unless earlier superseded by a notice of final rulemaking published in the *D.C. Register*. The rules will expire on August 17, 2018.

Chapter 5, BASIC BUSINESS LICENSE SCHEDULE OF FEES, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended by adding the following Section 517:

517 STUN GUN SALES ENDORSEMENT

517.1 The Director shall charge fees for business license categories with a Stun Gun Sales Endorsement as follows:

- (a) Stun gun sales: \$200.00

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs (“Department”), pursuant to paragraph 7 of the General Expenses title of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and ten, and for other purposes, approved March 3, 1909 (35 Stat. 689; Pub. L. 60-303; D.C. Official Code § 6-661.01(a) (2012 Repl.)) and Mayor’s Order 2013-23, dated January 29, 2013, hereby gives notice of the adoption, on an emergency basis, and intent to adopt permanently, the following amendment to Chapter 1 (DCRA Permits Division Schedule of Fees) of Title 12 (Construction Codes Supplement of 2013), Subtitle M (Fees), of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

This emergency and proposed rulemaking establishes a pilot program and fee for accelerated plan reviews at four stages of design completion.

This emergency rulemaking is necessary to protect the health, safety, and well-being of the District of Columbia by establishing an appropriate fee for expedited plan reviews. The one hundred twenty (120)-day period for the rules will also provide the agency with time to pilot and evaluate the fees associated with the program so that the agency can determine whether they are, as proposed, appropriate to compensate for the time and skill set of the new government team, and to ensure that staffing is appropriate so that this program does not slow regular approvals, but rather supplements them. The proposed fee structure is competitive with those charged by the private sector for reviews.

This emergency rulemaking was adopted on March 28, 2018 to become effective immediately. Pursuant to Section 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206, Pub. L. 90-614; D.C. Official Code § 2-505(c) (2016 Repl. & 2017 Supp.)), this emergency rulemaking will remain in effect for up to one hundred twenty (120) days from the date of effectiveness and will expire on July 26, 2018.

Chapter 1, DCRA PERMITS DIVISION SCHEDULE OF FEES, of Title 12-M DCMR, FEES, is amended as follows:

Section 101, BUILDING PERMIT FEES, Subsection 101.1(b), is amended by adding the following phrase to the end of the subsection:

Accelerated Stage Plan Review	Projects 10,000 square feet or less	\$5,000 per meeting for 4 meetings
	Projects 10,001 square feet and more	\$10,000 per meeting for 4 meetings

All persons desiring to comment on these proposed regulations should submit written comments to Robert Finn, Legislative Affairs Supervisor, Department of Consumer and Regulatory Affairs, 1100 Fourth Street, S.W., Room 5164, Washington, D.C. 20024, or by e-mail to Robert.Finn@dc.gov, not later than thirty (30) days after publication of this notice in the *D.C. Register*. Copies of the proposed rules can be obtained from the address listed above.

**DISTRICT OF COLUMBIA
DEPARTMENT OF INSURANCE, SECURITIES AND BANKING**

NOTICE OF THIRD EMERGENCY AND PROPOSED RULEMAKING

The Commissioner of the Department of Insurance, Securities and Banking (“Commissioner”), pursuant to the authority set forth in Section 7c of the Department of Securities Regulation Establishment Act of 1996, effective February 18, 2017 (D.C. Law 21-214; D.C. Official Code §§ 31-106.03 (2013 Repl.)), and Mayor’s Order 2017-206, dated September 8, 2017, hereby gives notice of the adoption, on an emergency basis, of a new Chapter 30 (Student Loan Servicers), of Title 26 (Insurance, Securities, and Banking), Subtitle C (Banking and Financial Institutions), of the District of Columbia Municipal Regulations (“DCMR”).

The proposed chapter clarifies and implements the Student Loan Ombudsman Establishment and Servicing Regulation Amendment Act of 2016, effective February 18, 2017 (D.C. Law 21-214; D.C. Official Code §§ 31-106.01 *et seq.* (2013 Repl.)), so that the provisions of the act may be best effectuated and the public interest most effectively served. This emergency rulemaking is necessary because the District must continue to act swiftly to ensure the long-term financial safety and security of District residents with student educational loans. The federal government has begun to amend and repeal several federal regulations and policies related to student aid. The U.S. Department of Education has already announced plans to revise nearly ten regulations and policies that directly affect student loan borrowers. These revisions include the suspension of several changes designed to simplify and expedite the claims process for borrowers who fell victim to deceptive tactics by certain colleges. The Department of Education also has withdrawn several Obama administration memoranda crafted to strengthen consumer protections for student loan borrowers, including consideration of a loan servicer’s records related to consumer complaints and investigation prior to the award of any federal contract.

District residents have filed more than four hundred (400) complaints with the federal Consumer Financial Protection Bureau (“CFPB”) in the past five (5) years related to issues arising from interactions with student loan servicers. Poor customer service resulting in substantial confusion about loan payment timetables and amounts has been a recurring theme among residents diligently working to pay off their student debt.

Considering the pending and potential changes in federal law and policy related to student loan borrowers, the District must increase its efforts to ensure that student loan servicers are acting in the best interests of the District of Columbia borrowers they serve. This is vital to promoting consumer confidence, and to maintaining the economic prosperity the District has seen in recent years. This rulemaking will provide the necessary framework for the Department of Insurance, Securities and Banking and its Student Loan Ombudsman to ensure that borrower interactions with their servicers are marked by professionalism and efficiency that will facilitate loan repayment.

Emergency action also is necessary because multiple regulated entities have already been approved for licensure under the previous and current versions of these emergency rules, and several others are pending approval. It is imperative that there be continuous regulatory coverage

for these entities until final rules have been promulgated. Preservation of the regulatory framework is vital to protecting student loan borrower interests, and to the regulated entities that now rely on it. Because of these imperatives, this emergency and proposed rulemaking is necessary for the immediate preservation of the public's safety and welfare.

A Notice of Emergency and Proposed Rulemaking was adopted on September 8, 2017 and became effective on that date ("Notice"). The Notice was published in the *D.C. Register* on October 27, 2017 at 64 DCR 11287. The comment period closed on November 27, 2017. The Department received four (4) comments on the initial emergency and proposed rules. A Notice of Second Emergency and Proposed Rulemaking was adopted on December 26, 2017, and became effective on that date ("2nd Notice"). The Notice was published in the *D.C. Register* on January 26, 2018 at 65 DCR 692. The comment period closed on February 26, 2018. The Department received one (1) comment on the second emergency and proposed rules.

The Department is promulgating this emergency and proposed rulemaking in order to ensure continuous regulatory coverage as the Department considers the comments and suggested modifications put forward by the student loan servicing community in the initial and second thirty (30) day comment periods, and makes appropriate revisions to the rules based upon stakeholder concerns. This emergency and proposed rulemaking makes numerous substantive changes in response to the public comments received by the Department.

These emergency rules were adopted on April 20, 2018, and became effective on that date. These emergency rules hereby supersede emergency rules adopted on December 26, 2017. These emergency rules shall remain in effect for not longer than one hundred and twenty (120) days from the date of adoption, expiring on August 18, 2018, unless earlier superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Commissioner 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*.

A new Chapter 30, STUDENT LOAN SERVICERS, of Title 26-C DCMR, BANKING AND FINANCIAL INSTITUTIONS, is added to read as follows:

CHAPTER 30 STUDENT LOAN SERVICERS

3000	SCOPE AND APPLICABILITY
3001	EXEMPTIONS
3002	LICENSE APPLICATION CONTENT, FEES, AND QUALIFICATIONS
3003	FINANCIAL STATEMENTS AND NET WORTH REQUIREMENT
3004	SURETY BOND REQUIREMENT
3005	INCOMPLETE AND ABANDONED APPLICATIONS
3006	WITHDRAWAL OF AN INITIAL APPLICATION
3007	ISSUANCE AND TRANSFERABILITY OF A LICENSE
3008	INFORMATION CHALLENGE PROCESS
3009	EXPIRATION AND RENEWAL OF LICENSE
3010	LICENSE REINSTATEMENT

3011	DENIAL OF APPLICATION
3012	CHANGE OF LOCATION
3013	SURRENDER OF LICENSE
3014	ANNUAL REPORT AND REPORTING REQUIREMENTS
3015	ANNUAL ASSESSMENTS
3016	NOTIFICATION OF SIGNIFICANT EVENTS BY LICENSEE
3017	SPECIAL REPORTS
3018	RECORD KEEPING
3019	SUSPENSION AND REVOCATION OF LICENSE
3020	ORDER OF REVOCATION AND NOTICE OF SUSPENSION
3021	EXAMINATIONS AND INVESTIGATIONS
3022	COMPLAINTS
3023	LICENSING FEES
3099	DEFINITIONS

3000 SCOPE AND APPLICABILITY

3000.1 This chapter shall apply to any person or entity that operates as a student loan servicer in the District of Columbia (“District”).

3001 EXEMPTIONS

3001.1 This chapter shall not apply to any bank, trust company, loan company, savings bank, savings and loan association, credit union, or financial institution that accepts deposits and is incorporated or chartered under the laws of the District, the United States, or any state or territory of the United States.

3001.2 This chapter shall not apply to a public postsecondary educational institution or private non-profit postsecondary educational institution servicing a student loan it extended to a borrower.

3002 LICENSE APPLICATION CONTENT, FEES, AND QUALIFICATIONS

3002.1 A license application shall be filed on a form prescribed by the Commissioner, using the National Multistate Licensing System (“NMLS”).

3002.2 The application shall include at a minimum:

- (a) Statements under oath that the applicant has never had an educational or student loan-related license, or other financial services related license, revoked by any governmental agency in any jurisdiction;
- (b) Statements under oath that the applicant and each of its officers, directors, partners, and owners of a controlling interest have not been

convicted of, or pled guilty or nolo contendere, to a felony in a domestic, foreign, or military court:

- (1) During the seven (7) year period preceding the date of the application for licensure; or
 - (2) At any time preceding the date of application, if the felony involved an act of fraud, dishonesty, a breach of trust, or money laundering;
- (c) Evidence of the applicant's financial responsibility, character and general fitness that warrants a determination that the applicant will operate honestly, fairly, and efficiently within the purposes of the Act. For the purposes of this paragraph, an applicant shall not be found financially responsible if the applicant has:
- (1) Current outstanding judgments; or
 - (2) Current outstanding tax liens or other government liens or filings.
- (d) Evidence demonstrating that the applicant has met the applicable net worth and surety bond requirements pursuant to D.C. Official Code §§ 31-106.02(c)(1)(C) and (D), and §§ 3003 and 3004;
- (e) Payment of applicable fees as described in § 3023 and any outstanding fees due to the Department or to the District, including compliance with the Clean Hands Before Receiving a License or Permit Act of 1996, effective May 11, 1996 (D.C. Law 11-118; D.C. Official Code §§ 47-2861 *et seq.*);
- (f) The legal name, trade name, and business address of the applicant and, if the applicant is a partnership, association, company, or corporation, of every partner, member, officer, and director thereof;
- (g) All names, including but not limited to, website domain names, under which the applicant will conduct business in the District;
- (h) The complete name and address of the applicant's registered agent and registered office for service of process in the District;
- (i) Information to demonstrate the applicant's current qualifications to service student education loans in the District;

- (j) The general plan and description of the applicant's business, including policies and procedures for receiving and processing consumer inquiries, complaints, and grievances promptly and fairly;
- (k) The address of the applicant's principal place of business and any branch or branch offices from which the applicant proposes to operate as a student loan servicer; and
- (l) Other data, financial statements, and information as the Commissioner may require with respect to the applicant, its partners, members, officers, directors, trustees, or agents.

3002.3 The applicant shall label any confidential information submitted pursuant this section as "confidential information." Confidential information shall be exempt from disclosure pursuant to the Freedom of Information Act of 1976, effective March 29, 1977 (D.C. Law 1-96; D.C. Official Code §§ 2-531 *et seq.*).

3003 FINANCIAL STATEMENTS AND NET WORTH REQUIREMENT

3003.1 An applicant for a student loan servicer license shall submit its audited financial statements for the immediately preceding three (3) years, or for the period the applicant has been in business if less than three (3) years. Financial statements shall be prepared in accordance with generally accepted accounting principles.

3003.2 The financial statements shall include:

- (a) A balance sheet;
- (b) An income statement;
- (c) A statement of cash flows; and
- (d) All relevant notes included with the documents listed in §§ 3003.2 (a) through (c).

3003.3 A student loan servicer shall demonstrate and continuously maintain a net worth of not less than two hundred fifty thousand dollars (\$250,000).

3004 SURETY BOND REQUIREMENT

3004.1 An applicant for a student loan servicer license shall file a surety bond in a form prescribed by the Commissioner with each original application and any renewal application.

- 3004.2 The surety bond shall:
- (a) Run to the Commissioner for the benefit of:
 - (1) The District and any person or entity who has been damaged by a licensee as a result of violating the Act, these regulations, or any order governing the activities of a student loan servicer as determined by the Commissioner; or
 - (2) The recovery of fines, fees, or expenses levied against a licensee pursuant to the Act;
 - (b) Be issued by an insurer authorized to do business in the District;
 - (c) Be conditioned upon the applicant:
 - (1) Complying with all District and federal laws regulating the activities of student loan servicers;
 - (2) Performing all written agreements with student loan borrowers; and
 - (3) Accounting for all funds received by the licensee in conformity with a standard system of accounting;
 - (d) Be continuously maintained thereafter for as long as any license issued under the Act and this chapter remains in force; and
 - (e) Be issued in the applicant's legal name and include any trade names, if applicable.
- 3004.3 Each student loan servicer licensee shall maintain a continuous surety bond in the amount of fifty thousand dollars (\$50,000) at all times as a condition of licensure.
- 3004.4 When an action is commenced on a licensee's bond, the Commissioner may require the filing of a new bond pursuant to the requirements of this section.
- 3004.5 Immediately upon recovery or upon any action on the bond, the licensee shall file a new bond pursuant to the requirements of this section.
- 3004.6 Any person or entity that may be damaged by the noncompliance of a licensee with any condition of the bond may proceed on the bond against the principal or surety, or both, to recover damages.
- 3004.7 Regardless of the number of years the bond remains in effect, the number of premiums paid, the number of renewals of the license, or the number of claims

made, the aggregate liability under each bond shall not exceed the penal sum of the bond.

3005 INCOMPLETE AND ABANDONED APPLICATIONS

3005.1 An application shall be deemed incomplete if it omits required information, documents, or material facts.

3005.2 If the Commissioner determines that an application is incomplete, the Commissioner shall notify the applicant of the deficiencies through the NMLS. The applicant shall correct a deficiency associated with an application within forty-five (45) days of being notified through the NMLS that the application is deficient.

3005.3 If the applicant fails to complete the application or respond to deficiencies within the forty-five (45)-day period, the application will be considered abandoned.

3005.4 Abandonment of an application pursuant to this chapter shall not preclude the applicant from submitting a new application and appropriate fees for a license.

3006 WITHDRAWAL OF AN INITIAL APPLICATION

3006.1 An applicant may request withdrawal of an application and any fees prior to a determination on the application, by filing the request through the NMLS.

3006.2 No withdrawal shall be effective until accepted by the Commissioner.

3007 ISSUANCE AND TRANSFERABILITY OF A LICENSE

3007.1 The Commissioner shall approve an initial license application that meets the requirements of this chapter not later than sixty (60) days from the date the Commissioner determines that the application is complete.

3007.2 A licensee shall continuously maintain its license and qualifications to do business in the District for as long as the student loan servicer license is in effect.

3007.3 The Commissioner may restrict or impose conditions on any license in conjunction with a violation of the Act, these regulations, or any orders issued by the Commissioner.

3007.4 Licensees are under a continuing obligation to update information on file with the Commissioner. If any information filed with the Commissioner becomes inaccurate, the licensee shall, within ten (10) business days, submit to the

Commissioner an amendment to its record that will correct the information on file with the Commissioner.

- 3007.5 A licensee shall not operate as a student loan servicer under any other name or at any other place of business other than that named in the license, unless the licensee has taken action pursuant to § 3007.4.
- 3007.6 A license shall remain in force until it has expired or has been surrendered, revoked, or suspended in accordance with the provisions of this chapter. The expiration, surrender, revocation, or suspension of a license shall not affect any pre-existing legal right or obligation of the licensee, including any civil or criminal liability of a licensee for acts committed before the license expired or was surrendered, revoked, or suspended.
- 3007.7 A license granted pursuant to this chapter shall not be transferable or assignable.
- 3007.8 Not more than one (1) place of business shall be maintained under the same license, but the Commissioner may issue more than one (1) license to the same student loan servicer licensee upon compliance with all applicable provisions of this chapter governing the original issuance of a license.

3008 INFORMATION CHALLENGE PROCESS

- 3008.1 A licensee may challenge information entered into the NMLS by the Commissioner. Any such challenge must be in writing and include the specific information being challenged and supporting information to evidence that the information being challenged is incorrect or invalid.
- 3008.2 The grounds for the challenge shall be limited to the factual accuracy of the information pertaining to the licensee's own license record that the Commissioner has entered into the NMLS.
- 3008.3 A challenge pursuant to § 3008.1 shall be filed with the Commissioner within forty-five (45) business days from the date the information is entered into the NMLS.
- 3008.4 The Commissioner shall respond to the challenge within twenty-one (21) business days by:
- (a) Granting the challenge and entering the requested change;
 - (b) Granting the challenge and allowing the licensee to submit information to be entered into the system; or
 - (c) Denying the challenge.

3008.5 Information submitted by a licensee pursuant to § 3008.4(b) shall be limited in scope to correcting factual errors identified by the licensee and submitted to the Commissioner pursuant to §§ 3008.1 and 3008.2.

3009 EXPIRATION AND RENEWAL OF LICENSE

3009.1 A student loan servicer license shall expire on December 31st of each year.

3009.2 In order to renew a license, a licensee shall:

- (a) File a license renewal application with the NMLS on a form prescribed by the Commissioner at least thirty (30) days before the expiration date of the licensee's current license;
- (b) Pay the required fees prescribed in § 3023 and supply the Commissioner with any other required information; and
- (c) Demonstrate that the licensee continues to meet the standards for licensure under the Act and this chapter.

3010 LICENSE REINSTATEMENT

3010.1 A renewal license application filed after the license expiration deadline set forth in § 3009.1 but before the last day of February of any year shall be subject to, and accompanied by, a reinstatement fee as prescribed in § 3023.

3010.2 A license that remains expired after the last day of February of any year, cannot be renewed.

3011 DENIAL OF APPLICATION

3011.1 The Commissioner shall approve or deny a license or renewal application not later than sixty (60) days from the date the Commissioner determines that the application is complete.

3011.2 If a license or renewal application is denied, the Commissioner shall notify the applicant and set forth reasons for the denial. The applicant may appeal the Commissioner's decision in accordance with the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1203; D.C. Official Code §§ 2-501 *et seq.*).

3012 CHANGE OF LOCATION

3012.1 A licensee shall notify the Commissioner, in the form prescribed by the Commissioner, of a change of location of the business.

3013 SURRENDER OF LICENSE

- 3013.1 A licensee who intends to permanently cease operating as a student loan servicer during a license period shall file a request to surrender the license for each office at which the licensee intends to cease operations on a form prescribed by the Commissioner.
- 3013.2 The Commissioner may request the reason for the cessation of business in the District.
- 3013.3 No surrender shall be effective until approved by the Commissioner.
- 3013.4 The surrender of a license does not affect any legal right or obligation described in § 3007.6.

3014 ANNUAL REPORT AND REPORTING REQUIREMENTS

- 3014.1 A student loan servicer licensee shall, on or before January 30, submit an annual report for the preceding calendar year to the Commissioner in a form prescribed by the Commissioner.
- 3014.2 The annual report shall include the following information:
- (a) The number of student education loans sold, assigned, or transferred during the preceding calendar year; and
 - (b) Any other relevant information related to business operations required by the Commissioner by bulletin or notice.
- 3014.3 A licensee that fails to file an annual report at the time prescribed by the Act, shall be assessed a late penalty of up to fifty dollars (\$50) per day following the date the annual report is due until the annual report is filed with the Commissioner.

3015 ANNUAL ASSESSMENTS

- 3015.1 Beginning with the calendar year starting on January 1, 2017, each licensed student loan servicer who held a license during the calendar year shall be subject to an annual assessment fee as prescribed in § 3023. The Commissioner shall assess this fee at the end of each annual licensing period.
- 3015.2 The annual assessment fee shall be determined to be a variable amount based on the number of student loan borrowers serviced in the annual license period as prescribed in § 3023.

3015.3 The annual assessment fees for a licensee shall be invoiced through the NMLS and payment of the fees is due on or before November 15th of the calendar year following the licensing period.

3015.4 In the case of a licensee surrendering a license, the licensee shall pay any unpaid annual assessment for the preceding calendar year and an assessment for the current calendar year through date of surrender, which shall be due no later than thirty (30) days after receipt of a surrender request in the NMLS.

3016 NOTIFICATION OF SIGNIFICANT EVENTS BY LICENSEE

3016.1 A licensee shall notify the Commissioner, in writing, within ten (10) business days, of the occurrence of any of the following events:

- (a) The filing for bankruptcy or reorganization by the licensee;
- (b) The existence of any material fact or condition if that fact or condition:
 - (1) Has a significant negative impact on the licensee's financial condition and ability to maintain the financial requirements prescribed in this chapter;
 - (2) Precludes the licensee from fulfilling its contractual obligations; or
 - (3) Prevents the licensee from operating in a manner consistent with the Act, these regulations, and in the best interests of District consumers;
- (c) Settlement or resolution of any civil action or proceeding against the licensee involving fraud, misrepresentation, or wrongful taking of property;
- (d) Receipt of notification of the initiation of any action against the licensee by the District of Columbia Office of the Attorney General or of any other state or federal agency, and the reasons therefor;
- (e) Receipt of notification of license denial, cease and desist order, initiation of suspension or revocation proceedings, issuance of formal orders of suspension or revocation or other imposed disciplinary action, or other formal or informal regulatory action, from any state or federal agency against the licensee, and the reasons therefor; or
- (f) A charge of or conviction of the licensee or a person who exercises control over a licensee of any criminal offense involving financial services or financial services related to the business; or any charge

involving fraud, false statements or omissions, theft or wrongful taking of property, bribery, perjury, forgery, counterfeiting, or extortion.

3017 SPECIAL REPORTS

3017.1 The Commissioner may require a licensee to submit a report of a condition, which must be in the form and contain the information prescribed by the Commissioner by bulletin or notice.

3018 RECORD KEEPING

3018.1 Except to the extent prohibited by federal law, for each student education loan sold, assigned, transferred or serviced, a licensee shall retain records of each transaction for at least three (3) years after final payment is made on the student educational loan, or after the assignment or transfer of the student education loan, whichever first occurs.

3018.2 Each licensee shall make applicable books and records available to the Commissioner or send such records to the Commissioner by registered or certified mail, return receipt requested, or by any express delivery carrier that provides dated delivery receipt, no later than fifteen (15) business days after the Commissioner's official request. Upon request, the Commissioner may grant a licensee additional time to make such books and records available.

3018.3 The records in §§ 3018.1 and 3018.2 shall not be subject to public disclosure under the Freedom of Information Act of 1976, effective March 29, 1977 (D.C. Law 1-96; D.C. Official Code §§ 2-531 *et seq.*).

3018.4 The Commissioner may waive or reduce requirements in this section if the Commissioner determines that compliance would require the licensee to violate federal law.

3019 SUSPENSION AND REVOCATION OF LICENSE

3019.1 The Commissioner may suspend or revoke a license issued under this chapter, or take any other action provided for in this chapter, if the Commissioner finds that:

- (a) The licensee has violated materially any provision of this chapter or any regulation or order lawfully made pursuant to and within the authority of this chapter, or failed to correct any non-material violation within the period prescribed by the Commissioner;
- (b) Any fact or condition exists which, if it had existed at the time of the original application for the license, would have warranted a denial of the license; or

- (c) The licensee refuses to permit the Commissioner to make an examination or investigation authorized under this chapter.

3020 ORDER OF REVOCATION AND NOTICE OF SUSPENSION

3020.1 An order issued pursuant to D.C. Official Code § 31-106.02(h)(2) shall include:

- (a) The date the order was entered;
- (b) The basis for the proposed action;
- (c) The date by which the person or entity must file a written request for reconsideration; and
- (d) The date by which the Commissioner shall consider the order to be final.

3020.2 A notice of suspension under D.C. Official Code § 31-106.02(i) shall include:

- (a) The date the notice was issued;
- (b) A statement determining that suspension is in the public interest;
- (c) The grounds for the suspension;
- (d) The date by which the person or entity must file a written request for a hearing; and
- (e) Notice that the failure of the person or entity to file a written request for a hearing with the Commissioner within the specified time period shall constitute a waiver of a hearing.

3020.3 Unless otherwise required by the Act, a final order, temporary order, or any other type of enforcement action taken by the Commissioner shall be issued or conducted in accordance with D.C. Official Code §§ 31-106.02(h) and (i).

3020.4 The Commissioner may make public a final order, temporary order, or any other type of enforcement action taken by the Commissioner.

3020.5 All hearings held pursuant to this section shall be conducted pursuant to the Rules of Practice and Procedure for Hearings set out in Chapter 38 of Title 26-A of the District of Columbia Municipal Regulations.

3020.6 Any order issued by the Commissioner pursuant to D.C. Official Code § 31-106.02(h) shall remain in full force and effect until and unless later modified or vacated by the Commissioner.

3021 EXAMINATIONS AND INVESTIGATIONS

3021.1 The Commissioner shall examine the affairs, business premises, and records of each licensee at least once every three (3) years and at any other time the Commissioner considers necessary. The Commissioner may require the licensee to provide any information the Commissioner determines is necessary for a complete examination, including policies and procedures, consumer complaints, financial statements, and any other reasonable information.

3021.2 The Commissioner, on the basis of a written complaint or on his or her own initiative, may conduct an investigation into the transactions, business, and records of any licensee or unlicensed person or entity who the Commissioner has reason to believe is engaging in any business subject to the Act or this chapter.

3021.3 The investigation by the Commissioner, or the Commissioner's designee, under this section may include an examination. Examinations may be conducted in conjunction with examinations to be performed by representatives of federal or state governmental agencies.

3021.4 The Commissioner may, at his or her discretion, consider reports prepared by other federal or state agencies in conducting his or her own examination or investigation.

3021.5 To defray the costs of a special examination or investigation of a licensee, the licensee shall be subject to an examination/investigation fee as prescribed in § 3023.

3021.6 The Commissioner may examine a licensee located outside the District of Columbia and charge the licensee the fee prescribed in § 3023. When it becomes necessary to examine or investigate the affairs, books, and records of a licensee required to be licensed under this chapter at a location outside the Washington, D.C. metropolitan region, the licensee shall pay the Commissioner the actual travel costs incurred on account of its examination or investigation and a reasonable per diem rate approved by the Commissioner within thirty (30) days after the conclusion of the examination or investigation.

3022 COMPLAINTS

3022.1 A complaint against a licensee shall be filed with the Commissioner, on a form prescribed by the Commissioner, and in accordance with the procedures or processes prescribed by the Commissioner by bulletin or notice.

3022.2 The Commissioner may provide information on consumer complaints to other state and federal regulatory agencies, using the NMLS or another information management system, provided that the other state and federal regulatory agencies have agreed to maintain and protect all confidential consumer information.

3023 LICENSING FEES

3023.1 The following Student Loan Servicer Licensing Fees shall be applicable to an applicant or a licensee.

Student Loan Servicer License	Fees
DISB Initial Application Fee	\$1,100 + NMLS Fee
DISB Renewal Application Fee	\$900 + NMLS Fee
DISB Amendment Fee	\$100
DISB Reinstatement Fee	\$900
DISB Annual Assessment Fee	\$.50 per borrower
DISB Examination Fee	\$400 per examiner day

3099 DEFINITIONS

3099.1 For the purpose of this chapter, the following terms have the meaning ascribed:

Act – The Department of Securities Regulation Establishment Act of 1996, effective May 21, 1997 (D.C. Law 11-268; D.C. Official Code §§ 31-101 *et seq.*), as amended by the Student Loan Ombudsman Establishment and Servicing Regulation Amendment Act of 2016, effective February 18, 2017 (D.C. Law 21-214; D.C. Official Code §§ 31-106.01-.03).

Applicant - a person or entity filing an initial or renewal application for licensure under this chapter.

Application – an initial or renewal application for licensure under this chapter processed as required by the Commissioner, through the Department, the NMLS, or any other third-party processor prescribed by the Commissioner.

Branch – an office or location of a student loan servicer that is separate and distinct from the student loan servicer’s principal office and from which it operates as a student loan servicer.

Commissioner - the Commissioner of the Department of Insurance, Securities and Banking.

Department - the Department of Insurance, Securities and Banking.

Licensee – any person or entity duly licensed by the Commissioner pursuant to this chapter.

Material – including the term “materially”, means relevant, significant or important.

Owner of a controlling interest – any person or entity (1) that, directly or indirectly, has the right to vote ten percent (10%) or more of a class of a voting security or has the power to sell or direct the sale of ten percent (10%) or more of a class of voting securities (in the case of a partnership, a person or entity that has the right to receive upon dissolution or has contributed ten percent (10%) or more of the capital); or (2) who, regardless of title, directly or indirectly, exercises control over, or has the power to direct, the management or policies of an applicant or licensee. This includes members of the board of directors (including non-employee directors), general partners, executive officers and individuals occupying similar positions.

Student Education Loan – a loan obtained for personal use to finance education or other school-related expenses.

Student Loan Borrower – a resident of the District of Columbia who has received or agreed to pay a student education loan, or a person who shares legal responsibility with such a resident for the repayment of a student education loan.

Student Loan Servicer - a person or entity, whether located within or outside the District, responsible for the servicing of a District student education loan of a student loan borrower.

Nationwide Multistate Licensing System and Registry (“NMLS”) - the licensing system developed and maintained by the Conference of State Banking Supervisors and the American Association of Residential Mortgage Regulators, or their successors for the licensing and registration of persons engaged in the state-regulated financial service industries.

Washington, D.C. metropolitan region – means the District of Columbia, the counties of Montgomery and Prince Georges in the State of Maryland, the counties of Arlington and Fairfax, and the cities of Alexandria and Falls Church in the Commonwealth of Virginia.

Persons desiring to comment on these proposed rules should submit comments in writing to Christian A. Washington, Legislative Analyst, Office of the Commissioner, Department of Insurance, Securities and Banking, 1050 First Street, N.E., Suite 801, Washington, D.C. 20002, or by email at Christian.Washington@dc.gov. Comments must be received not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the proposed rules may be obtained from the Department at the address above.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2018-049
June 14, 2018

SUBJECT: Delegation - Authority to the Chief of the Fire and Emergency Medical Services Department to Announce the 48th Annual H.E.R.O.E.S Inc. Golf Tournament

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(6) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. No. 93-198, D.C. Official Code § 1-204.22(6) (2016 Repl.), and under 6B DCMR § 1805.10, it is hereby **ORDERED** that:

1. The Chief of the Fire and Emergency Medical Services Department (**Fire and EMS Chief**) is delegated the authority of the Mayor to allow the Fire and EMS Chief to announce and support the upcoming 48th Annual H.E.R.O.E.S (**Honor Every Responsible Officer's Eternal Sacrifice**) Inc. (**HEROES**) Golf Tournament. This Order also authorizes the Fire and EMS Chief to announce the 48th Annual Heroes Inc. Golf Tournament in a General Order that will be sent to Fire and Emergency Medical Services Department employees via their email addresses.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

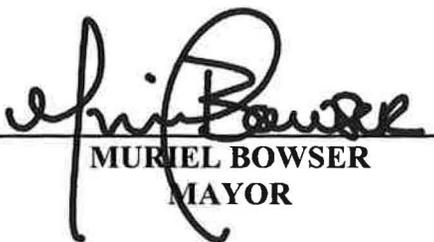
Mayor's Order 2018-050
June 19, 2018

SUBJECT: Amendment – District of Columbia Data Policy

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(6) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(6) and (11) (2016 Repl.), it is hereby **ORDERED** that:

1. Section V.B.6. of Mayor’s Order 2017-115, dated April 27, 2017, is amended to read as follows:
 - “6. The enterprise data inventory shall be updated annually through a process developed by OCTO. The enterprise data inventory shall be published by March 10 of each year and shall reflect the inventory of the District’s enterprise datasets as of the prior December 10.”
2. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

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

OFFICE OF ADMINISTRATIVE HEARINGS**DISTRICT OF COLUMBIA COMMISSION ON SELECTION AND TENURE OF
ADMINISTRATIVE LAW JUDGES****NOTICE OF PUBLIC MEETING**

In accordance with D.C. Code § 2-576(1), the District of Columbia Commission on Selection and Tenure of Administrative Law Judges of the Office of Administrative Hearings (Commission) hereby gives notice that it will meet on July 12, 2018, at 11:00 a.m. at the D.C. Rental Housing Commission, 441 4th Street, NW Suite 1140B North, Washington, DC in order to consider and vote the reappointments of five Administrative Law Judge. The members will vote to close a portion of the meeting pursuant to D.C. Code § 2-575(b)(10), which permits closed meetings in order to “discuss the appointment, employment, assignment, performance evaluation, compensation, discipline, demotion, removal, or resignation of government appointees, employees, or officials.” The agenda below will be posted on the OAH website at www.oah.dc.gov and the Office of Open Government/BEGA website at www.open-dc.gov.

For further information, please contact Nikki Steele at Nikki.Steele@dc.gov or 202-741-5303.

DRAFT AGENDA

- I. Call to Order (Board Chair)**
- II. Ascertainment of Quorum**
- III. Adoption of Agenda**
- IV. Executive Session (non-public). Vote to enter closed session to discuss personnel matters pursuant to D.C. Official Code § 2-575(b)(10).**
 - a) Discussion and vote regarding the reappointments of Administrative Law Judges:**
 - a. Robert Hildum**
 - b. Yewande Aderoju**
 - c. Bennett Rushkoff**
 - d. Jeremy Alper**
 - e. Margaret Colleen Currie**
- V. Resumption of Public Meeting**
- VI. Discussion of Next Meeting**
- VII. Adjournment (Board Chair)**

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, JUNE 27, 2018
2000 14TH 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,

Protest Hearing (Status) Case # 18-PRO-00033; Asmara Incorporated t/a Kenilworth Market, 1612 Kenilworth Ave NE, License #87818, Retailer A, ANC 7D Application to Renew the License	9:30 AM
Protest Hearing (Status) Case # 18-PRO-00029; Daniman, LLC, t/a Lee's Liquor, 2339 Pennsylvania Ave SE, License #95751, Retailer A, ANC 7B Application to Renew the License	9:30 AM
Protest Hearing (Status) Case # 18-PRO-00034; Hard Oak, Inc., t/a Colony Liquors, 4901 Georgia Ave NW, License #98972, Retailer A, ANC 4D Application to Renew the License	9:30 AM
Show Cause Hearing* Case # 17-CMP-00684; Howard Theatre Entertainment, LLC, t/a Howard Theatre, 620 T Street NW, License #88646, Retailer CX, ANC 1B Failed to Follow Security Plan	10:00 AM
Fact Finding Hearing* Jefferson Grill, Inc., t/a Macombo Lounge; 5335 Georgia Ave NW, License #771, Retailer CN, ANC 4D Request for a Hearing	11:00 AM
Show Cause Hearing* Case # 17-CMP-00729; Green Island Heaven and Hell, Inc., t/a Green Island Café/Heaven & Hell, 2327 18th Street NW, License #74503, Retailer CT , ANC 1C	11:00 AM

Board's Calendar

June 27, 2018

Failed to Comply with Board Order No. 2017-439.

BOARD RECESS AT 12:00 PM

ADMINISTRATIVE AGENDA

1:00 PM

Fact Finding Hearing*

1:30 PM

Case # 18-CMP-00099; Morini DC, LLC, t/a Osteria Morini/Nicoletta, 301 Water Street SE, License #92083, Retailer CR, ANC 6D

Substantial Change in Operation Without Board Approval

Show Cause Hearing*

2:00 PM

Case # 17-CC-00117; Li, LLC t/a Mason Inn, 2408 Wisconsin Ave NW, License #104588, Retailer CT, ANC 3B

Sale to Minor Violation

This hearing has been continued to July 18, 2018 at 11:00 am.

Fact Finding Hearing*

2:00 PM

Lemma Holdings, LLC, Bliss, One Day Substantial Change Application)
Event: Caribbean - American Heritage Month Event, Event Date: 6/30/2018, Hours of Event: 1:00pm-10:00pm, 2122 24th Place, N.E., (Using the Parking Lot attached to the building), License No. 095711, Substantial Change No. 18-SC-00761, (2000 attendees, 45 security guards)

Fact Finding Hearing*

3:00 PM

Case # 18-CMP-00106; Kraken 3400, LLC, t/a Kraken Axes, 3400 Georgia Ave NW, License #109296, Retailer CT, ANC 1A

Operating without Obtaining an ABC License, Interfered with an Investigation, Application for an New License

Fact Finding Hearing*

3:30 PM

Field House, LLC, t/a Field House DC, 151 T Street SW, License #110405, Retailer CX

Application for an New License

Fact Finding Hearing*

4:00 PM

Techno Excess, LLC, t/a Ababa Ethiopian Restaurant, 2106 18th Street NW, License #103289, Retailer CR, ANC 1C

Request for hearing regarding Cease and Desist Order No. 2018-360

***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
CANCELLATION AGENDA**

**WEDNESDAY, JUNE 27, 2018
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

The Board will be cancelling the following license for the reasons outlined below:

ABRA-100288 – **Lincoln Park Kitchen/Wine Bar** – Retail – C – Restaurant – 106 13th Street
SE

[The Licensee did not pay third year payment.]

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

**NOTICE OF MEETING
INVESTIGATIVE AGENDA**

**WEDNESDAY, JUNE 27, 2018
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

On Wednesday, June 27, 2018 at 4:00 pm., the Alcoholic Beverage Control Board will hold a closed meeting regarding the matters identified below. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed “to plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations.”

1. Case# 18-AUD-00038, Carving Room, 300 Massachusetts Avenue N.W., Retailer CR,
License # ABRA-088816

2. Case# 18-AUD-00036, Taqueria Habanero, 3710 14th Street N.W., Retailer CR, License #
ABRA-098996

3. Case# 18-AUD-00037, Cuba Libre Restaurant & Rum Bar, 801 9th Street N.W., Retailer CR,
License # ABRA-082457

4. Case# 18- AUD-00039, Boqueria, 1837 M Street N.W., Retailer CR, License # ABRA-
087794

5. Case# 18-CMP-00142, 1230 DC, 1230 9th Street N.W., Retailer CR, License # ABRA-100537

6. Case# 18-CMP-00145, 801 Restaurant & Bar, 801 Florida Avenue N.W., Retailer CT, License
ABRA-103120

7. Case# 18-CC-00058, Hard Rock Café, 999 E Street N.W., Retailer CR, License # ABRA-
014130

8. Case# 18-CMP-00141, Oki Bowl Ramen and Sake Bar, 1817 M Street N.W., Retailer DR,
License # ABRA-107646

9. Case# 18-CMP-00150, 1230 DC, 1230 9th Street N.W., Retailer CR, License # ABRA-100537

10. Case# 18-CMP-00148, 100 Montaditos, 300 Tingey Street S.E., Retailer CR, License #
ABRA-094846

11. Case# 18-CC-00061, Hamilton Hotel DC, 1001 14th Street N.W., Retailer CH, License #
ABRA-107636

12. Case# 18-CC-00062, Scheele's Market, 1331 29th Street N.W., Retailer B, License # ABRA-
089800

13. Case# 18-CC-00063, Logan Circle Liquors, 1018 Rhode Island Avenue N.W., Retailer A,
License # ABRA-086950

14. Case# 18-MGR-00011, ABC Manager, Chandra Rai, License # ABRA-109771

15. Case# 18-CMP-00152, The Greene Turtle, 601 F Street N.W., Retailer CR, License #
ABRA-076676

16. Case# 18-CMP-00149, Scion Restaurant, 2100 P Street N.W., Retailer CR, License #
ABRA-082174

17. Case# 18-CC-00064, The Green Turtle, 601 F Street N.W., Retailer CR, License # ABRA-
076676

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LICENSING AGENDA

WEDNESDAY, JUNE 27, 2018 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review request for Change of Hours. *Approved Hours of Operation and Alcoholic Beverage Sales*: Sunday 10am to 8pm, Monday-Thursday 9am to 10pm, Friday-Saturday 9am to 11pm. *Proposed Hours of Operation and Alcoholic Beverage Sales*: Sunday 10am to 9pm, Monday-Thursday 9am to 10pm, Friday-Saturday 9am to 12am. ANC 8C. SMD 8C02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Mart Liquors*, 2931 Martin Luther King Jr. Avenue SE, Retailer A Liquor Store, License No. 108836.

2. Review request for Change of Hours. *Approved Hours of Operation*: Sunday 10am to 7pm, Monday-Saturday 8am to 8pm. *Approved Hours of Alcoholic Beverage Sales and Consumption*: Sunday 11am to 7pm, Monday-Friday 12pm to 8pm, Saturday 11am to 8pm. *Proposed Hours of Operation*: Sunday 8am to 7pm, Monday-Wednesday 8am to 9pm, Thursday-Saturday 8am to 10pm. *Proposed Hours of Alcoholic Beverage Sales and Consumption*: Sunday 11am to 7pm, Monday-Wednesday 11am to 9pm, Thursday-Saturday 11am to 10pm. ANC 6D. SMD 6D04. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *District Hardware and Bike*, 730 Maine Avenue SW, Retailer CT, License No. 104936.

3. Review Request to increase approved Total Occupancy Load from 49 to 79 due to expansion of the rooftop Summer Garden. ANC 6E. SMD 6E02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Rito Loco-El Techo*, 606 Florida Avenue NW, Retailer CR, License No. 104119.

4. Review Request to increase approved Total Occupancy Load from 15 to 40. ANC 1C. SMD 1C07. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Grand Duchess*, 2337 18th Street NW, Retailer CT, License No. 106575.

5. Review request to add Cover Charge to existing Entertainment Endorsement. ANC 2F. SMD 2F06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *1230 DC*, 1230 9th Street NW, Retailer CR, License No. 100537.
-

6. Review application for Tasting Permit. ANC 6D. SMD 6D06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Exotic Wine and Liquors*, 1550 1st Street SW, Retailer A Liquor Store, License No. 105806.
-

***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.**

BREAKTHROUGH MONTESSORI PUBLIC CHARTER SCHOOL**INVITATION FOR BID****Food Service Management Services**

Breakthrough Montessori Public Charter School is advertising the opportunity to bid on the delivery of breakfast, lunch, snack and/or CACFP supper meals to children enrolled at the school for the 2018-2019 school year with a possible extension of (4) one year renewals. All meals must meet at a minimum, but are not restricted to, the USDA National School Breakfast, Lunch, Afterschool Snack and At Risk Supper meal pattern requirements. Additional specifications outlined in the Invitation for Bid (IFB) such as; student data, days of service, meal quality, etc. may be obtained beginning on **June 28, 2018** from **Kamaria Mabry and Jasmine Jones** at **kamaria.mabry@breakthroughmontessori.org** and **jasmine.jones@breakthroughmontessori.org**.

Proposals will be accepted at 1244 Taylor Street, NW, Washington, DC on **June 29, 2018** not later than **5:00pm**.

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

BRIDGES PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Special Education Services**

Bridges Public Charter School in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995 solicits proposals for **Special Education Services** SY 18-19.

- Speech Therapy Services
- Occupational Services
- Physical Therapy
- Educational Evaluations
- Psychological Evaluations
- Special Education Consulting and Coordinating
- Behavioral Support Services

Proposals should be submitted in PDF format and for any further information regarding this notice to bids@bridgespcs.org no later than **4:00 pm Monday, July 9, 2018**.

CARLOS ROSARIO PUBLIC CHARTER SCHOOL**REQUEST FOR QUOTES****Cleaning Services for Kitchen Equipment**

The Carlos Rosario School is seeking bids for deep cleaning services for its Kitchen Equipment at its V St. NE Campus location. For further information, please contact Sebastien Lamerre at slamerre@carlosrosario.org. All bids are due by 4pm on Wednesday, June 27, 2018.

**CHILDREN'S GUILD DC PUBLIC CHARTER SCHOOL
REQUEST FOR PROPOSALS**

Multiple Services

The CG DC PCS seeks qualified vendors/contractors to submit proposals the following areas:

1. School Office / Classroom furniture.
2. New roof for building at 2416 24th Place NE, Washington, DC 20018.
3. Office / School supplies.
4. Public Relations Company

For deadlines, specifications and other bid requirements please email Thomas Rivard-Willis, Procurement Manager, at willist@childrensguild.org.

D.C. CRIMINAL CODE REFORM COMMISSION**NOTICE OF PUBLIC MEETING**

WEDNESDAY, JULY 11, 2018 AT 10:00 AM
441 4TH STREET N.W., ROOM 1112, WASHINGTON, D.C., 20001

D.C. Criminal Code Reform Commission
441 Fourth Street, NW, Suite 1C001S, Washington, D.C. 20001
(202) 442-8715 www.ccrdc.dc.gov

The D.C. Criminal Code Reform Commission (CCRC) will hold a meeting of its Criminal Code Revision Advisory Group (Advisory Group) on Wednesday, July 11, 2018 at 10am. The meeting will be held in Room 1112 of the Citywide Conference Center on the 11th Floor of 441 Fourth St., N.W., Washington, DC. The planned meeting agenda is below. Any changes to the meeting agenda will be posted on the agency's website, <http://ccrc.dc.gov/page/ccrc-meetings>. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or richard.schmechel@dc.gov.

MEETING AGENDA

- I. Welcome and Announcements.
- II. Discussion of Draft Reports and Memoranda Currently Under Advisory Group Review:
 - (A) First Draft of Report #21, *Kidnapping and Related Offenses*;
 - (B) Advisory Group Memorandum #18, *Supplemental Materials to the First Draft of Report #21*;
 - (C) First Draft of Report #22, *Accomplice Liability and Related Provisions*; and
 - (D) Advisory Group Memorandum #19, *Supplemental Materials to the First Draft of Report #22*.
- III. Adjournment.

OFFICE OF DISABILITY RIGHTS**DC COMMISSION ON PERSONS WITH DISABILITIES (DCCPD)
COMMISSION MEETING****Thursday, June 28th, 2018 at 10:00 a.m.-11:15 a.m.*****All Commission Meetings are available and open to the public to attend****Location:** Teleconference**Call-In Number:** (866) 628-2987**Passcode:** 8488992

All reasonable accommodation requests must be made at least five (5) business days prior to the scheduled meeting date. Please contact julia.wolhandler@dc.gov or 202-727-2890

AGENDA:

- 10:00 a.m. Welcome / Call to Order – Kamilah Martin-Proctor
- 10:05 a.m. Commissioner Roll- Call – Kamilah Martin-Proctor
- 10:10 a.m. Approval of May 2018 Commission Meeting Minutes (Formal Vote)
- 10:20 a.m. Review tentative D.C.C.P.D. Calendar dates for 2018 events and potential leads
- Disability and LGBTQ celebration – Charlotte Clymer
 - Disaster Preparedness – Dr. Denise Decker
 - Resume Prep – Hope Fuller
- 10:30 a.m. New Discussions
- DFHV Accessibility Advisory Committee – Terrance Hunter
 - Training/Townhall for Parents/Caregivers on process and procedures for submitting complaints
- 10:35 a.m. Status Check-In
- Capital Pride Alliance – Kamilah Martin-Proctor
 - October 2018 Mayor’s Disability Awareness Expo – Julia Wolhandler
 - Deaf Awareness Rally Partnership - Jarvis Grindstaff
 - Bullying Awareness Speaking Out - Gerard ‘Gerry’ Counihan
- 10:45 a.m. 2018 White Papers and Reports Review & Leads (under the strategic plan)
- Transportation – Terrance Hunter
 - Health Care Survey – Julia Wolhandler
 - Working with our ANC’s Partners - Gerald ‘Gerry’ Counihan and Terrance Hunter
 - Yearly Report – Kamilah Martin-Proctor

10:55 a.m. Review any Motions for Discussion and Consideration – Kamilah Martin-Proctor

- As we move into 2018, I would like the Commission to consider having our meeting dates posted to the following, social network sites: ODR Facebook - Eventbrite and to have a meeting flyer created that can be distributed to the community.

11:00 a.m. Public Comment

11:15 a.m. Adjourn – Kamilah Martin-Proctor

EAGLE ACADEMY PUBLIC CHARTER SCHOOL**NOTICE OF INTENT TO AWARD SOLE SOURCE CONTRACT**

Eagle Academy Public Charter School intends to award a sole source contract to Lindamood-Bell Learning Processes (“LBLP”) to provide research-based and research-validated intervention services to students who are reading below grade level. Lindamood-Bell Learning Processes is internationally renowned for educational programs and research, and for having pioneered instructional models to develop the sensory-cognitive processes that underlie reading, spelling, comprehension, critical thinking, and math. LBLP is a copyrighted program that is only offered through Lindamood-Bell Learning Processes.

This is NOT a request for quotes or proposals.

Questions or comments to this Notice of Intent should be directed to Jai Mallory at jmallory@eagleacademypcs.org, via email only. Please indicate in the subject of your email: Notice of Intent Question

OFFICE OF THE DEPUTY MAYOR FOR EDUCATION

NOTICE OF PUBLIC MEETING
COMMISSION ON OUT OF SCHOOL TIME GRANTS AND YOUTH
OUTCOMES

The Commission on Out of School Time Grants and Youth Outcomes will hold a public meeting on Thursday, June 28, 2018 from 6:00 pm to 7:30 pm at One Judiciary Square, 441 4th Street NW, Room 1107 South. The OST Commission will vote to adopt the bylaws for the OST Commission and discuss the strategic plan. In addition, the Commission will hear updates from the Office of Out of School Time Grants and Youth Outcomes.

Individuals and representatives of organizations who wish to comment at a public meeting are asked to notify the OST Office in advance by phone at (202) 481-3932 or by email at learn24@dc.gov. Individuals should furnish their names, addresses, telephone numbers, and organizational affiliation, if any, and if available, submit one electronic copy of their testimony by the close of business on Monday, June 25th at 5:00 pm.

Below is the draft agenda for the meeting.

- I. Call to Order
- II. Public Comment
- III. Announcement of a Quorum
- IV. Approval of the Agenda
- V. Adoption of Bylaws (Roll Call Vote)
- VI. Updates: Office of Out of School Time Grants and Youth Outcomes
- VII. Strategic Plan Discussion
- VIII. Adjournment

The Office of Out of School Time Grants and Youth Outcomes (OST Office) and the OST Commission support the equitable distribution of high-quality, out-of-school-time programs to District of Columbia youth through coordination among government agencies, grant-making, data collection and evaluation, and the provision of technical assistance to service providers. The OST Commission's purpose is to develop a District-wide strategy for equitable access to out-of-school-time programs and to facilitate interagency planning and coordination for out-of-school time programs and funding.

Date: June 28, 2018
Time: 6:00 p.m. – 7:30 p.m.
Location: One Judiciary Square
Room 1107 South
441 4th Street, NW
Washington, DC 20001
Contact: Debra Eichenbaum
Grants Management Specialist
Office of Out of School Time Grants and Youth Outcomes
Office of the Deputy Mayor for Education
(202) 478-5913
Debra.Eichenbaum@dc.gov

BOARD OF ELECTIONS**NOTICE OF PUBLICATION**

The Board of Elections, at a Special Meeting held on Wednesday, June 13, 2018, formulated the short title, summary statement, and legislative text of the “Delegate Voting Rights Act of 2018.” Pursuant to D.C. Code § 1-1001.16 (2016 Repl.), the Board hereby publishes the aforementioned formulations as follows:

INITIATIVE MEASURE

NO. 80

SHORT TITLE

Delegate Voting Rights Act of 2018

SUMMARY STATEMENT

If enacted, this Initiative will amend the District of Columbia Delegate Act of 1970 to allow the Delegate to the House of Representatives from the District of Columbia the right to vote on all matters which pertain exclusively to the District of Columbia.

LEGISLATIVE TEXT

BE IT ENACTED BY THE ELECTORS OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Delegate Voting Rights Act of 2018.”

Sec. 2. Section 202(a) of the District of Columbia Delegate Act, approved September 22, 1970 (Pub. L. No. 91-405; 84 Stat. 845; D.C. Official Code § 1-401(a)), is amended by striking the phrase “but not of voting” and inserting the phrase “the right of voting with regard to any matter restricted in its application exclusively in or to the District” in its place.

Sec. 3. Effective date. This act shall take effect after a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Self-Government and Government Reorganization Act (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.

DEPARTMENT OF HEALTH
HEALTH REGULATION LICENSING ADMINISTRATION
NOTICE OF MEETING

Board of Medicine

June 27, 2018

On June 27, 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.

In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed at 10:30 am 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 8:30 am 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 10:30 am.

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 Medicine website www.dchealth.dc.gov and select Board of Medicine Calendars and Agendas to view the agenda and any changes that may have occurred.

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

D.C. HOMELAND SECURITY AND EMERGENCY MANAGEMENT AGENCY

NOTICE OF CLOSED MEETING

Homeland Security Commission

June 21, 2018

1:00 p.m. - 3:00 p.m.

441 4th Street, N.W.

Washington, D.C. 20001

Room 1116 on Floor 11 South

On June 21, 2018 at 1:00 p.m., the Homeland Security Commission (HSC) will hold a closed meeting pursuant to D.C. Code § 2-575(b), D.C. Code § 7-2271.04, and D.C. Code § 7-2271.05, for the purpose of discussing the annual report.

The meeting will be held at 441 4th Street, N.W. Washington, D.C. 20001, Room 1116, on Floor 11 South.

For additional information, please contact Sarah Case-Herron, Bureau Chief, Policy and Legislative Affairs, by phone at 202-481-3107, or by email at sarah.case-herron@dc.gov.

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

NOTICE OF FUNDING AVAILABILITY (NOFA): JA-FSA-SOAR-2018-001

**SUPPLEMENTAL SECURITY INCOME (SSI) / SOCIAL SECURITY DISABILITY
INCOME (SSDI) OUTREACH ACCESS AND RECOVERY (SOAR) ADVOCACY**

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 increase access to the disability income benefit programs administered by the Social Security Administration (SSA) for eligible adults who are experiencing homelessness, at risk of homelessness, or in permanent supportive housing and have a serious mental illness, medical impairment, and/or a co-occurring substance use disorder. The grantee(s) will work with clients, medical providers, and disability income benefit program staff to submit complete applications, provide necessary follow-up, and ensure ongoing communication to improve application outcomes and shorten the application process and timeframe. The amount available for the project is approximately \$500,000 for up to five awards.

Purpose/Description of the Project: This Notice of Funding Availability seeks to identify applicants that can provide SOAR Advocacy primarily targeting individuals who are experiencing homelessness, at risk of homelessness, or in permanent supportive housing and have a serious mental illness, medical impairment, and/or a co-occurring substance use disorder.

The grantee(s) will:

- Increase access to mainstream benefits for the target population, by working with experienced case managers trained to document disability and submit complete, high-quality applications using the SOAR model;
- Develop collaborative relationships with the local SSA field offices and Disability Determination Services (DDS) personnel to increase positive outcomes consistent with the SOAR model and the grant requirements;
- Work with the referral sources, DHS, and community partners to identify potential candidates through team meetings, outreaches, and referrals;
- Assess individuals who have potential eligibility for SSI/SSDI and, if necessary, document rejection reason(s);
- Serve as the client’s appointed representative¹ for the purpose of applying for SSI/SSDI and complete SSI/SSDI applications on behalf of the client;
- Collect medical records from providers who have treated the client;
- Write a comprehensive SOAR Medical Summary Report (including psychosocial, treatment, and functional information that is co-signed, if possible, by a physician or psychologist who has seen the client);
- Coordinate case management services, engage with the client throughout the process, and link client to support services addressing service needs related to issues (i.e., physical/behavioral health, alcohol/drug use, domestic violence, sexual abuse, lack of income, lack of family support etc.); and

¹ Representation includes “standing in” for the applicant, responding to questions, receiving copies of all mail sent to the applicant, and communicating back and forth with SSA and DDS.

- Track and report application outcomes, including number of SOAR applications initiated and completed, number of approvals/denials, and time between SOAR application to decision by stage (initial application, reconsideration, Administrative Law Judge) etc..

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:

- Offer high quality SOAR application assistance and help eligible District of Columbia residents increase access to mainstream benefits through strategic planning, training, and technical assistance;
- Offer services at scale while maintaining client confidentiality;
- Leverage government and 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.

Length of Grant Award and Available Funding: Up to five grantees 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 28, 2018 through September 27, 2019. At the discretion of DHS/FSA, and subject to the availability of funding, this award may be extended annually for up to three (3) additional years for a total of four (4) years. The total amount available for the project is up to \$500,000.

RFA Release: The RFA will be released on **June 29, 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 William Kuennen with “Request copy of RFA #JA-FSA-SOAR-2018-001” in the subject line.

Pick up a copy in person from the Department’s reception desk, located at 64 New York Ave., 6th Fl., Washington, DC 20002. To make an appointment, call William Kuennen at (202) 671-4465 and mention this RFA by name.

Write DHS at 64 New York Ave., 6th Fl., Washington, DC 20002, “Attn: William Kuennen RE: RFA #JA-FSA-SOAR-2018-001” on the outside of the envelope.

Deadline for Applications: The deadline for application submissions is **July 30, 2018 at 4:00 p.m.** Five hard copies must be submitted to the above address and a complete electronic copy must be e-mailed to William Kuennen. Late or incomplete applications will not be forwarded to the review panel.

For additional information, write to: William Kuennen at william.kuennen@dc.gov.

KIPP DC PUBLIC CHARTER SCHOOLS**REQUEST FOR PROPOSALS****Bus Shuttle Service**

KIPP DC is soliciting proposals from qualified vendors for Bus Shuttle Service. 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 July 6, 2018. Questions can be addressed to tania.honig-silbiger@kippdc.org.

MAYA ANGELOU PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Curriculum and Instruction Support****Overview of Facility:**

Maya Angelou Public Charter School (MAPCS) is located at 5600 East Capitol Street NE, Washington DC 20019. Our mission is to create learning communities in lower income urban areas where all students, particularly those who have not succeeded in traditional schools, can succeed academically and socially.

Goals of this RFP:

Support the development of a cohesive framework for unified approach that incorporates best pedagogical practices and blended learning;
Implement a strategic network vision of the “Beyond the Diploma”;
Realize high-quality College & Career Readiness curriculum for ELA/literacy and mathematics;
and
Coach MAPCS staff so that they can meet the unique needs of each student. Staff must not only be able to meet each student “where he or she is” but also engage each student to help realize his or her potential.

Bid Proposal Acceptance and Information:

All bid proposals will be accepted until **12:00 PM on July 5, 2018**. Interested vendors will respond to the advertised Notice of RFP via upload to <https://app.smartsheet.com/b/form/6252925bdba94255be92aadb1d556ef8>
RFP details can be found at www.seeforever.org/requestforproposals.

Any proposal received after **12:01 PM on July 5, 2018** is deemed non-responsive and will not be considered. Proposals will not be accepted by oral communications, telephone, electronic mail, telegraphic transmission, or fax.

MERIDIAN PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Corporate Insurance Brokers

The Board of Trustees of Meridian Public Charter School located in Washington, DC, hereinafter referred to as the “LEA” invites proposals from brokers for corporate insurance coverage.

Deadline of submission of pricing is June 29th by 12:00pm Eastern Time.

To request full scope of school needs and/or seek any additional information, please email:

Michael L. Russell
Director of Operations
Meridian Public Charter School
mrussell@meridian-dc.org

MERIDIAN PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****School Furniture**

The Board of Trustees of Meridian Public Charter School located in Washington, DC, hereinafter referred to as the “LEA” invites proposals from furniture vendors to provide pricing for furniture based off school needs. The school is seeking some of the following items: student tables, student chairs, conference chairs, cafeteria tables and etc.

Deadline of submission of pricing is June 29th by 12:00pm Eastern Time.

To request a list of full furniture needs, specs and seek any additional information, please email:

Michael L. Russell
Director of Operations
Meridian Public Charter School
mrussell@meridian-dc.org

Government of the District of Columbia
Public Employee Relations Board

_____)	
In the Matter of:)	
)	
Washington Teachers' Union, Local # 6)	
American Federation of Teachers, AFL-CIO)	
)	PERB Case No. 14-U-02
Complainant)	
)	Opinion No. 1657
v.)	Motion for Reconsideration
)	
District of Columbia Public Schools)	
)	
Respondent)	
_____)	

DECISION AND ORDER

I. Introduction

Before the Board are two Motions for Reconsideration filed by the District of Columbia Public Schools ("DCPS") and Washington Teachers' Union, Local 6 ("WTU"), respectively, in response to the Board's Decision and Order in PERB Case No. 14-U-02, Slip Opinion 1642 (October 30, 2017). In Slip Opinion 1642, the Board concluded, *inter alia*, that DCPS violated section 1-617.04(a)(1) and (5) of the D.C. Official Code for failing to fully comply with the Arbitrator's February 7, 2011 Arbitration Award. In its Motion, DCPS requests that the Board extend the amount of time it was given to comply with the Arbitration Award. WTU requests the Board to amend its Order to include benefits as part of its back pay award; to grant back pay and interest from the date of termination to the present; and to prevent DCPS from excluding any affected teachers from the remedy.

II. Standard of Review

A motion for reconsideration cannot be based upon a mere disagreement with the Board's initial decision.¹ The Board has repeatedly held that a moving party must provide authority that

¹ *AFSCME District Council 20, Local 2921 and D.C. Pub. Sch.*, 62 D.C. Reg. 9200, Slip Op. No. 1518 at 3-4, PERB Case No. 12-E-10 (2015).

compels reversal of the Board's decision.² Absent such authority, the Board will not overturn its decision.³

III. Analysis

DCPS' Motion is granted. In the absence of an objection from WTU, the Board grants DCPS' request to extend the compliance period to 60 days. The Board acknowledges that the 14 days given in the Board's Order is not sufficient time for DCPS to comply in this case, noting that both parties acknowledge that some teachers may be difficult to locate. Therefore, the Board amends the Order to grant DCPS 60 days from the issuance of this Decision and Order to send letters to affected teachers, reinstate teachers, and change the records of teachers who waive reinstatement.

WTU's Motion for Reconsideration is denied. In this regard, WTU's request that the Board clarify the Board's Order in Slip Opinion 1642 to award benefits is denied. The Arbitrator ruled that all affected teachers "be made whole, minus any appropriate deductions."⁴ The Hearing Examiner's Report, adopted by the Board, awarded "back pay." While it is unclear whether the Hearing Examiner intended back pay to encompass benefits, after careful review, the Board declines to interpret the Arbitrator's make-whole remedy. Therefore, consistent with the Arbitrator's Award, the Board orders that all affected teachers be made whole.

WTU's request that the Board amend the remedy to award back pay and interest to the present is denied. The Board finds that the basis for WTU's arguments that back pay and interest should be extended to the present does not state adequate grounds for reversing the Board's Order.⁵ As previously noted, the Arbitrator ruled that all affected teachers "be made whole, minus any appropriate deductions."⁶ The Hearing Examiner, finding that DCPS failed to offer any teachers back pay, recommended that all affected teachers were entitled to back pay from "the date of their original termination until the end of the Award's compliance period (i.e. until April 8, 2011)."⁷ The Hearing Examiner reasoned, "[a]ny teacher for whom the original termination was upheld would, therefore, be subject to termination, *prospectively from the date of such new determination* (presumably no later than the end of the 60-day compliance period specified in the Award (or, approximately April 8, 2011))."⁸ In Slip Opinion 1642, the Board adopted the Hearing Examiner's recommendation that DCPS' failure to provide back pay was a violation of the D.C. Official Code, and awarded back pay from the date of termination until April 8, 2011.⁹ Although the Board acknowledges that back pay is typically awarded from the

² *Id.*

³ *Id.*

⁴ Hearing Examiner's Report at 2.

⁵ See *AFGE Local 1000 v. Dep't of Emp. Serv.*, 61 D.C. Reg. 9776, Slip Op.1486, PERB Case No. 13-U-15 (2014).

⁶ Hearing Examiner's Report at 2.

⁷ Hearing Examiner's Report at 21.

⁸ Hearing Examiner's Report at 19.

⁹ *Washington Teachers' Union, Local 6 v. D.C. Pub Sch.*, Slip Op. 1642 at 15, PERB Case No. 14-0U-02 (October 19, 2017).

date of termination until reinstatement,¹⁰ in the present matter, the Arbitrator and Hearing Examiner limited back pay to the end of the Award's compliance period.

In its motion for reconsideration, WTU contends that teachers are entitled to back pay to the present because DCPS has continued to refuse to grant the teachers reinstatement.¹¹ For support, WTU cites to the National Labor Relations Board ("NLRB") case, *In Re Diamond Walnut Growers, Inc.*¹² However, contrary to WTU's argument, in *In Re Diamond Walnut Growers, Inc.*¹³ the NLRB did not take the position that there is a "presumption" that back pay should continue indefinitely from the date of the employer's unfair labor practice violation. A review of that case, cited as authority for WTU's position that back pay is owed to the present, reveals that when discriminatory hiring under the National Labor Relations Act is alleged, the NLRB has traditionally applied a rebuttable presumption that back pay is owed from the date of the discrimination to reinstatement.¹⁴ No such issue is involved in the present case. The Hearing Examiner determined that the back pay period should extend to April 8, 2011 and the Board adopted the Hearing Examiner's determination in its earlier decision. Therefore, the cited case does not compel reversal of the Board's Order.

Second, WTU's reliance on *Bigelow v. RKO Radio Pictures* as authority for its position that DCPS incurs the risk of escalating back pay is misplaced. *Bigelow* involved the recovery of compensatory damages in an antitrust action where the wrongdoer's misconduct contributed to an uncertainty in calculating damages. In the present case, DCPS's conduct did not render the amount owed in back pay uncertain. Accordingly, the cited case does not compel the reversal of the Board's decision. Therefore, WTU's request that the Board modify the Order to extend back pay and interest to the present is denied.

Finally, WTU's request that the Board prevent DCPS from excluding some teachers from the remedy is denied. The Hearing Examiner here found that the Arbitrator did not identify any of the teachers by name and found that a determination of the particular teachers covered by the original grievance could not be made from the factual record at hand.¹⁵ Further, the Arbitrator determined that resolving the list of grievants was not relevant to the issue of whether DCPS committed unfair labor practices.¹⁶ The Hearing Examiner found that the issue of which teachers were affected by DCPS' actions is best resolved between the parties or during another grievance proceeding.¹⁷ The Board finds that a factual determination cannot be made without a resolution of this factual dispute. Accordingly, as the Arbitrator and Hearing Examiner have not made factual determinations as to the 74 teachers agreed upon by the parties, the Board cannot grant the relief requested at this time.

¹⁰ See e.g., *Doctors Council for the District of Columbia General Hospital v. District of Columbia General Hospital and Health and Hospital Public Benefit Corporation*, 59 D.C. Reg. 4576, Slip Op. No. 937, PERB Case No. 97-U-25 (2012).

¹¹ WTU Motion for Reconsideration at 2.

¹² 340 N.L.R.B. 1129, 1132 (2003).

¹³ 340 N.L.R.B. 1129, 1132 (2003).

¹⁴ *Id.*

¹⁵ Slip Opinion No. 1642 at 9.

¹⁶ *Id.*

¹⁷ *Id.* at 10.

IV. Conclusion

The Board amends the Order in Slip Opinion 1642 to allow DCPS 60 days to implement the Arbitration Award and to make affected teachers whole.

AMENDED ORDER

IT IS HEREBY ORDERED THAT:

1. District of Columbia Public Schools (“DCPS”) shall cease and desist from refusing to bargain in good faith with the Washington Teachers’ Union, Local #6 (“WTU”) by failing to fully comply with the terms of the February 7, 2011 Arbitration Award.
2. DCPS shall, within sixty (60) days from the issuance of this Decision and Order, reinstate the affected probationary teachers to the positions they held as of the date of their discharge. DCPS shall make teachers whole, with prejudgment interest computed at a rate of 4% per annum, from the date of termination until April 8, 2011, the end of the Award’s compliance period.
3. Once the teachers have accepted reinstatement, DCPS is permitted to make a determination, by means of an appropriate process, if reinstated teachers should continue to be terminated.
4. DCPS shall change the records of teachers who waive reinstatement to show that they resigned. DCPS shall make teachers whole, with prejudgment interest computed at a rate of 4% per annum, from the date of termination until April 8, 2011, the end of the Award’s compliance period.
5. DCPS shall within sixty (60) days from the issuance of this Decision and Order send a new letter to affected teachers consistent with the Order in Slip Opinion 1642.
6. DCPS shall change the records of teachers who cannot be located or do not respond to the new letter to show that he or she voluntarily resigned.
7. DCPS shall reimburse WTU for reasonable costs associated with PERB Case No. 14-U-02, within sixty (60) days from the issuance of this Decision and Order.
8. DCPS shall conspicuously post where notices to employees are normally posed a notice that the Board will furnish DCPS. The notice shall be posted within fourteen (14) days from DCPS’ receipt of the notice and shall remain posted for thirty (30) consecutive days.

9. Within fourteen (14) days from the receipt of this notice, DCPS shall notify the Public Employee Relations Board in writing that the notice is posted.
10. 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, Mary Anne Gibbons, Barbara Somson, and Douglas Warshof.

March 27, 2018

Washington, D.C.

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 14-U-02, Op. No. 1657 was transmitted to the following parties on this the 3rd day of April, 2018.

Daniel M. Rosenthal, Esq.
James & Hoffman, P.C.
1130 Connecticut Ave., NW, Suite 950
Washington, D.C. 20036

Michael D. Levy, Esq.
D.C. Office of Labor Relations and
Collective Bargaining
441 Fourth Street, NW, Suite 820 North
Washington, D.C. 20001

/s/ Sheryl Harrington
Public Employee Relations Board
1100 4th Street, SW
Suite E630
Washington, DC 20024
Telephone: (202) 727-1822
Facsimile: (202) 727-9116



Public Employee Relations Board

GOVERNMENT OF THE DISTRICT OF COLUMBIA



1100 4th Street SW Suite E630 Washington, D.C. 20024 Business: (202) 727-1822 Fax: (202) 727-9116 Email: perb@dc.gov

NOTICE

TO ALL EMPLOYEES OF THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS, THIS OFFICIAL NOTICE IS POSTED BY ORDER OF THE DISTRICT OF COLUMBIA PUBLIC EMPLOYEE RELATIONS BOARD PURSUANT TO ITS DECISION AND ORDER IN SLIP OPINION NO. 1642, PERB CASE NO. 14-U-02 (October 19, 2017), AS AMENDED BY ITS DECISION AND ORDER IN SLIP OPINION 1657 (March 27, 2018).

WE HEREBY NOTIFY our employees that the District of Columbia Public Employee Relations Board has found that we violated the law in the manners alleged in PERB Case No. 14-U-02, and has ordered DCPS to post this Notice.

WE WILL cease and desist from violating D.C. Official Code §§ 1-617.04(a)(1) and (5) in the manners stated in Slip Opinion No. 1642, PERB Case No. 14-U-02.

WE WILL reimburse the Union for reasonable costs associated with Slip Opinion No. 1642, PERB Case No. 14-U-02, within sixty (60) days from the issuance of Slip Opinion No. 1657.

WE WILL, within sixty (60) days from the issuance of Slip Opinion 1657, PERB Case No. 14-U-02, reinstate the affected probationary teachers to the positions they held as of the date of their discharge. Once the teachers have accepted reinstatement, we will make a determination, by means of an appropriate process, if reinstated teachers should continue to be terminated. We will make teachers whole, with prejudgment interest computed at a rate of 4% per annum, from the date of termination until April 8, 2011, the end of the Arbitration Award's compliance period.

WE WILL change the records of teachers who waive reinstatement to show that they voluntarily resigned. We will make teachers whole, with prejudgment interest computed at a rate of 4% per annum, from the date of termination until April 8, 2011, the end of the Arbitration Award's compliance period.

WE WILL within sixty (60) days from the issuance of Slip Opinion No. 1657, PERB Case No. 14-U-02 send a new letter to affected teachers consistent with Slip Opinion No. 1642.

WE WILL change the records of teachers who cannot be located or do not respond to the new letter to show that they voluntarily resigned.

Department of Public Schools

Date: _____ By: _____

This Notice must remain posted for thirty (30) consecutive days from the date of posting and must not be altered, defaced or covered by any other material.

If employees have any questions concerning this Notice or DCPS' compliance with any of its provisions, they may communicate directly with the Public Employee Relations Board by U.S. Mail at 1100 4th Street, SW, Suite E630; Washington, D.C. 20024, or by phone at (202) 727-1822.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

March 27, 2018 Washington, DC

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL TARIFF

GT2017-02, IN THE MATTER OF THE APPLICATION OF WASHINGTON GAS LIGHT COMPANY FOR AUTHORITY TO ADD RATE SCHEDULE NO. 7; and**FORMAL CASE NO. 1137, IN THE MATTER OF THE APPLICATION OF WASHINGTON GAS LIGHT COMPANY FOR AUTHORITY TO INCREASE RATES AND CHARGES FOR GAS SERVICE**

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to Section 34-802 of the District of Columbia Code (D.C. Code), and in accordance with Section 2-505 of the D.C. Code¹ and Title 15 of the District of Columbia Municipal Regulations Chapter 35, of its final tariff action approving Washington Gas Light Company's (WGL) High Load Factor Rate Proposal. The Commission issued a Notice of Proposed Tariff (NOPT) in the *D.C. Register* on April 20, 2018.² No comments were filed in response to the NOPT.

2. On March 3, 2017, by Order No. 18712, the Commission directed WGL to file a High Load Factor Rate Proposal for Combined Heat and Power (CHP) and Distributed Generation (DG) facilities, collectively (CHP/DG) in the District of Columbia.³ On May 2, 2017, WGL filed an Application to amend its tariffs by adding the proposed Rate Schedule No. 7 for Delivery Service for CHP/DG facilities.⁴ The rate schedule establishes a High Load Factor Rate for Commercial & Industrial customers with a Unitized Rate of Return equal to or greater than 1.0 at a fixed rate.⁵ To affect these changes, WGL proposes to revise the following tariff page of P.S.C. of D.C. No. 3:

**NATURAL GAS TARIFF, P.S.C. of D.C. No. 3
Eighteenth Revised Page No. 1
Superseding Seventeenth Revised Page No. 1**

NATURAL GAS TARIFF, P.S.C. of D.C. No. 3

¹ D.C. Code §§ 34-802 and 2-505 (2001).

² 65 *D.C. Reg.* 4569-4570 (April 20, 2018).

³ *Formal Case No. 1137, In the Matter of the Application of Washington Gas Light Company for Authority to Increase Existing Rates and Charges for Gas Service* ("Formal Case No. 1137"), Order No. 18712, ¶ 463, rel. March 3, 2017 ("Order No. 18712").

⁴ *Formal Case No. 1137*, Washington Gas Light Company's High Load Factor Rate Proposal, filed May 2, 2017 ("WGL's Proposal").

⁵ WGL's Proposal at 1; Order No. 18712, ¶ 445, 463.

Original Page No. 27Y
Original Page No. 27Z
Original Page No. 27AA
Original Page No. 27AB

3. The Commission at its regularly scheduled open meeting held on June 13, 2018, took final action approving WGL's High Load Factor Rate Proposal. The High Load Factor Rate Tariff will become effective upon publication of this Notice of Final Tariff in the *D.C. Register*.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL TARIFF

PEPRADR 2018-01, THE POTOMAC ELECTRIC POWER COMPANY'S RESIDENTIAL AID DISCOUNT COMPLIANCE REPORTS AND FILINGS

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to Section 34-802 of the District of Columbia Official Code and in accordance with Section 2-505 of the District of Columbia Official Code,¹ of its final tariff action approving the Potomac Electric Power Company's (Pepco) Rider "RADS" — Residential Aid Discount Surcharge (Rider Update).² The Commission issued a Notice of Proposed Tariff (NOPT), which was published in the *D.C. Register* on May 11, 2018, inviting comments on Pepco's Rider "RADS."³ No comments were filed in response to the NOPT.

2. In *Formal Case No. 1053*, the Commission established the Residential Aid Discount (RAD) Surcharge, the means by which Pepco recovers the costs of the subsidy for the RAD Program for low-income electricity customers in the District of Columbia.⁴ Subsequently, pursuant to the Residential Aid Discount Subsidy Stabilization Amendment Act of 2010 (the Act of 2010),⁵ the Commission, in Order No. 15986, directed Pepco to seek a true-up for the surcharge on an annual basis, commencing January 2011, in the event of an over or under collection of the RAD Surcharge and to address any changes in income eligibility criteria.⁶

3. In *Formal Case No. 1120*, Order No. 18059, the Commission adopted a new methodology for computing the RAD subsidy, and implemented a Residential Aid Credit (RAC),

¹ D.C. Code §§ 2-505 and 34-802 (2001).

² *PEPRADR 2018-01, In the Matter of Potomac Electric Power Company's Residential Aid Discount Compliance Reports and Filings* ("PEPRADR 2018-01"), Update to Potomac Electric Power Company's Rider "RADS" — Residential Aid Discount Surcharge ("Rider Update"), filed April 4, 2018.

³ 65 *D.C. Reg.* 005216-005218 (May 11, 2018).

⁴ *Formal Case No. 1053, In the Matter of the Application of Potomac Electric Power Company for Authority to Increase Existing Retail Rates and Charges for Electric Distribution Service*, Order No. 14712, rel. January 30, 2008.

⁵ D.C. Law 18-195, Residential Aid Discount Subsidy Stabilization Amendment Act of 2010; D.C. Code § 8-1774.14 (2010 Supp.).

⁶ *Formal Case No. 945, In the Matter of the Investigation into Electric Service Market Competition and Regulatory Practices*, and *Formal Case No. 813, In the Matter of Application of Potomac Electric Power Company for an Increase in its Retail Rates for the Sale of Electric Energy*, Order No. 15986, ¶¶ 6, 13, rel. September 20, 2010.

which is equal to the full Distribution Charge plus certain applicable surcharges.⁷ The new methodology for calculating the RAD subsidy became effective June 1, 2016.⁸

4. On April 4, 2018, in compliance with the Act of 2010 and Order Nos. 15986 and 18059, Pepco filed its annual update to the Rider RADS. Based on our preliminary review of the Rider Update, Pepco's filing is consistent with the changes made to the methodology for computing the RAC. In the Rider Update, Pepco proposes to amend the following tariff pages:

Rate Schedules for Electric Service in the District of Columbia,

**P.S.C. of D.C. No. 1
Ninety-Fourth Revised Page No. R-1
Superseding Ninety-Third Revised Page No. R-1**

**P.S.C. of D.C. No. 1
Ninety-Fourth Revised Page No. R-2
Superseding Ninety-Third Revised Page No. R-2**

**P.S.C. of D.C. No. 1
Eighty-Seventh Revised Page No. R-2.1
Superseding Eighty-Sixth Revised Page No. R-2.1**

**P.S.C. of D.C. No. 1
Sixty-Third Revised Page No. R-2.2
Superseding Sixty-Second Revised Page No. R-2.2**

**P.S.C. of D.C. No. 1
Eighth Revised Page No. R-46
Superseding Seventh Revised Page No. R-46**

5. According to Pepco, the estimated funding level for the RAD program from June 2018 through May 2019 is \$5,558,684, an increase of \$660,912 over the previous true-up filing.⁹ Additionally, Pepco reports that the difference in the subsidy for the RAD Program and the RAD Surcharge revenues for the period June 2016 to February 2018 resulted in an under-recovery of \$2,731,996, which is included in the true-up calculation.¹⁰ Finally, Pepco forecasts a RAD Surcharge under-recovery of \$93,843 for the period March 2018 to May 2018 that is also

⁷ *Formal Case No. 1120, In the Matter of the Investigation into the Structure and Application of Low Income Assistance for Electricity Customers in the District of Columbia* ("Formal Case No. 1120"), Order No. 18059, ¶¶ 31, 34, rel. December 15, 2015 ("Order No. 18059").

⁸ *Formal Case No. 1120*, Order No. 18059, ¶ 35.

⁹ See *PEPRADR 2018-01*, Rider Update, Attachment B. *PEPRADR 2015-01, The Potomac Electric Power Company's Residential Aid Discount Compliance Reports and Filings*, Rider Update, Attachment B, filed September 30, 2016.

¹⁰ Pepco reports that the difference in the RAD Program subsidy and the RAD Surcharge revenues for the period January 2016 through May 2016 "was de minim[i]s and is not included in the true-up calculation."

included in the true-up calculation.¹¹ To recover the estimated cost for the RAD program from June 2018 through May 2019, and the under-collection for the period from June 2016 to May 2018, Pepco proposes to increase the RAD Surcharge from \$0.000442 to \$0.000765.¹²

6. The Company requested that the revised Rider RADS become effective with service on and after June 1, 2018.¹³ The revised Rider RADS tariff pages are provided in the Rider Update.

7. No comments were filed in response to the NOPT. The Commission at its regularly scheduled open meeting held on June 13, 2018, took final action approving Pepco's Rider Update. Pepco's Rider Update is effective upon publication of this Notice in the *D.C. Register*.

¹¹ See *PEPRADR 2018-01*, Rider Update at 1 and Attachment B.

¹² See *PEPRADR 2018-01*, Rider Update, Attachment B.

¹³ *PEPRADR 2018-01*, Rider Update at 1.

DISTRICT OF COLUMBIA SENTENCING COMMISSION**NOTICE OF PUBLIC MEETING**

The Commission meeting will be held on Tuesday, June 19, 2018 at 5:00 p.m. The meeting will be held at 441 4th Street, N.W. Suite 430S Washington, DC 20001. Below is the planned agenda for the meeting. The final agenda will be posted on the agency's website at <http://sentencing.dc.gov>

For additional information, please contact: Mia Hebb, Staff Assistant, at (202) 727-8822 or email mia.hebb@dc.gov

Meeting Agenda

1. Review and Approval of the Minutes from the May 22, 2018 Meeting - Action Item, Judge Lee.
2. Status Update on Focus Groups - Informational Item, Taylor Tarnalicki.
3. Continued Discussion of Double Counting Issue – Action Item, Judge Lee and Linden Fry.
4. Results from Prioritization of Criminal History Related Issues, Informational Item – Barbara Tombs-Souvey.
5. Schedule Next Meeting – July 17, 2018.
6. Adjourn.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

RESCHEDULED REGULAR MEETING OF THE BOARD OF TRUSTEES

NOTICE OF PUBLIC MEETING

The rescheduled regular meeting of the University of the District of Columbia Board of Trustees will be held on Tuesday, June 26, 2018 at 6:00 p.m. in the Board Room, Third Floor, Building 39 at the Van Ness Campus, 4200 Connecticut Avenue, N.W., Washington, D.C. 20008. Below is the planned agenda for the meeting. The final agenda will be posted to the University of the District of Columbia's website at www.udc.edu. For additional information, please contact: Beverly Franklin, Executive Secretary at (202) 274-6258 or bfranklin@udc.edu.

Planned Agenda**I.** Call to Order and Roll Call**II.** Approval of the Minutes

- a. Board of Trustees Meeting – April 17, 2018
- b. Technical Amendment to the February 21, 2018 Minutes to Reflect the Contract Number Change

III. **Action Items**Academic and Student Affairs Committee

- a. Resolution: Associate of Science (AS) Business Administration – New Program
- b. Resolution: Associate of Science (AS) Hospitality – New Program
- c. Resolution: Bachelor of Business Administration Major in Finance (BBA) – Reinstated Program
- d. Resolution: Approval of a PhD Degree Program in Urban Leadership & Entrepreneurship
- e. Resolution: Emeritus Faculty – Professor Hany Makhoul, School of Business and Public Administration
- f. Resolution: Dean Emeritus Appointment – Dean Shelley Broderick, UDC David A. Clarke School of Law
- g. Resolution: Faculty Tenure – Amanda Huron, Professor, Interdisciplinary Studies/Political Science, College of Arts and Sciences
- h. Resolution: Faculty Tenure – Wynn Yarbrough, Professor, English, and Director of General Education, College of Arts and Sciences
- i. Resolution: Faculty Tenure – Jianjun Xu, Professor, Mechanical Engineering, School of Engineering & Applied Sciences
- j. Resolution: Faculty Tenure – Briana Wellman, Professor/Chair, Computer Science, School of Engineering & Applied Sciences
- k. Resolution: Faculty Tenure - Twinette Johnson, Professor, Law, UDC David A. Clarke School of Law
- l. Resolution: Faculty Tenure – Philip Lee, Professor, Law, UDC David A. Clarke School of Law

Operations Committee

- m. Resolution: Approval of a Facility License Agreement between the District of Columbia Teacher’s Federal Credit Union (“DCTFCU”) and the University of the District of Columbia (“University”)
 - n. Resolution: Approval of a Lease Agreement for the Property Located at 4225 Connecticut Avenue, NW, Washington, DC between 4225 Connecticut Avenue NW Limited Partnership, as Landlord and the Board of Trustees of the University of the District of Columbia (“University”) as Tenant (the “Lease Agreement”)
 - o. Resolution: Approval of Leasing Agreement for Units for 3003 Van Ness Property (previously Archstone)
 - p. Resolution: –Approval of Leasing Agreement for Units for AVA Van Ness (previously Consulate)
- IV.** Report of the Chairperson – Mr. Bell
- V.** Report of the President – President Mason
- Action Item**
- a. The Equity Imperative Plan
- VI.** Committee Reports
- a. Executive – Mr. Bell
 - b. Committee of the Whole – Mr. Bell
 - c. Academic and Student Affairs – Dr. Tardd
 - i. Alumni Task Force – Mr. Shelton
 - ii. Communications Task Force –
 - d. Audit, Budget and Finance – Dr. Jarvis
 - e. Community College – Dr. Tardd
 - f. Operations – Mr. Shelton
 - g. Student Outcomes – Mr. Wyner
- VII.** Unfinished Business
- VIII.** New Business
- IX.** Closing Remarks

Adjournment

Expected Meeting Closure

In accordance with Section 2-575 (b) (4) (A) and (B) and (10) of the D. C. Code, the Board of Trustees hereby gives notice that it may conduct an executive session, for the purpose of consulting with an attorney to obtain legal advice and to preserve the attorney-client privilege between an attorney and a public body, or to approve settlement agreements; provided, that, upon request, the public body may decide to waive the privilege; nothing herein shall be construed to permit a public body to close a meeting that would otherwise be open merely because the attorney for the public body is a participant; and discussing the appointment, employment, assignment, promotion, performance, evaluation, compensation, discipline, demotion, removal, or resignation of government appointees, employees, or officials.

WASHINGTON YU YING PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Bus Services for Field Trips**

Washington Yu Ying is seeking competitive bids for bus services for periodic student field trips. These field trips will be scheduled during the academic school year and summer school sessions. Typically, the student field trips will start and end on Yu Ying's campus at 220 Taylor St. NE, Washington, DC.

Bids must be able to provide proof of insurance coverage. Bids must also include evidence of experience in field, qualifications, and estimated fees.

Please send proposals to RFP@washingtoneyu.org no later than COB Monday, July 2, 2018.

Deadline for submissions is close of business July 2, 2018. Please e-mail proposals and supporting documents to RFP@washingtoneyu.org. Please specify "RFP for Bus Services during Field Trips" in the subject line.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) will be holding a meeting on Thursday, July 5, 2018 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dewater.com.

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

DRAFT AGENDA

- | | |
|--|-----------------------|
| 1. Call to Order | Board Chairman |
| 2. Roll Call | Board Secretary |
| 3. Approval of June 7, 2018 Meeting Minutes | Board Chairman |
| 4. Committee Reports | Committee Chairperson |
| 5. General Manager's Report | General Manager |
| 6. Action Items
Joint-Use
Non Joint-Use | Board Chairman |
| 7. Other Business | Board Chairman |
| 8. Adjournment | Board Chairman |

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

Application No. 19581 of Latin American Montessori Bilingual Public Charter School, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle U § 205.1(a), to establish a public charter school in the R-16 Zone at premises 5000 14th Street, N.W. (Square 2711, Lot 802).

HEARING DATES: October 4, 2017; November 15, 2017; December 20, 2017; and February 14, 2018

DECISION DATES: January 17, 2018; January 24, 2018; and February 21, 2018

DECISION AND ORDER

This application was submitted on June 29, 2017 by the Latin American Montessori Bilingual Public Charter School (“Applicant” or “LAMB” or “School”), the Building Hope Parkside Foundation (“Building Hope”), and the Kingsbury Center (“Kingsbury”).¹ The Applicant is the intended occupant and eventual owner of the property that is the subject of this application. The application requests special exception approval in order to allow the establishment of a public charter school at the subject property. Following the public hearings, the Board of Zoning Adjustment (“BZA” or “Board”) voted to approve the application.

PRELIMINARY MATTERS

Notice of Application and Notice of Public Hearing

By memorandum dated August 22, 2017, 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 4; Advisory Neighborhood Commission (“ANC”) 4C, the ANC for the area within which the subject property is located; and the single-member district (“SMD”) representative for ANC 4C02. Pursuant to 11-Y DCMR § 402.1, on August 22, 2017, the Office of Zoning mailed notice of the hearing to the Applicant, ANC 4C, and the owners of all property

¹ The Building Hope Parkside Foundation is the contract purchaser of the subject property. The Kingsbury Center is the present owner of the subject property, but the Board removed the Kingsbury Center from this application and directed it to file a separate application pertaining to its own use and conditions. Accordingly, the Applicant filed a revised fee calculator and statement in support of the application, as reflected in Exhibits 14 and 15.

within 200 feet of the subject property.² Notice of the hearing was published in the *D.C. Register* on August 18, 2017 (64 DCR 8214). The Applicant confirmed by affidavit that it posted notice of the public hearing on the subject property on October 31, 2017.

Party Status

The Applicant and ANC 4C were automatically parties in this proceeding. On October 31, 2017, the Committee of Neighbors Directly Impacted by LAMB Application (“CNDI-LA”), a group of neighborhood residents, filed an application for party status in opposition. The Board granted CNDI-LA’s request for party status.

Public Hearing

The Board held a public hearing on the application on November 15, 2017 and limited scope public hearings on December 20, 2017 and February 14, 2018. At the end of the November 15 hearing, the Board closed the record except for a submission from the Applicant and responses from the parties, an additional submission from ANC 4C, and additional information from the Office of Planning. At the end of the December 20 hearing, the Board closed the record except for a revised list of proposed conditions from the Applicant and responses from the parties. The Board scheduled a decision for January 17, 2018, at which it deliberated, but the Board continued its decision to January 24, 2018. On January 24, 2018, CNDI-LA filed a motion to reopen the closed case, which the Board granted. The Board scheduled a limited scope public hearing for February 14, 2018, after which the Board closed the record. The Board scheduled a decision for February 21, 2018, at which it deliberated and voted to approve the application.

Applicant’s Case

The Applicant provided testimony and evidence from Diane Cottman, executive director of LAMB; Jerry Zayets, a representative of Building Hope; and Daniel Van Pelt, principal and vice president at Gorove/Slade Associates and accepted by the Board as an expert in traffic and transportation engineering. The Applicant described the subject property and neighborhood context, explained LAMB’s background and proposed use of the subject property, and described the transportation review and traffic mitigation measures and commitments.

Following the November 15 public hearing, at the Board’s request, the Applicant filed additional information relating to the performance monitoring plan, anticipated mode splits, LAMB’s student population growth plan, the School’s good neighbor policy, the LAMB/community committee; financing challenges; and revised proposed conditions. The Applicant filed this information on December 6, 2017. (Ex. 121.) Following the December 20 public hearing, at the Board’s request, the Applicant filed further revised proposed conditions. The Applicant’s final

² Notice was sent for a hearing date originally scheduled for October 4, 2017. However, the hearing date was rescheduled to November 15, 2017, at the Applicant’s request, in order to allow the Applicant to continue community dialogue and to present at the October meeting of ANC 4C.

proposed conditions included a limit of 310 students until after Kingsbury no longer also occupies the subject site. The Applicant's final proposed conditions also included an "alternate condition" that allowed for approval for 600 students without returning to the BZA but required the Applicant to demonstrate to the Zoning Administrator that it was in compliance with all other applicable conditions and the performance monitoring plan before the certificate of occupancy to increase its student count to 600 may be granted. The Applicant filed its final proposed 35 conditions of approval on January 9, 2018. (Ex. 163A.)

OP Report

By reports dated November 3, 2017 and December 12, 2017, and through testimony at the public hearing, OP recommended approval of the application, with three conditions. (Ex. 46, 128; Hearing Transcript of November 15, 2017 ("Nov. 15 Tr."), pp. 80-82; Hearing Transcript of December 20, 2017 ("Dec 20 Tr.") at 71-72.) The Applicant agreed to two of the conditions. OP found that the application satisfied all of the criteria pursuant to Subtitle U § 205.2 and Subtitle X § 901.2 for the requested special exception. In particular, OP found that the proposed charter school will not adversely affect neighboring properties due to traffic, parking, noise, design, or lighting. With respect to noise from the School, OP determined that it would not be adverse to neighboring properties: "For the majority of the day, the students would be indoors. The building is centrally located on the property and surrounded by parking lots so it is set back from the property line. Most of the adjacent properties are churches which operate at different times. The outdoor recreation would be during normal school hours and there would be minimal night activities since it's an elementary school." (Ex. 46.) With respect to design, OP determined that it would not be adverse to neighboring properties because the building will remain unchanged when the public charter school begins occupation, except for the proposed gymnasium, for which OP recommended that the Applicant return to the BZA. Also, OP determined that the provided parking will satisfy the zoning requirement and will accommodate the anticipated demand for both employees and visitors, both when LAMB and Kingsbury are both occupants and when LAMB is the sole occupant. OP found that the location of the parking spaces will not have an objectionable impact on neighboring properties since "most of the parking spaces are set back from the property line, and are not directly adjacent to any residential properties, and therefore should not have an objectionable effect on neighboring properties." (Ex. 46.) Furthermore, OP determined that the amount of parking and queuing space on the subject property will accommodate anticipated drop-off and pick-up demand without adversely affecting traffic and parking conditions on nearby streets. OP concluded that the proposed public charter school will be in harmony with the purpose and intent of the R-16 zone and supported the conditions proposed by LAMB and DDOT. At the November 15 public hearing, OP changed its recommendation for its third condition and stated that it supported an alternate condition proposed by the Applicant that would not require the Applicant to return to the BZA to increase its student count at the subject property but would provide adequate monitoring and protections for the community. (Nov. 15 Tr. at 81-82.) In its supplemental report, OP provided additional information about the mechanics and enforceability of this alternate condition and reiterated its support for it. (Ex. 128.)

DDOT Report

By report dated November 1, 2017, DDOT stated that it had no objection to the application, with conditions. (Ex. 45.) The Applicant agreed to all of DDOT's conditions. DDOT found that the Applicant used sound methodology in the Applicant's comprehensive transportation review ("CTR") and supplemental CTR. DDOT stated that it concurs with the Applicant's site traffic distribution assumptions that approximately 85% of vehicles dropping off or picking up students will use 14th Street and only 15% will use Piney Branch Road. DDOT further found that the Applicant's proposed transportation demand management plan along with a performance monitoring plan and pedestrian network improvements will minimize the number of vehicles traveling to/from the site and limit the impact on nearby intersections. DDOT also found that the Applicant's proposed pick-up and drop-off operations would be adequate to serve 600 students and would prevent queuing onto adjacent streets. DDOT stated that it coordinated with the Applicant in its study area of 16 intersections that would be affected by the application and noted that it expects minimal to no delay at the intersections outside the study area.

ANC Report

At a regularly scheduled and duly noticed public meeting held on November 8, 2017 with a quorum present, ANC 4C voted 5-2-0 to adopt a resolution in support of the application, with the conditions proposed by OP and DDOT. (Ex. 71.) The ANC stated its belief that "under the OP conditions, and the DDOT review that the establishment of LAMB at the site, both while the Kingsbury Center is present and after it leaves, can be a positive addition to the neighboring community and that potential adverse impacts can be identified early and addressed collaboratively. Further, the ANC stated its expectation that "based on DDOT's and LAMB's comprehensive transportation review, transportation demand management plan (TDM), and ample on-site parking and queuing space, along with the staggered LAMB start times, the impact on traffic or parking conditions will be minimal."

At a regularly scheduled and duly noticed public meeting held December 13, 2017 with a quorum present, ANC 4C voted 6-0-1 to adopt a resolution in continued support of the application. (Ex. 133.) The ANC resolution specifically supported the Applicant's and OP's proposed "alternate condition," as stated in the resolution, that allows approval of 600 students without LAMB having to return to the BZA for approval, provided that LAMB satisfies the applicable criteria in the condition for a certificate of occupancy for its increased enrollment once Kingsbury vacates the building.

Neither report identified any issue or concerned that the Applicant had not addressed to the ANC's satisfaction.

Persons in support

The Board heard testimony and received many letters from persons in support of the application.

Three people testified in support of the application, one of whom lives approximately three blocks from the subject property. Testimony in support included: (1) acknowledgement of the school's commitment to the community and working with stakeholders; (2) lack of concern about sewage backups; (3) belief that the traffic to/from the school can be adequately accommodated without adverse impact on the neighborhood; (4) acknowledgement of extensive community involvement in the BZA process; (5) support for the conditions and performance monitoring plan; (6) noting that increased traffic is not a concern because most of the trips are already occurring; (7) claim that the proposed location of the school will incentivize walking and biking; and (8) having all of LAMB's operations consolidated at one site is a benefit to the school and the overall city. (Nov. 15 Tr. at 88-93.)

The Board also received more than 60 letters in support of the application. The letters – most from ANC 4C residents and SMD 4C02 residents – expressed support for the application regarding the following: (1) the advantages of the proposed location to increase efficiencies for the school; (2) the ample space and parking on the site and in the building to adequately accommodate all 600 students; (3) LAMB's commitment to working with the community and being a good neighbor; (5) the benefit to the overall District's school children by consolidating at this site by providing access for more children to LAMB; (6) the site has adequate on-site parking and green space to accommodate the students; (7) the importance of consolidating LAMB in one location; (8) the new location will incentivize biking and walking and mean fewer automobile trips than anticipated; (9) the majority of neighborhood residents support the establishment of the School; (10) the School will increase property values; (11) concerns about adverse traffic impacts will be unrealized; (12) the benefit that will result to West Elementary School; (13) the extensive community outreach and engagement from LAMB; (14) the presence of LAMB will help retain the diversity in the neighborhood; (15) the subject property is well suited to accommodate a public charter school and is the best use of the property; (16) the nearby transportation infrastructure will be able to accommodate the School's students, parents, and staff; and (17) the public charter school will not create adverse noise, lighting, infrastructure, or environmental impacts. (Ex. 50, 53, 54, 59, 61, 63, 64, 79, 81, 82, 85, 89, 98, 100, 106, 110, 123, 125, 136, 138, 143, 146, 147, 150, 152, 153, 156, 159.) In addition, writing on their own behalf, the ANC SMD representatives from 4C01, 4C02, and 4C06 submitted letters in support of the application. (Ex. 70, 72, 90). Finally, Ward 4 Councilmember Brandon Todd filed a letter in support of the application. (Ex. 104.)

Party in opposition.

The CNDI-LA party testified in opposition at the public hearing and filed multiple documents into the record. Their testimony at the public hearing included the following: (1) concerns about approving 600 students for the site as more than the current number of students at the site, so impacts will be greater than previously experienced; (2) support for approval of 310 students with a requirement that the Applicant return to the BZA to increase the student count to 600; (3) concern that approval of the application will be inconsistent with the requirements and purposes

of the R-16 zone, including improved public review; (4) adverse traffic impacts resulting from an increase in trips to/from the site; (5) concerns about school-related traffic routing on nearby streets and the use of Piney Branch Road; (6) scope of the Applicant's CTR was inadequate and overall study was deficient; (7) adverse impacts to the residential character of the neighborhood; (8) negative effect on property values; (9) concern about the ability to assess the impacts of the School after it has been approved including effectiveness of transportation demand management measures; (10) concerns about adverse environmental impacts including sewer backups; (11) concerns about adverse lighting impacts; (12) concerns about LAMB's compliance with conditions; (13) claims that CNDI-LA was given inadequate notice of the application; and (14) the desire for the establishment of metrics and verification methods of compliance for LAMB; and (15) concern about the membership of the School/community committee with respect to the School parent representative. (Nov. 15 Tr. at 53-74; Dec. 20 Tr. at 88.)

The CNDI-LA party also filed documents in the record that included the following claims and issues: (1) adverse impacts on neighborhood parking because of the public charter school; (2) adverse noise impacts from the school itself and from additional traffic to/from the school; (3) concerns about inadequate screening of on-site parking and a green buffer around the perimeter of the subject property; (4) the performance monitoring plan data collection will be too infrequent, does not adequately capture enough information, should not be self-certified by the Applicant, lacks sound methodology, and does not involve community input; (5) skepticism about anticipated mode splits for the school; (6) lack of enforcement against staff, families, and students who do not abide by the School's conditions and policies; (7) objection to the Applicant's claim of financing challenges from a return to the BZA and that such claim is incorrect and should not be considered; (8) desire for Kingsbury to be included in some of the conditions of approval for LAMB because of cumulative effects of both schools; (9) concern about additional adverse impacts from large events beyond the normal school operations; (10) objection to the Board's acceptance of the ANC's resolutions and giving the ANC "great weight"; (11) claim of Applicant's failure to adequately mitigate adverse traffic impacts identified in the CTR, including on nearby intersections; and (12) concerns about the school's proposed "good neighbor policy" and CNDI-LA's equal participation in the School/community committee. (Ex. 111, 112, 113, 116, 118, 130, 131, 132, 154, 157, 158, 164, 165, 169.) Most of CNDI-LA's objection to the application regarded the Applicant's proposed "alternative condition," based on CNDI-LA's concerns about limited community input and lack of oversight of the School as well as the enforceability of the conditions.

Persons in opposition

The Board heard testimony and received letters from persons in opposition to the application. The testimony included: (1) concern about the application's consistency with the R-16 zone; (2) concern about the proposed number of students; (3) claims of lack of notice about the application; (4) claims of adverse traffic and congestion impacts on neighborhood streets; and (5) concern about adverse impacts on West Elementary. (Dec. 20 Tr. at 108-114.)

The letters – some of which were from members of CNDI-LA – expressed opposition to the application regarding the following: (1) concern about the application’s consistency with the R-16 zone; (2) claims of overburdening of neighborhood streets and facilities with additional traffic; (3) concern about too many students; (4) concerns about Kingsbury’s compliance with its own conditions; (5) concerns about lacking accommodation of residents’ concerns; (6) concerns about noise and no buffering; (7) concerns about large non-school events on the site; (8) claims of inadequate notice about the application; (9) desire for the School to be obligated to receive BZA approval to expand beyond 310 students to assess its impacts; (10) concerns about traffic on Piney Branch Road; (11) concerns about sufficiency of on-site parking and spill-over queuing; (12) concerns about the efficacy of transportation mitigation measures; (13) claims of inadequacy of the scope of the CTR; and (14) concerns about the impacts on the neighborhood quality of life. (Ex. 47, 49, 66, 67, 68, 74, 83, 84, 86, 87, 97, 103, 107.)

FINDINGS OF FACT

1. The subject property is located at 5000 14th Street NW (Square 2711, Lot 802) (the “Property”).
2. The Property is located in the R-16 Zone District, which is the only zone included in Use Group D. Pursuant to Subtitle U § 205.1(a), any non-residential use permitted as a matter of right in Subtitle U § 202 requires special exception approval in Use Group D. Subtitle U § 202.1(m) permits “public education buildings and structures” as a matter of right. The “public education” use category includes charter schools. (11-B DCMR § 200.2(m).)
3. The Property is bound to the north by Gallatin Street, N.W., to the south by a public alley, to the east by 14th Street, N.W., and to the west by Piney Branch Road, N.W. The Property contains approximately four acres of land area. (Ex. 4, 14.)
4. The Property is improved with a three-story plus cellar building that was originally constructed circa 1907 as a retirement home but has been occupied since 2000 by a private school, the Kingsbury Center.³ (Ex. 14.)
5. A large outdoor recreation area/field is located at the north end of the Property, and a smaller outdoor recreation area is located immediately southwest of the building. The Property is also landscaped. Surface parking spaces and driveways are located around the perimeter of the building within boundaries of the Property. (Ex. 7, 14.)
6. The Property contains 107 parking spaces for faculty, staff, and visitors. The multiple driveways that encircle the building accommodate on-site circulation of automobiles and trucks. (Ex. 7, 14, 46.)

³ Per BZA Order Nos. 16569 and 16569A, the Kingsbury Center is permitted to occupy the Property as a private school.

7. The main entrance to the building is located on the east side, but secondary entrances are located on the north, south, and west sides as well. Vehicular access to the Property is via the entrance at the northeast corner of the Property. Vehicular exits are located at the northwest and southeast corners of the Property. The primary pedestrian-only entrance to the Property is located at the center of the east side, and a secondary pedestrian entrance is located at the center west side. (Ex. 7, 14, 46.)
8. The properties surrounding the Property are characterized primarily by residential uses and some institutional uses. Single-family houses are located primarily to the south and west of the Property, but some are located to the north and southeast as well. Religious institutions are located immediately to the north and southwest of the Property. West Elementary School is located immediately to the east across 14th Street, N.W. There are no residential properties contiguous or adjacent to the Property. (Ex. 7, 14, 46.)

Proposed Use

9. The Applicant proposes to establish a public charter school at the Property and to collocate with the existing Kingsbury Center in the building. Kingsbury will eventually end its operations on the Property, but the exact date is unknown. The Applicant also proposes to eventually construct a gymnasium on the west side of the building, but, otherwise, the exterior of the building will not change.
10. The Applicant will not change the number or location of the existing 107 parking spaces or the number or location of the existing driveways and entry/exit points on the Property. Some of the existing parking spaces and driveways are within the required side yard to the south and between the building and 14th Street. However, this is an existing situation approved under BZA Order No. 16569 for Kingsbury.
11. During the time when both LAMB and Kingsbury are operating in the building, LAMB proposes to have a maximum of 310 students and a maximum of 36 faculty and staff. After the Kingsbury use ends, LAMB intends to add 30-50 students per year, eventually reaching a requested maximum student population of 600 and a maximum faculty and staff population of 110.
12. During the time when both LAMB and Kingsbury are operating in the building, there will be a cumulative total of 485 students (310 LAMB students and 175 Kingsbury students).

Special Exception Relief

Traffic and Parking

13. The Applicant's transportation expert prepared a comprehensive transportation and parking

study – the CTR – that assessed the potential impacts of the School both when it is at the Property with Kingsbury and when it is the sole occupant with 600 students. The CTR’s analysis included existing conditions in the neighborhood, including West Elementary School. The CTR evaluated traffic and parking conditions in the neighborhood as a result of the School, the number of trips expected to be generated by the School, an on-site circulation plan, expected on-site parking demand, queuing space demand, and proposed mitigation measures that included the Applicant’s proposed transportation demand management (“TDM”) plan. The CTR concluded that the proposed public charter school will not have a detrimental impact to the surrounding transportation network, assuming that all proposed mitigation measures are implemented. (Nov. 15 Tr. at 18-30; Ex. 31A, 36A.)

14. The expected maximum demand for on-site parking from faculty, staff, and visitors is 104 spaces, which is less than the provided 107 on-site spaces. This demand includes student drop-off and pick-up times for both LAMB and Kingsbury as well as for when LAMB has 600 students. Therefore, there will not be on-street parking demand from the School. The provided number of parking spaces also exceeds the requirement in Subtitle C, Chapter 7 of the Zoning Regulations of 2016. (Nov. 15 Tr. at 21-22; Ex. 7; 46.)
15. The Property has enough on-site parking and maneuvering space to accommodate the expected limited number of trucks to the Property without adversely impacting parking or on-street conditions in the nearby neighborhood. (Nov. 15 Tr. at 22.)
16. The School will not generate material bus traffic. Buses will not regularly travel to and from the Property to transport students. Buses will be used by the School only in limited cases, such as for field trips and for special needs students. (Nov. 15 Tr. at 102.)
17. The School’s circulation plan orients automobile traffic to 14th Street, with all traffic entering from 14th Street and most exiting onto 14th Street, with some exiting onto Piney Branch Road. Piney Branch Road will be available only to exiting traffic going north and is expected to be much more limited than exits onto 14th Street. DDOT concurred with the Applicant’s circulation plan that included some trips exiting onto Piney Branch Road and going north. The School will prepare a policy manual for all parents that will indicate the appropriate driving routes to and from the Property, and it will install a sign indicating that Piney Branch Road is for exit only. Further, the School will have traffic monitors at entry and exit points to ensure compliance with the policy manual regarding routing and other transportation matters. (Nov. 15 Tr. at 23; Ex. 31A; 163A.)
18. The on-site driveways have ample space to accommodate the expected queuing space demand so that all drop-offs and pick-ups will be accommodated on the Property without any use of or impact on public streets or alleys. This is an uncommon condition for schools in the District. (Nov. 15 Tr. at 23-25; Ex. 31A.)

19. The scope of the CTR was reviewed and determined with DDOT after an extensive process. DDOT agreed that the scope of the CTR was sufficient to evaluate potential impacts of the School and that the analysis and methodology in the CTR were consistent with typical DDOT and industry standards. Accordingly, the CTR is an appropriate means to adequately evaluate transportation impacts of the School. (Nov. 15 Tr. at 26-27; Ex. 45.)
20. The CTR studied 16 area intersections to determine the traffic impacts of the School. DDOT and the Applicant's transportation expert determined that the studied intersections were sufficient to evaluate the School's potential traffic impacts. DDOT determined that the 16 studied intersections are the most likely to see potential impacts from the School, so while other intersections may be affected, they are not likely to experience adverse impacts directly attributable to the School. Accordingly, it was analytically appropriate to study these 16 intersections and exclude others.
21. The CTR concluded that only four of the studied intersections are likely to be adversely impacted by the School, without mitigation. Further, while the CTR concluded that trips to and from the Property will increase with the School, many of the trips estimated in the CTR likely are already on the street network because of parents driving to the School's present facilities. (Nov. 15 Tr. at 21, 26; Ex. 45.)
22. The mode splits for trips to and from the Property are expected to be more oriented to non-automobile modes than is currently the case for the School. Based on the locations of LAMB families, adequacy of non-automobile accommodations between students' homes and the Property, and the number of families with multiple children at LAMB, the Applicant projected that many of the trips are likely to shift to walking and biking. (Ex. 121; Dec. 20 Tr. at 58.)
23. The CTR concluded that the School's implementation of a robust TDM plan and adoption of other measures recommended by DDOT are capable of adequately mitigating the traffic impacts from the School on the surrounding transportation network. The Applicant's transportation expert determined – and DDOT concurred – that, with the Applicant's proposed TDM plan, its proposed performance monitoring plan (“PMP”), and construction of nearby transportation infrastructure improvements, the School will not have a detrimental impact on the affected nearby streets and intersections. DDOT recommended infrastructure improvements for pedestrian facilities instead of traffic signal adjustments, as the Applicant proposed, to best mitigate traffic impacts by providing a better pedestrian network to encourage more walking to and from the Property. Accordingly, in addition to its proposed robust TDM plan, the Applicant agreed to an enhanced version of the PMP and to construct all of the pedestrian infrastructure improvements proposed by DDOT. (Ex. 31A, 36A, 45; Nov. 15 Tr. at 28-30.)
24. Existing circumstances in the neighborhood, unrelated to the establishment of the School, already determine many of the traffic conditions. Such circumstances have been studied and continue to be studied by DDOT and include cut-through commuter traffic, traffic related to

West Education Campus, Beach Drive construction traffic diversions, traffic speed, and the recent change of Emerson Street to one-way. The traffic conditions resulting from these circumstances affect the neighborhood regardless of the School. (Nov. 15 Tr. at 18-19; Ex. 31A.)

25. The Applicant's proposed PMP will provide the mechanism for capturing transportation metrics to minimize traffic impacts from the School and to achieve multi-modal goals. The PMP establishes a vehicular trip generation threshold, defines evaluation criteria and methodology, and establishes potential remediating measures. PMPs are used successfully at other schools in the District. The Applicant will collect data for the PMP on a yearly basis on a typical school day. This method of data collection is consistent with industry standards, all of the traffic studies performed in the District, and other PMPs in the District; it is also deemed by DDOT to be appropriate for accurately assessing compliance with the PMP. DDOT agreed to the Applicant's proposed elements and methodology for the PMP. While the Applicant will collect the data for the PMP, DDOT will evaluate the PMP to determine whether the Applicant is in compliance with its metrics. This practice is consistent with other traffic studies and PMPs in the District. As proposed, the Applicant's PMP is expected to result in at least seven years of reporting and will adequately mitigate adverse traffic impacts on the neighborhood. (Dec. 20 Tr. at 55-57; Ex. 121.)

Noise

26. The Applicant will implement noise mitigation measures. The Applicant will install acoustic blankets on the heating, ventilating, and air conditioning ("HVAC") units facing Piney Branch Road to mitigate noise from the HVAC units. In addition, the Applicant will plant evergreen trees around the perimeter of the Property to buffer sound from the School, including any noise generated by children playing outside or other School-related outdoor activities. (Nov. 15 Tr. at 101; Ex. 163A.)
27. The Applicant will implement multiple traffic mitigation measures, as described above, which will have the effect of mitigating noise too. Because these traffic mitigation measures will result in no adverse traffic impact on the surrounding streets, the traffic will not generate adverse noise impacts from such traffic. Further, as described above in the Applicant's traffic routing plan, because most traffic to and from the Property will use 14th Street, the noise from such traffic will not affect the residences more than 300 feet away on the other side of the Property along Piney Branch Road.
28. As the Office of Planning concluded, the School is not expected to generate excessive noise to unduly affect the adjacent properties. For the majority of the day, the students will be indoors. The building is centrally located on the property and surrounded by parking lots so it is set back from the property line to create a noise buffer. Most of the adjacent properties are churches that operate at different times. The outdoor recreation would be during normal school hours, and there would be minimal night activities since it is an elementary school.

When the gymnasium is built, there would be less outdoor play, further reducing potential noise from the facility. (Ex. 46.)

Lighting

29. The Applicant will maintain the existing lighting plan for the exterior of the building and the parking lot, and it will not install any additional outdoor lighting unless required by law or regulation. All parking lot lighting will be focused downward to minimize spillover. (Nov. 15 Tr. at 101-102; Ex. 163A.)
30. Before changing any outdoor lighting, the Applicant will review such changes with the community to ensure that no adverse impacts will result. (Ex. 163A.)

Design

31. As proposed in the application, the Applicant will not alter the exterior of the building, so the School will occupy the building with its current exterior design. (Ex. 7, 46.)
32. For the proposed gymnasium addition, the Applicant must return to the BZA for review and approval to ensure that the gymnasium does not have any adverse impacts on the surrounding properties. (Ex. 163A.)

Other Conditions

33. Sewer backups occurring in the neighborhood are the result of an existing condition of the infrastructure, independent of the Property and its use. This is a problem that DC Water is addressing. The sewer in the vicinity of the Property is a combined sewer, so sometimes during heavy rainstorms there is an oversupply of water in the sewer system that creates backups regardless of the Property or its use. (Nov. 15 Tr. at 35.)
34. During its testimony CNDI-LA asserted that the School use would decrease property values, but provided no evidence to support its claim. The Board cannot respond to an assertion for which no basis is provided. Nevertheless, the Board notes that letters in the record demonstrate, LAMB is one of the most well-regarded public charter schools in the District, is highly sought after by many parents, has broad community support, many current parents in Ward 4 positively anticipate a closer location, and some supporters think the presence of LAMB will raise property values.
35. The establishment of the School at the Property will not remove an existing residential use or establish a non-residential use that did not already exist on the Property. The density of the School, when calculated on the basis of land area per student, is less than other public schools in Ward 4.

Conditions of Approval to Mitigate Impacts

36. The Applicant proposed 35 conditions of approval that reflect input and endorsement from the ANC, OP, DDOT, and community residents. The Applicant's proposed conditions also reflect extensive input from and negotiation with CNDI-LA. The proposed conditions address traffic, parking, lighting, noise, design, environmental concerns, construction, community engagement, impacts on/consultation with West Elementary School, non-residential uses in the neighborhood, and number of students in order to effectively mitigate potential adverse impacts from the School on the neighborhood. In addition, the proposed PMP includes metrics and verification methods with which the School must comply. The Applicant agreed to further modify the conditions after final submission to reflect CNDI-LA's concerns about notice of an application for a certificate of occupancy and the composition of the School/community committee. (Ex. 163, 163A.)
37. CNDI-LA agreed with 27 of the Applicant's 35 proposed conditions and proposed changes to the remaining eight. For proposed condition nos. 2, 3, 7, 9, and 10, CNDI-LA proposed adding Kingsbury as also being bound by those conditions. For proposed condition no. 2, CNDI-LA proposed restricting the use of Piney Branch Road to only faculty and staff. For proposed condition nos. 10, 28, and 30, CNDI-LA proposed requiring the School to receive BZA approval to increase its student count to 600 after Kingsbury departs the Property. For proposed condition no. 12, CNDI-LA proposed that the parent representative on the LAMB/Community Committee be a resident of ANC SMD 4C02, rather than anywhere in ANC 4C. (Dec. 20 Tr. at 69, 90; Ex. 164.)
38. Instead of requiring a separate subsequent BZA approval for the expected future enrollment increase, the Applicant requested the Board to now approve a maximum enrollment of 600, but limit enrollment to 310 while the School is co-located with Kingsbury, and, through condition no. 30 require the Applicant be in compliance with the PMP and all other relevant conditions of approval before the Zoning Administrator may issue a certificate of occupancy to allow the School to increase its student count from 310 to 600 after Kingsbury has departed the Property (the "Alternate Condition"). DDOT will verify the School's compliance with the PMP, and the Applicant must demonstrate to the Zoning Administrator ("ZA") that it has complied with all other conditions of approval. If the ZA finds that the School is not in compliance with all applicable conditions, then the School must receive BZA approval to increase its student count to 600. (Ex. 163, 163A.)
39. The Alternate Condition is an enforceable check on the School's growth by requiring a demonstration by the School that it is in compliance with all of the other conditions of approval that will mitigate adverse impacts on the neighborhood. Without such demonstrated compliance, the School will be unable to receive a certificate of occupancy to attain a student count of 600, unless the BZA approves it. By requiring that the School provide CNDI-LA and the ANC with its information to demonstrate compliance at least 90 days prior to filing an application for a certificate of occupancy for the increased enrollment,

the Alternate Condition will ensure that the community has the opportunity to assess and provide input to the ZA about the School's compliance with the conditions. Therefore, the requirement that the School demonstrate compliance as a prerequisite to being issued a certificate of occupancy for 600 students will provide assurance to the community that the School addressed and mitigated potentially adverse impacts during its operations with 310 students and will continue to do so when the student population increases. (Ex. 163, 163A; Dec. 20 Tr. at 94-95; Feb. 14, 2018 Tr. at 16-18.)

40. The Alternate Condition as well all other proposed conditions are enforceable and provide oversight of the School's operations. The ZA is charged with enforcing conditions in BZA Orders, and he may enforce any conditions regardless of the Alternate Condition. The ZA testified, and OP agreed, that the compliance mechanisms within the Alternate Condition allow for the ZA to effectively enforce this condition (as well as all of the others) and to prevent expansion of the School's student count if the School is not in compliance with the conditions. The ZA also testified how the other proposed conditions are enforceable by his office. (Nov. 15 Tr. at 81, 95-97; Ex. 128.)
41. The LAMB/Community Committee ("LCC"), as stated in the Applicant's proposed condition nos. 12 and 13, and as the School agreed to amend them, will be the check on the School's "Good Neighbor Policy" and the mechanism for the community, in general, and CNDI-LA, in particular, to engage with the School and to address any issues with or concerns about the School. The composition of the nine-member LCC includes representatives from the School, a LAMB parent residing in ANC SMD 4C02, the elected ANC SMD 4C02 representative, two CNDI-LA representatives, and two representatives from West Elementary School. Accordingly, the LCC includes guaranteed participation by CNDI-LA and limits LAMB parent participation to that which resides in the immediately affected neighborhood. (Ex. 163A; Dec 20 Tr. at 59-60; Feb. 14 Tr. at 14.)
42. The Applicant's proposed condition nos. 14-17, with which CNDI-LA is in agreement, will regulate "large events," as defined therein and includes potential non-School related events, so that such occasional large events do not cause adverse impacts on the neighborhood beyond the normal operations of the School. These conditions provide the community and CNDI-LA with a mechanism to express concerns to the School and to receive a response from the School, and the conditions require the use of staff to enforce policies and conditions regarding routing, queueing, parking, safety, and security. As provided in the Applicant's proposed condition no. 30 (the Alternate Condition), the School must demonstrate compliance with these large event conditions. (Ex. 163A.)

CONCLUSIONS OF LAW AND OPINIONS

1. The Applicant requests special exception relief under 11-U DCMR § 205.1(a) of the Zoning Regulations of 2016 to establish a public charter school and to collocate a public charter school with another school. The Board is authorized under § 8 of the Zoning Act, D.C.

Official Code § 6-641.07(g)(2) to grant special exceptions, as provided in the Zoning Regulations, where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property, subject to specific conditions. (See 11-X DCMR § 901.2.)

2. The Board's discretion in reviewing an application for a special exception under Subtitle U § 205.1(a) is limited to a determination of whether the applicant has complied with the requirements of Subtitle U § 205.2 and Subtitle X § 901.2. If the applicant meets its burden under the requirements, then the Board ordinarily must grant the application. *See, e.g., Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973); *see also Washington Ethical Society v. District of Columbia Bd. of Zoning Adjustment*, 421 A.2d 14, 18–19 (D.C. 1980). Since the Applicant has demonstrated that this application complies with the requirements of Subtitle U § 205.2 and Subtitle X § 901.2, the Board must grant the application.
3. Pursuant to 11-U DCMR § 205.2, an applicant seeking a special exception allowed by 11-U DCMR § 201.1(a) must satisfy the following criteria:
 - (a) *The non-residential use is capable of being established and operated without adversely affecting the use and enjoyment of neighboring and nearby properties due to traffic, noise, design, or other objectionable conditions; and*
 - (b) *There shall be adequate, appropriately located, and screened off-street parking sufficient to provide for the needs of the maximum number of occupants, employees, congregants, and visitors who can use the facility at one (1) time; provided:*
 - (1) *The number of parking spaces provided shall be not less than the number required by Subtitle C, Chapter 7 of this title and shall be located and designed so that they have the least objectionable effects on contiguous or nearby property because of noise, traffic, or other objectionable condition;*
 - (2) *Parking spaces and driveways providing access to them shall not be located in a required side setback, or on the lot between the principal building and a street right-of-way, nor in public space abutting the lot;*
 - (3) *If five (5) or more open parking spaces are provided, the parking spaces shall be screened from all contiguous residential property by a wood fence or a wall made of brick or stone at least twelve inches (12 in.) thick and sixty inches (60 in.) high, or by*

evergreen hedges or evergreen growing trees that are thickly planted and maintained and are at least sixty inches (60 in.) in height when planted; and

(4) Any lighting used to illuminate open parking spaces shall be so arranged that all direct rays of lighting are confined to the surface of the paved area devoted to parking; any lighting provided shall be the minimum necessary for reasonable visibility by drivers and for security purposes.

4. Based upon the above findings of facts, and for the reasons stated in Conclusions of Law 5 and 6 that follow, the Board concludes that the Applicant has met its burden to prove the proposed use satisfies these criteria.
5. The Applicant has demonstrated that the establishment of the proposed public charter school at the Property will not adversely affect the use and enjoyment of neighboring and nearby properties due to traffic, noise, design, or other objectionable conditions, in accordance with the requirements of Subtitle U § 205.2(a).
 - a. The School will not have adverse effects on neighboring properties because of the myriad mitigation measures, metrics, and growth checks embodied in the conditions of approval that the Applicant will implement that will prevent and/or mitigate the occurrence of objectionable traffic, noise, design, or other conditions. The Board is empowered to impose conditions on a special exception approval to ensure compliance with the intent of the Zoning Regulations, so the Board accordingly adopts 35 conditions of approval in this case. (*See* Subtitle X § 901.4.) The Board credits the testimony of OP, DDOT, and ANC 4C and that CNDI-LA agreed to the great majority of the conditions to find that the 35 conditions of approval, as stated herein, are comprehensive, enforceable, and appropriate to mitigate any adverse impacts on neighboring properties.
 - b. With regard to the Alternate Condition, the Board finds that the condition will provide for adequate protections, checks, and community input to verify that the School is not adversely affecting the neighborhood and that it is complying with all applicable conditions before it expands from 310 students to 600 students. The Board credits the testimony of OP, DDOT, and ANC 4C in reaching this conclusion. The Board understands CNDI-LA's desire to require the School to receive BZA approval for an expansion of student count from 310 to 600, but the Board disagrees. Since the Board finds that the School's implementation of the Alternate Condition supports a conclusion that the School will not have an adverse effect on neighboring properties, the reason for the Alternate Condition is inapposite.⁴ There is no requirement in the

⁴ The Applicant testified, and the Board finds, that approving an eventual enrollment of 600 students through this Applicant, subject to the requirements of the Alternate Condition, is essential to the Applicant's ability to obtain financing, by eliminating the uncertainty that would result if the Board's subsequent discretionary approval of the increase was required, (Dec. 20 Tr. at 60-62; Ex. 160.) The Board has accepted financing challenges as a basis for

Zoning Regulations that a use approved by special exception must have a term or must be re-evaluated by the Board. In this case, the Board is empowered by the Zoning Regulations to approve the proposed charter school for 600 students from the beginning, provided that the application satisfies the applicable special exception criteria. As long as the Alternate Condition will adequately contribute to mitigating potential adverse impacts from the student count increase at the School, then it, along with the other conditions of approval, is a legitimate basis to conclude that the application satisfies the applicable special exception criteria.

- c. With regard to traffic and parking, the Board finds that the School will not create adverse impacts on the neighborhood because of the mitigation measures – including the TDM plan and construction of infrastructure improvements – as well as because of the adoption of metrics and monitoring embodied in the PMP. The Board acknowledges the testimony of CNDI-LA and other opponents that the mitigation measures are insufficient and that the PMP will not adequately monitor the School’s performance. However, the Board disagrees and is persuaded by the testimony of the Applicant’s transportation expert and DDOT to determine that the mitigation measures, metrics, and monitoring to which the School will be subject will provide an adequate basis to limit any potentially adverse impacts on the neighborhood. Based on the expertise of both the Applicant’s transportation expert, DDOT, and OP, the Board finds that the mitigation measures will have the intended effect of limiting School-related traffic congestion and that the PMP will employ an acceptable methodology and capture adequate data to sufficiently determine whether the School is achieving the established metrics.
- d. The Board finds that the CTR included a sufficient scope to adequately assess the School’s traffic and parking impacts. The Board acknowledges the claims of CNDI-LA and other opponents that the CTR did not adequately assess the School’s impacts on the traffic and parking because it was too limited in scope, but the Board disagrees. Because the scope of the CTR was prepared in consultation with DDOT and in accordance with industry standards, the Board finds that the CTR was accurate in its assessment of the School’s impacts. Based on the expertise of the Applicant’s transportation expert and DDOT about the CTR’s appropriate scope, the Board finds that the exclusion of some nearby intersections from the CTR does not affect the CTR’s veracity. Accordingly, the Board finds that the data and reasoning in the CTR are sound and provide a solid basis for the Board to assess the School’s traffic and parking impacts.

relief in prior cases. *See, e.g.*, BZA Order No. 18787. However, even without a consideration of financing in this case, the Board may still evaluate of the efficacy of the Alternate Condition on its face and made a determination that implementation of the Alternate Condition supports a finding of no adverse impact from approval of the application.

6. There will be adequate, appropriately located, and screened off-street parking sufficient to provide for the needs of the maximum number of occupants, employees, congregants, and visitors who will park on the Property. The establishment of the School will not create a different parking or lighting situation than currently exists on the Property, so the School's parking will not have an unknown effect on neighboring properties. The provided number of parking spaces will be in excess of the expected demand and the required number in Subtitle C, Chapter 7. Evergreen trees that the School will install around the Property's perimeter will provide adequate screening. Even though some of the parking and driveways are in a required side setback and between the building and a street right-of-way, this requirement under Subtitle U § 205.2(b)(2) was enacted after the BZA approval for Kingsbury that allowed it; thus, the existing situation is permitted to continue as legally nonconforming. Accordingly, the Board finds that the School's on-site parking will not create adverse impacts on neighboring properties in accordance with Subtitle U § 205.2(b).
7. Based on the Findings of Fact above, including OP's analysis, the Board finds that this application satisfies the general special exception criteria in Subtitle X § 901.2. By being consistent with the purposes, intent, and requirements of the R-16 zone and by including myriad mitigation, verification, and community involvement measures, this application is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property.
 - a. Granting this application is consistent with the purposes and intent of the R-16 zone. The Board agrees with CNDI-LA that special considerations must be given to the purposes and intent of the R-16 zone, but, by evaluating this application under the requirements of Subtitle U § 205 and by adopting 35 conditions of approval, that is what the Board did. Consistent with the purposes of the R-16 zone, as stated in Subtitle D § 900.1, approval of the application with conditions will not change the character of the low-density residential neighborhood because traffic, parking, design, lighting, and other adverse impacts to nearby low-density residential properties will not occur or will be appropriately mitigated. Further, consistent with the purposes of the R-16 zone, approval of the application with conditions will not result in the loss of any residential use (Property is currently non-residential) and will provide a social service within the framework of improved public review of and control over the external effects of the School (this BZA process). Consistent with the intent of the R-16 zone, as stated in Subtitle D § 900.2, approval of the application with conditions will not result in the conversion of any house into non-residential use, will not change the ratio of non-residential properties to residential properties, recognizes that the School is governed by improved public review (this BZA process) and will ameliorate its adverse impacts (the 35 conditions of approval), does not exacerbate the problem of the number of non-residential uses (a school already operates on the Property), and addresses the impacts of the non-residential public charter school use (the 35 conditions of approval).

- b. Granting this application also is consistent with the intent, purposes, and requirements of the R-16 zone. The R-16 zone's special exception requirement to allow non-residential uses permitted in other R zones, and the criteria for granting approval in 11-U DCMR § 205 are unique. Subtitle U § 205.1 states that uses permitted as a matter-of-right in Subtitle U § 202, which include a public charter school, "*shall be permitted... as a special exception*" in the R-16 zone "*subject to the provisions*" in Subtitle U § 205.2 and Subtitle X, Chapter 9 (emphasis added.) Accordingly, the criteria for special exception approval under Subtitle U § 205 necessarily include the Board's consideration of the intent, purposes, and requirements unique to the R-16 zone. Therefore, the Board finds that its evaluation and approval of this application under Subtitle U § 205.2 and Subtitle X § 901.2 considered the intent, purposes, and requirements in the R-16 zone.
8. The Board finds that it is legally impermissible to bind Kingsbury to any conditions in this Order. The Board may grant a special exception only for the requested use in the application. (See 11-X DCMR § 900.2.) Accordingly, conditions included with the approval of a special exception application would apply to only the proposed use in such application. To subject a use and user not included in a special exception application to the conditions of approval would contravene the intent and requirements of the Zoning Regulations: each application is evaluated and granted based on the requested use and user in that application. In this case, the proposed public charter school is a different use than Kingsbury, which is a private school, and a private school was not proposed as part of this application. While Kingsbury, as the owner of the Property, consented to this application, it did not participate in the hearings, submit any testimony, and is not part of the proposed use. Further, Kingsbury is already regulated and bound by the conditions in BZA Order Nos. 16569 and 16569A, so the opportunity to impose, alter, or enforce conditions imposed on Kingsbury was during the proceedings pertaining to those cases or in separate enforcement actions. Therefore, the Board finds that it cannot subject Kingsbury to conditions that apply to the public charter school use and applicant, LAMB, in this Order.
9. The Board finds that CNDI-LA and the community were given adequate notice of this application. The Office of Zoning complied with all notice requirements in Subtitle Y § 402.1, and the Applicant complied with the notice requirements in Subtitle Y §§ 402.3 & 402.4. At a minimum, CNDI-LA and all property owners within 200 feet of the Property were notified of this application nearly three months before the public hearing.
10. Pursuant to D.C. Official Code § 6-623.04, the Board is required to give "great weight" to the recommendations of the Office of Planning. In this case, OP recommended approval of the application, including the Alternate Condition, and for the reasons stated in this Order, the Board concurs with that recommendation. The Board acknowledges CNDI-LA's objection to OP's support of the Alternate Condition and desire for OP to recommend additional conditions, but it is not persuaded. The Board is persuaded by OP's reports and testimony in support of the application, the Alternate Condition, and the other conditions of approval

because of OP's thoughtful analysis and the specialized knowledge OP has for assessing special exceptions for schools.

11. The Board is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975 ("the ANC Act", 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. As noted by the Court of Appeals, the ANC Act "does not require the BZA to give "great weight" to the ANC's recommendation but requires the BZA to give great weight to any issues and concerns raised by the ANC in reaching its decision ... While it may be helpful to an applicant seeking a variance or a special exception to have the support of the local ANC, that body's recommendation in favor of a project does not provide any substantial support to justify the BZA's decision." *Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016). In this case, ANC 4C recommended approval of the application with conditions, including the Alternate Condition. To the extent that the ANC had issues and concerns, the conditional approval of this Applicant addressed them.
12. CNDI-LA's contends that the ANC's recommendation should not be given "great weight" because of CNDI-LA's allegation of ANC bias. As noted, the Board did not, and could not give the ANC's recommendations great weight, not because of any purported bias, but because the ANC statute does not allow it. The written support from SMD 4C02 Commissioner Maria Barry and other ANC 4C commissioners, on their own behalf, is irrelevant to the Board obligations to give great weight to an ANC's written issues and concerns. Also irrelevant are claims that the ANC has not properly followed a bylaw adopted pursuant to that statute pursuant to D.C. Official Code 1-309.11(d). The ANC Act requires without any caveat that the written decision of an agency "must articulate specific findings and conclusions with respect to each issue and concern raised by the Commission." (D.C. Official Code 1-309.10 (3)(b).) The Board cannot disregard that requirement by giving credence to claims of irregularity as to how an affected ANC reached the decision that resulted in its reports being submitted to the Board.

Based on the case record, the testimony at the public 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 a special exception under 11-U DCMR § 205.1(a) to establish a public charter school and to colocate a public charter school with another school. Accordingly, it is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 7 – PLANS - AND WITH THE FOLLOWING CONDITIONS:**

Transportation, Traffic, and Routing

1. The Applicant shall fund and construct the following improvements to the pedestrian network to encourage a reduction in automobile mode share and to mitigate travel delay impacts at nearby intersections:

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- a. A sidewalk along the southern side of Gallatin Street between Piney Branch Road and 14th Street N.W. with new curb ramps and crosswalks, as required, as well as crosswalks specifically across Gallatin Street, N.W. at both Piney Branch Road and Iowa Avenue to connect pedestrians to the existing sidewalk on the northern side;
 - b. New curb ramps on the northern and southern sides of Emerson Street at 15th Street, N.W. and stripe crosswalks, subject to DDOT approval; and
 - c. Upgrades to all existing sub-standard curb ramps at the intersection of 14th Street and Farragut Street, N.W.
2. The School shall implement the following transportation demand management (TDM) plan: (also described in Exhibit 31A1)
- a. Student TDM Elements
 - i. The School will encourage carpooling and publically recognize at Peace Ceremonies any parent who regularly drives three or more students to school;
 - ii. The School will offer DC One Cards to all students to encourage the use of public transportation;
 - iii. The School will require all drop-off and pick-up activities to be within areas specifically designated on the Property;
 - iv. The School will offer a parent listserv which will allow parents to find carpool matches;
 - v. The School will coordinate bike safety/education courses for students.
 - b. Faculty/Staff TDM Elements
 - i. The School will offer a transit benefit program to faculty and staff to encourage the use of public transportation;
 - ii. All faculty and staff who drive to school will be instructed to park on campus;
 - iii. The School will encourage carpooling and publically recognize any faculty or staff who regular drives two additional faculty or staff members to school; and
 - iv. All faculty/staff will complete training on TDM procedures.
 - c. School-Wide TDM Elements
 - i. The School will continue to work with the neighborhood through periodic public meetings to ensure any traffic concerns can be addressed in a timely manner;
 - ii. The School will assign a staff member to serve as Transportation Management Coordinator (TMC) who will be responsible for oversight of the

- TDM plan, adherence to driving and parking regulations, and encourage and facilitate car-pooling;
- iii. The School will implement policies for deliveries to the campus to minimize the impact of this traffic on the neighborhood;
 - iv. The School will install outdoor bicycle parking racks to promote additional bicycle activity on-campus; and
 - v. The School will participate in the Safe Routes to School Program.
- d. The School shall post a sign on the Piney Branch Road gate(s) indicating that they shall be used for exit only.
3. Within the first month of each school year, LAMB shall distribute a policy manual, to include all regularly scheduled PTO meetings, academic, and parent/student events, to all LAMB families that explains all relevant policies and procedures regarding its transportation management measures including, but not limited to, carpooling, parking, pick-up, drop-off, queuing, and driving routes.
 - a. The policy manual also shall include “Safe Passage” information to ensure students’ safe arrival and departure. This policy manual will be made available to LAMB’s neighbors.
 - b. The policy manual shall advise families that parents driving to and from the school shall use the appropriate exit based on their commute needs.
 - c. LAMB shall make the policy manual available to any resident of ANC SMD 4C02 upon request.
 4. LAMB shall support efforts of and will work with West Education Campus (“West EC”) to request additional Crossing Guards and Traffic Control Specialists to ensure the safety of children.
 5. LAMB shall not recommend that Emerson Street be turned back into a two-way street.
 6. The alley on the southeastern corner of the site shall be kept open for two-way traffic and emergency vehicles at all times.
 7. As part of its annual survey of students and parents, LAMB shall collect data about the modes of transportation that LAMB students use to get to and from school. LAMB shall work with CNDI-LA in creating and establishing, to the extent possible, a comprehensive data questionnaire/survey to capture this information.
 8. The number of parking spaces on the site shall be at least 107.

9. At the start of the 2018-2019 school term, continuing through subsequent years, LAMB will dedicate the services of traffic monitors, to be assigned at all queuing and entry/exit points during peak hours of drop-off and pick-up in order to assure compliance with the School's policy manual as it relates to transportation management measures including, but not limited to, carpooling, parking, pick-up, drop-off, queuing, and driving routes.
10. Starting in the first year of LAMB's operations at the building, LAMB shall implement the performance monitoring plan (PMP) as follows (also described in Exhibits 45 and 121):
 - a. The School shall submit a report to DDOT once per year. The report will include the following elements:
 - i. Student enrollment and number of faculty/staff;
 - ii. Total entering vehicle traffic counts for students, faculty, and staff at all site driveways for the busiest morning school drop-off hour. This count must be equal to or less than 295 vehicles, prorated based on the number of staff members and students enrolled at the time of reporting;
 - iii. Mode splits, broken down separately for students and faculty/staff, obtained by counters (not travel surveys);
 - iv. Vehicle occupancy counts;
 - v. Drop-off/pick-up area queue lengths and potential spill-back into public space using video counts (queues must not spill over into public space); and
 - vi. Documentation of any changes to the transportation demand management (TDM) plan from the previous year, including new or innovative policies being implemented but not explicitly required in the TDM plan.
 - b. Data collection will be performed on a yearly basis. Data collection will occur on a typical school day during the Spring session when weather conditions are normal. A "typical" school day is defined as a Tuesday, Wednesday, or Thursday when regular school hours are in effect, during a week without holidays, and far enough into the school year that parents, students, and faculty/staff members are accustomed to school operations. Data collection shall include the following:
 - i. Obtaining student enrollment and faculty/staff numbers from LAMB at the time of reporting;
 - ii. Manual counters or video counters will be employed at each of the four site driveways between the hours of 7:00 AM and 9:30 AM on a typical school day in order to determine the total entering vehicles during the morning peak hour. These counters will also be used to determine whether or not the pick-up/drop-off queues extend into public space and the mode splits;

- iii. Manual counters will be employed at the pick-up/drop-off area(s) and the parking lot to count the number of students in each vehicle and the number of employees carpooling. These counts will take place on the same day as the driveway counts; and
 - iv. A survey of families and faculty/staff will be conducted and cross referenced against the field observations to help determine mode splits by students and faculty/staff.
- c. The School will be considered in compliance with the PMP if the vehicle trip target for the busiest morning school drop-off hour is met (i.e., less than or equal to 295 entering vehicles, factored based on the number of enrolled students and staff members) and if pick-up/drop-off queues are shown to stay within private property.
 - d. The submission of performance monitoring reports will continue until (1) a minimum of three years of reports have been submitted or LAMB increases its enrollment to a maximum of 600 students, whichever is later, and (2) the two latest consecutive years demonstrate that the school is in compliance with the PMP.

Good Neighbor Policy and Partnerships

11. LAMB shall work with West EC to ensure that the fundraising efforts of the schools' school-parent organizations (PTA/FTA/PTO) do not compete.
12. LAMB shall establish a non-voting community liaison committee, the LAMB/Community Committee (LCC), which will include representatives from CDNI-LA and West EC. The LCC will be comprised of nine representatives: one LAMB administrator, two members of the LAMB PTO, one LAMB parent residing in ANC 4C02 (if that is not possible, then the parent shall reside anywhere in ANC 4C), the ANC 4C02 SMD representative, and four residents of ANC 4C02 on behalf of the community (equally split between CNDI-LA and West Education Campus representatives, provided that West EC representatives are not also CNDI-LA members). Meetings will occur in-person once per quarter at 5000 14th Street N.W. One week prior to the school's start date, the LCC must have all members assigned and notified of the year's meeting schedule, which will be agreed upon each August, beginning in August 2018. After each meeting, a member of the LCC shall prepare and distribute to other LCC members a written summary report that includes a standing list of agenda items, attendees, old business, new business, and the next meeting date.
13. The LCC meetings shall be used to identify any issues that require redress or mitigation. Issues may include, but are not limited to, those for parking, traffic, noise, environmental impact, and lighting. LAMB shall work with the LCC to establish mitigation strategies and verification methods of compliance to address concerns arising from the LCC meetings.

14. LAMB will provide at least seven days' advance notice to CNDI-LA, or as soon as possible for emergencies and unforeseen circumstances, before hosting a "large event." The notice shall include a description of the event, the date and start/end times, and the expected number of attendees. "Large event" shall be defined as one occurring, either during or after regular school hours, where parking is expected to overflow outside the property and into the neighborhood and/or the event will have any outdoor functions. "Large events" shall not include regularly scheduled PTO meetings, academic events, or parent/student events.
15. LAMB representatives shall collaborate with representatives from West EC and CNDI-LAW to coordinate schedules that will avoid, to the greatest extent possible, the simultaneous hosting of large events.
16. After a large event, LAMB agrees to acknowledge receipt of any specific concerns or issues raised by CNDI-LA within one week of receipt of CNDI-LA's written concerns and to respond in writing within 30 days of receipt from CNDI-LA to such concerns and issues. Notice to extend any written response from LAMB shall not be unreasonably withheld by CNDI-LA, provided that LAMB makes such request at least 10 days prior to the expiration of the 30-day response period.
17. At any large event, LAMB shall engage the services of staff as needed to enforce parking, traffic, queuing, noise, traffic entry/exit conditions, and provide safety and security services. LAMB will use its best efforts to accommodate all parking for large events on the school property.

Lighting, Noise, and Design

18. LAMB shall continue to use the same parking lighting plan as the Kingsbury Center, making sure all illuminations are pointing downwards. Any changes to the lighting plan shall be discussed in the quarterly LCC meetings before implementation.
19. All signage on the building will comply with applicable District of Columbia laws and regulations. Any changes to the signage on the building or on the property shall be discussed in the quarterly LCC meetings before implementation.
20. LAMB shall not install any lighting on the field or other additional outdoor lighting, except for that required by applicable laws and regulations.
21. LAMB will install acoustic blankets on the HVAC systems facing Piney Branch Road on the existing building, on any addition to the building, or on any new equipment to be installed on the subject property, whether on the ground or elevated.
22. The gymnasium shall conform to zoning requirements and will be contained within the Property boundaries. Prior to the construction of the gymnasium, BZA review and approval

as a modification⁵ is required. The BZA's review of the gymnasium shall be limited to the impacts of only the gymnasium and shall not be an evaluation of the entire School.

23. The gate at the southeastern corner of the site shall be on the property line and shall swing inward.
24. LAMB shall plant evergreen trees around the perimeter (not otherwise obstructed by the school building) of any current or future playground area to act as a noise buffer.
25. LAMB shall plant evergreen trees around the perimeter of the property, except for the 14th Street side, and ensure that any trees lost are replaced on an equivalent diameter-inches basis.

School Operations and Population

26. LAMB's regular hours of operation shall not exceed 7:00 AM to 6:00 PM, Monday to Friday.
27. LAMB's before-care program shall start at 7:15 AM and drop-offs shall continue through 7:45 AM. LAMB's day for 1st through 5th graders shall start at 8:15 AM. LAMB's preschool 3, 4, and kindergarten shall start at 8:30 AM.
28. The maximum number of students at LAMB shall not exceed 600, and the maximum number of faculty and staff members at LAMB shall not exceed 110.
29. During the interim period when both LAMB and Kingsbury are in the building, the maximum number of LAMB students shall not exceed 310, and the maximum number of LAMB faculty and staff shall not exceed 36.
30. After Kingsbury departs the property, LAMB shall provide CNDI-LA and ANC 4C with the certificate of occupancy application and all accompanying documentation at least 90 days before LAMB applies for a certificate of occupancy to expand into the remainder of the building and increase the student and staff count. LAMB shall demonstrate to DDOT and report to the Zoning Administrator that it is in compliance with the performance monitoring plan (PMP) and demonstrate to the Zoning Administrator that it is in compliance with all other relevant conditions of approval. If LAMB is not in compliance with the PMP, and all other conditions are not met, LAMB shall not be granted a certificate of occupancy for an increase in student and staff count unless given approval by the BZA.

Construction Management for Renovations and Construction of Gymnasium⁶

31. Exterior construction shall be limited to the hours of 7:00 AM – 5:00 PM weekdays; and 8:00 AM – 5:00 PM Saturdays. Noise associated with construction activities will be minimized as

⁵ The original condition indicated that this would be a modification of consequence. Although the Applicant can certainly file a modification of consequence (if such a thing still exists at the time), it will be up to the Board, as then constituted, to determine whether "the request is actually for a modification of significance in which case an application for such a modification must be filed pursuant to Subtitle Y § 704. (11-Y DCMR § 703.13 (d).)

⁶ The Board's inclusion of this condition should not be construed as indicating its pre-disposition to grant a request to construct the gymnasium.

much as possible during these hours. In the event that the Applicant requires additional hours for exterior construction, they will appear before ANC 4C and follow all District rules and procedures for after-hours construction.

32. The Applicant shall instruct all construction personnel that they shall not be permitted to park personal or construction vehicles on neighborhood streets. Staging or queuing of such vehicles will also not be permitted on neighborhood streets before the beginning of construction hours except as allowed by permit from DDOT and/or DCRA. There will be no overnight staging of such vehicles or material left on neighborhood streets or in the public space at any time during construction except as allowed by permit from DDOT.
33. All truck traffic will use an approved circulation plan along main arterials, Military Road/Missouri Avenue onto 14th Street, to minimize the impact on the adjacent neighborhood streets, provided that such plan is approved by DDOT.
34. At the completion of each work day, the construction site will be cleared of litter and debris, and all construction materials and machinery will be left in an organized manner. Sidewalks and streets around the perimeter of the site shall be kept clear and clean of concrete, dirt, mud, rocks, sand, or other aggregates throughout the period of construction.
35. For any proposed use of public space for construction activity, the Applicant shall appear before ANC 4C prior to filing an application for a public space permit.

VOTE: **4-0-1** (Frederick L. Hill, Anthony J. Hood, Lesylleé M. White, and Carlton E. Hart to APPROVE; Lorna L. John not participating, not voting).

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

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

FINAL DATE OF ORDER: June 11, 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

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IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

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

PURSUANT TO 11 DCMR SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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

Order No. 19621-A of Richard Hilton, pursuant to 11 DCMR Subtitle Y § 703, for a modification of consequence to the plans approved by BZA Order No. 19621 to construct a fourth story rear addition to an existing principal dwelling unit in the R-1-B Zone at premises 2318 California Street N.W. (Square 2519, Lot 284).

The original application (No. 19621) was pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle D § 5201.3 from the non-conforming structure requirements of Subtitle C § 202.2, to construct a fourth story rear addition to an existing one-family dwelling in the R-1-B Zone at premises 2318 California Street N.W. (Square 2519, Lot 284).

HEARING DATE (Case No. 19621):	December 6, 2017
DECISION DATE (Case No. 19621):	December 6, 2017
ORDER ISSUANCE DATE (19621):	December 11, 2017
MODIFICATION DECISION DATE:	June 6, 2018

SUMMARY ORDER ON REQUEST FOR MODIFICATION OF CONSEQUENCE

BACKGROUND

On December 6, 2017, in Application No. 19621, the Board of Zoning Adjustment (“Board” or “BZA”) approved the request by Richard Hilton (the “Applicant”) for a special exception under Subtitle D § 5201.3 from the non-conforming structure requirements of Subtitle C § 202.2, to construct a fourth story rear addition to an existing one-family dwelling in the R-1-B Zone at premises 2318 California Street N.W. (Square 2519, Lot 284). In the original case, the Advisory Neighborhood Commission (“ANC”), ANC 2D, did not submit a report specific to the BZA application, but recommended support of a related Historic Preservation Review Board (“HPRB”) application.

The Board issued Order No. 19621 on December 11, 2017. (Exhibit 6 of the record for Case No. 19621-A.)

MOTION FOR MODIFICATION OF CONSEQUENCE

Preliminary Matters. On April 20, 2018, the Applicant submitted a request to modify the approval of Application No. 19621, to extend the fourth floor rear addition eight feet to the rear and to make other changes to the design not directly related to the relief granted and, according to the Office of Planning (“OP”), not requiring new or additional relief. (Exhibit 13.) The Applicant submitted the request as a Minor Modification to the approved plans. (Exhibits 1-4A3.)

A “minor modification” means a modification that does not change the material facts upon which the Board based its original approval of the application. (11-Y DCMR § 703.3.) A “modification of consequence” means a proposed change to a condition cited by the Board in the final order, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Board. (11-Y DCMR § 703.4.) Neither of these processes require the holding of a public hearing. A decision on a request for a minor modification or a modification of consequence shall be made by the Board on the basis of the written request, the plans submitted therewith, and any responses thereto from other parties to the original application. (11-Y DCMR § 703.12.)

Based on the foregoing and with advice from the Office of the Attorney General (“OAG”), the Board determined that the Applicant’s request in this case would be more appropriately classified as a Modification of Consequence. In its report recommending approval of the modification, the Office of Planning (“OP”) stated that no additional zoning relief would be needed, but after consulting with OAG, reviewed the request as a modification of consequence. In its deliberations, the Board determined that the request should be classified as a modification of consequence, as it exceeded the scope of a minor modification.

Merits of the Modification of Consequence. In the original order dated December 11, 2017, the Board granted a special exception under Subtitle D § 5201.3 from the non-conforming structure requirements of Subtitle C § 202.2 to allow a fourth-story rear addition to an attached principal dwelling. The property is nonconforming with respect to lot occupancy, side yards, lot area, and lot width.

In the modification request, the Applicant stated that the modification was needed to:

- (1) Clarify a discrepancy on the approved roofline design for the penthouse of the building, citing a difference between the final and the HPRB-approved roofline for the penthouse,
- (2) Enclose a previously approved exterior deck on the third floor,
- (3) Extend a previously approved living space on the fourth floor and shift back a previously approved roof deck, adding two balconies, and
- (4) Incorporate a new interior elevator that services all levels.

(Exhibit 3.)

The Applicant’s request complies with 11 DCMR Subtitle Y § 703.4, which defines a modification of consequence as a “proposed change to a condition cited by the Board in the final order, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Board.”

In the application herein, the Applicant is requesting a modification of consequence to the Order

because with this modification, the Applicant is requesting to construct a fourth story rear addition to an existing principal dwelling unit in the R-1-B Zone, based on the revised plans at Exhibit 4A3 with revisions shown in Exhibits 10-11. The Applicant indicated that the proposed revisions involve a discrepancy in the final and HPRB-approved roofline for the penthouse level of the building. According to the Applicant, the drawings for the proposed roof profile were originally submitted to the IZIS portal on September 4, 2017. Subsequently, HPRB suggested revising the roof profile not to extend past the existing roof ridge line. The Applicant made those adjustments to the design, but the revised design drawings and the Final Permit Submission drawings that incorporated those changes did not make it onto the IZIS portal. Thus, the BZA approved an older version of the design drawings and not the revised, HPRB-approved drawings with the final roof profile. The Applicant stated that the modified plans would also incorporate the following proposed changes to the rear of the existing building:

- (1) 1st and 2nd Floors: Extend the existing building step back to align in one continuous plans. The overall existing building footprint would not be extended, only aligned.
- (2) 3rd Floor: The previously proposed rear deck would now be enclosed and become part of the interior of the residence. Two small balconies would also be proposed from the rear building face.
- (3) 4th Floor/Penthouse: The previously proposed roof deck would be shifted back over the newly enclosed third floor area of the building. The proposed sliding doors would also be shifted to incorporate the added interior area.
- (4) Incorporation of a new interior residential elevator that would service all floor levels. The Applicant noted that it will submit revised permit drawings for alterations to the interior layout of the residence in order to incorporate the elevator.

(Exhibit 3.)

Pursuant to Subtitle Y §§ 703.8-703.9, the request for a modification of consequence shall be served on all other parties to the original application and those parties are allowed to submit comments within ten days after the request has been filed with the Office of Zoning and served on all parties. The Applicant provided proper and timely notice of the request for modification of consequence to Advisory Neighborhood Commission (“ANC”) 2D, the only other party to Application No. 19621. ANC 2D did not submit a report addressed to the BZA, instead indicating its support for the requested modification in a report addressed to the Historic Preservation Review Board (“HPRB”). (Exhibit 12.)

The Applicant also served its request on OP. OP submitted a report dated May 25, 2018, recommending the Board approve the modification requested by the Applicant. (Exhibit 13.) DDOT did not submit a report.

On June 6, 2018, the Board deliberated on and approved the modification request.

**BZA APPLICATION NO. 19621-A
PAGE NO. 3**

As directed by 11 DCMR Subtitle Y § 703.4, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a modification of consequence. Based upon the record before the Board and having given great weight to the OP report filed in this case, the Board concludes that in seeking a modification of consequence to the plans approved in Case No. 19621, the Applicant has met its burden of proof under 11 DCMR Subtitle Y § 703, that the proposed modification has not changed any material facts upon which the Board based its decision on the underlying application that would undermine its approval.

As noted, the only parties to the case were the ANC and the Applicant. Accordingly, a decision by the Board to grant the request would not be adverse to any party and therefore an order containing full finding of facts and conclusions of law need not be issued pursuant to D.C. Official Code § 2-509(c) (2012 Repl.). Therefore, 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 for modification of consequence of the Board's approval in Application No. 19621 is hereby **GRANTED TO SUBJECT TO THE MODIFIED PLANS AT EXHIBIT 4A3 WITH REVISIONS AS SHOWN IN EXHIBITS 10-11.**

In all other respects, Order No. 19621 remains unchanged.

VOTE ON ORIGINAL APPLICATION ON DECEMBER 6, 2017: 4-0-1

(Frederick L. Hill, Carlton E. Hart, Lesylleé M. White, and Robert E. Miller, to APPROVE; one Board seat vacant.)

VOTE ON MODIFICATION OF CONSEQUENCE ON OCTOBER 4, 2017: 4-0-1

(Frederick L. Hill, Lesylleé M. White, Carlton E. Hart, and Robert E. Miller to APPROVE; Lorna L. John, 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: June 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.

**BZA APPLICATION NO. 19621-A
PAGE NO. 4**

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

Application No. 19736-A of Mi Casa, Inc., as amended¹, pursuant to 11 DCMR Subtitle X, Chapter 10, for area variances from the lot dimension requirements of Subtitle D § 302.1 and the side yard requirements of Subtitle D § 307.2, to construct a new principal dwelling unit in the R-3 Zone at premises 1928 15th Street S.E. (Square 5766, Lot 800).

HEARING DATE: May 30, 2018²

DECISION DATE: May 30, 2018

CORRECTED SUMMARY ORDER³

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 5 (original) and 47 (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") 8A and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8A, which is automatically a party to this application. The ANC submitted a timely report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on May 1, 2018, at which a quorum was present, the ANC voted 7-0-0 to support the application. (Exhibit 57.) Commissioner Greta Fuller testified on behalf of the ANC in support of the application.

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 41.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 39.)

¹ The original request included only a variance for lot dimension. (Exhibit 5.) Variance relief for side yard under Subtitle D § 307.2 was added based on revisions to the plans. The caption has been changed accordingly.

² The case was originally scheduled for a public hearing on April 18, 2018, but postponed to May 30, 2018 at the ANC and Applicant's request. (Exhibits 40 and 42.) The Chair granted the request for postponement. (Exhibit 44.)

³ Order No. 19736 incorrectly referred to the relief under Subtitle D § 307.2 as *rear* yard relief instead of *side* yard relief in footnote 1. That error has been corrected in this order and is the only change in the corrected order.

Six letters of support for the application were submitted to the record, three of which were modified based on the adjacent neighbor's concerns. (Exhibits 35-37, 49, 52, 54, 56, 58, and 59.)

Letters in opposition to the application were submitted by Karinne Kennedy and Carlene Reid. (Exhibits 51 and 53.)

The adjacent neighbor, Dorcas Agyei, submitted a request for party status in opposition. (Exhibits 38-38C.) Based on a settlement agreement between the Applicant and Ms. Agyei, that request was withdrawn. (Exhibit 66.) The Board acknowledged the withdrawal, noting that the agreement signed by Ms. Agyei specifically references her withdrawal of the party status request. The Board found that this constitutes written notice of her intent to withdraw as required by Subtitle Y § 404.16. At the hearing, Ms. Agyei testified she was in support of the application.

As directed by 11 DCMR Subtitle X § 1002.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 1002.1 for area variances from the lot dimension requirements of Subtitle D § 302.1 and the side yard requirements of Subtitle D § 307.2, to construct a new principal dwelling unit in the R-3 Zone. After the party in opposition withdrew her opposition, the only parties to the case were the ANC and the Applicant. Thus, 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 §§ 302.1 and 307.2, the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 64.**

VOTE: **5-0-0** (Frederick L. Hill, Lesylleé M. White, Lorna L. John, Carlton E. Hart, and Peter A. Shapiro 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: June 7, 2018

**BZA APPLICATION NO. 19736-A
PAGE NO. 2**

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

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

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

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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

Application No. 19736-B of Mi Casa, Inc., as amended¹, pursuant to 11 DCMR Subtitle X, Chapter 10, for area variances from the lot dimension requirements of Subtitle D § 302.1 and the side yard requirements of Subtitle D § 307.2, to construct a new principal dwelling unit in the R-3 Zone at premises 1928 15th Street S.E. (Square 5766, Lot 800).

HEARING DATE: May 30, 2018²

DECISION DATE: May 30, 2018

2ND CORRECTED SUMMARY ORDER³

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 5 (original) and 47 (revised).)⁴ In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 8A and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8A, which is automatically a party to this application. The ANC submitted a timely report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on May 1, 2018, at which a quorum was present, the ANC voted 7-0-0 to support the application for an area variance from the lot dimension requirements under Subtitle D § 302.1, but took no vote on the request for side yard relief so that the Applicant could address outstanding issues between the neighbor at 1926 15th Street S.E. and the Applicant. (Exhibit 57.) Those outstanding issues were

¹ The original request included only a variance for lot dimension. (Exhibit 5.) Variance relief for side yard under Subtitle D § 307.2 was added based on revisions to the plans. The caption has been changed accordingly.

² The case was originally scheduled for a public hearing on April 18, 2018, but postponed to May 30, 2018 at the ANC and Applicant's request. (Exhibits 40 and 42.) The Chair granted the request for postponement. (Exhibit 44.)

³ Order No. 19736 incorrectly referred to the relief under Subtitle D § 307.2 as *rear* yard relief instead of *side* yard relief in footnote 1. Also, the relief being requested, per the revised plans at Exhibit 64, has been clarified, the discussion of the ANC and OP reports has been more fully detailed, and reference to an additional letter in opposition added. These errors and omissions have been corrected in this order.

⁴ The final relief being requested was revised and is reflected on the revised plans at Exhibit 64.

resolved right before the hearing and a settlement agreement reached with the neighbor. (Exhibit 66.) Commissioner Greta Fuller testified on behalf of the ANC in support of the application at the hearing, acknowledging the settlement agreement.

The Office of Planning (“OP”) submitted a timely report recommending approval of the application. (Exhibit 41.) Subsequently, in light of the Applicant’s supplemental statement and revised relief at Exhibit 46, OP filed a supplemental report in which it continued to recommend approval of the minimum lot dimension relief, but stated that it could not make a recommendation as to the new side yard relief. (Exhibit 48.) At the hearing, OP testified in support of the settlement agreement reached on May 30, 2018 (Exhibit 66), and recommended approval of the final side yard relief requested, per the revised plans at Exhibit 64. The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 39.)

Six letters of support for the application were submitted to the record, three of which were modified based on the adjacent neighbor’s concerns. (Exhibits 35-37, 49, 52, 54, 56, 58, and 59.)

Letters in opposition to the application were submitted by Karinne Kennedy, Carlene Reid, and Donna Murphy and Keenan Keller. (Exhibits 51, 53, and 55.)

The adjacent neighbor, Dorcas Agyei, submitted a request for party status in opposition. (Exhibits 38-38C.) Based on a settlement agreement between the Applicant and Ms. Agyei, that request was withdrawn. (Exhibit 66.) The Board acknowledged the withdrawal, noting that the agreement signed by Ms. Agyei specifically references her withdrawal of the party status request. The Board found that this constitutes written notice of her intent to withdraw as required by Subtitle Y § 404.16. At the hearing, Ms. Agyei testified she was in support of the application, as revised.

As directed by 11 DCMR Subtitle X § 1002.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 1002.1 for area variances from the lot dimension requirements of Subtitle D § 302.1 and the side yard requirements of Subtitle D § 307.2, to construct a new principal dwelling unit in the R-3 Zone. After the party in opposition withdrew her opposition, the only parties to the case were the ANC and the Applicant. Thus, 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 §§ 302.1 and 307.2, the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good

and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 64.**

VOTE: **5-0-0** (Frederick L. Hill, Lesylleé M. White, Lorna L. John, Carlton E. Hart, and Peter A. Shapiro 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: June 8, 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

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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. 19746 of DC Super Pack, LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle H § 1109.1(a), to permit an animal boarding use in the NC-15 Zone at premises 1371-1375 H Street N.E. (Square 1027, Lot 166).

HEARING DATE: May 9, 2018 and May 30, 2018¹
DECISION DATE: May 30, 2018

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 4.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 6A and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6A, 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 May 10, 2018, at which a quorum was present, the ANC voted 8-0-0 to support the application, with one condition. (Exhibit 41.) That condition was adopted by the Board as a part of this Order.

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 42.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 40.) Thirteen letters were submitted in support of the application. (Exhibits 44-56.)

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 H § 1109.1(a), to permit an animal boarding use in the NC-15 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.

¹ The hearing was postponed from May 9, 2018 to May 30, 2018 at the request of the Applicant. (Exhibits 28 and 31.)

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 H § 1109.1(a), that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

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

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 6 – ARCHITECTURAL PLANS AND ELEVATIONS – WITH THE FOLLOWING CONDITION:**

1. The Applicant shall store the waste from the animals boarded on site in their own waste receptacles so as to minimize the community impact of their operations.

VOTE: **5-0-0** (Frederick L. Hill, Carlton E. Hart, Lesylleé M. White, Lorna L. John and Peter A. Shapiro 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: June 7, 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

BZA APPLICATION NO. 19746

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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 CONDITION 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 CONDITION IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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

Application No. 19756 of Kathryn Bristow, as amended,¹ pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle D § 5201 from the lot occupancy requirements of Subtitle D § 304.1, the side yard requirements of Subtitle D § 307.1, and the nonconforming structure requirements of Subtitle C § 202.2, 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).

HEARING DATE: June 6, 2018

DECISION DATE: June 6, 2018

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibits 34 and 37.)² 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") 5B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5B, which is automatically a party to this application. The ANC did not submit a written report to the record. The ANC Commissioner for Single Member District 5B04 submitted a statement to the record indicating that he and the Applicant's agent conducted outreach to neighbors within 200 feet of the property. (Exhibit 40.)

¹ The Applicant originally requested a variance from the lot occupancy requirements of Subtitle D § 304.1, pursuant to a memorandum from the Zoning Administrator. (Exhibit 8.) The Applicant subsequently revised the project to reduce the lot occupancy to what is allowable by special exception and amended the application accordingly. (Exhibits 34 and 37.) The caption has been revised.

² The Applicant submitted Exhibit 37 to correct the first page of the Self-Certification Form in Exhibit 34 and to provide the specific subsections from which relief is requested. The second page of the Self-Certification Form in Exhibit 34 contains the correct notes and computations for the relief approved.

The Office of Planning (“OP”) submitted a timely report recommending approval of the amended relief. (Exhibit 31.) The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the application. (Exhibit 28.)

A petition in support with 10 signatures was submitted to the record. (Exhibit 41.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under Subtitle D § 5201 from the lot occupancy requirements of Subtitle D § 304.1, the side yard requirements of Subtitle D § 307.1, and the nonconforming structure requirements of Subtitle C § 202.2 to construct a rear deck addition to an existing attached principal dwelling unit in the R-2 Zone. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, C § 202.2, and D §§ 304.1, 307.1, 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 29.**

VOTE: 5-0-0 (Frederick L. Hill, Carlton E. Hart, Lesylleé M. White, Lorna L. John, and Robert E. Miller to Approve.)

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

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

FINAL DATE OF ORDER: June 11, 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.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**Z.C. ORDER NO. 17-26****Z.C. Case No. 17-26****MIRV Holdings, LLC****(Map Amendment @ Parcel 121/31)****May 14, 2018**

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on April 12, 2018 to consider an application by MIRV Holdings, LLC (“Applicant”) for approval of a Zoning Map Amendment pursuant to 11-X DCMR § 500.1 of the District of Columbia Zoning Regulations (“Zoning Regulations”), Title 11 of the District of Columbia Municipal Regulations. The application is to amend the Zoning Map from unzoned to the MU-5-B zone for Parcel 121/31.

The Commission considered the application for the map amendment pursuant to Subtitles X and Z of the Zoning Regulations. The public hearing was conducted in accordance with the provisions of 11-Z DCMR § 400 *et seq.* As discussed below, no party, person, or entity appeared in opposition to the application at the public hearing. Accordingly, a decision by the Commission to grant this application would not be adverse to any party, and pursuant to 11-Z DCMR §604.7, the Commission waives the requirements for findings of facts and conclusions of law. As set forth below, the Commission hereby **APPROVES** the application.

Application, Parties, and Hearing

1. The property that is the subject of this application consists of Parcel 121/31 and is bound by Irving Street, N.E. to the north, Michigan Avenue, N.E. to the east, residential and commercial uses to the south, and the North Capitol Street cloverleaf interchange to the west (“Property”). (Exhibit [“Ex.”] 2.)
2. The Property is currently unzoned due to the federal ownership of the Property. The Property was formerly the subject of a consolidated planned unit development (“PUD”) and Zoning Map amendment approval to the C-3-A Zone District. (See Z.C. Case No. 08-33 and subsequent time extensions in Z.C. Case Nos. 08-33A–08-33G.) The consolidated PUD approval has expired. A first-stage PUD approval for a portion of the Property will expire on December 31, 2018. The Applicant stated that it no longer desires to construct the PUD project that was approved in Z.C. Case Nos. 08-33A-08-33G. (Ex. 2.)
3. The Property is designated on the Future Land Use Map of the Comprehensive Plan for Mixed Use: Medium-Density Residential and Moderate-Density Commercial. (Ex. 2, 2C, 2D.)
4. On December 8, 2017, the Applicant filed an application for approval of the map amendment. (Ex. 1, 2-2K.)

5. Prior to filing the application on September 15, 2017, the Applicant mailed a Notice of Intent to all property owners within 200 feet of the Property as well as Advisory Neighborhood Commission (“ANC”) 5A, the ANC in which the Property is located. On October 24, 2017, the Applicant served a copy of the Notice of Intent on ANC 5E. ANC 5E’s boundaries are located across Michigan Avenue from the Property. The Applicant made a preliminary presentation to ANC 5A on October 25, 2017 and was requested by ANC 5E to make a presentation at their regularly scheduled public meeting in January, 2018. Accordingly, the Applicant satisfied the notice requirements of 11-Z DCMR §§ 304.5, 304.6. (Ex. 2G.)
6. The application satisfied the filing requirements of 11-Z DCMR § 300 *et seq.* (Ex. 2H.)
7. On January 29, 2018, the Commission set the case down for a public hearing based on the recommendation of the Office of Planning (“OP”). (Ex. 9.)
8. On February 5, 2018, the Applicant filed a supplemental submission that requested a public hearing, provided the outlines of the expected witness testimony and included the resume of the Applicant’s proffered expert in urban planning and architecture. (Ex. 10, 12, 13.)
9. Notice of the public hearing was provided in accordance with the requirements of 11-Z DCMR § 400 *et seq.* (Ex. 15, 16, 17.)
10. On March 13, 2018, the Applicant filed a Technical Memorandum prepared by Gorove-Slade Associates which provided an analysis of the potential vehicular trip generation for two development scenarios that are consistent with the matter-of-right development parameters of the MU-5-B zone. (Ex. 20-21.)
11. On March 23, 2018, the Applicant submitted a final pre-hearing submission which provided an update on the Applicant’s presentations to ANC 5A. (Ex. 22.)
12. The Property is located within ANC 5A. At a duly noticed public meeting with a quorum present, ANC 5A voted in support of the application and submitted a report in support of the application. (Ex. 29.)
13. ANC 5E did not participate in this case.
14. On April 12, 2018, the Commission held a public hearing in accordance with 11-Z DCMR § 408.
15. No person, party, or entity appeared in support or opposition to the application.
16. OP and the District Department of Transportation (“DDOT”) each submitted reports in support of the application. (Ex. 25, 26.)

17. Pursuant to 11-Z DCMR § 506.5, at the close of the hearing, the Commission took proposed action to approve the application.
18. On April 13, 2018, the Commission referred the proposed map amendment to the National Capital Planning Commission (“NCPC”) for review and comment pursuant to the District of Columbia Home Rule Act of 1973, as amended, 87 Stat. 790, Pub. L. No. 93-198, D.C. Code Section 1-201 *et seq.* (Ex. 32.)
19. By letter dated May 3, 2018, NCPC’s Executive Director submitted NCPC’s action on this case, along with a copy of the NCPC’s Executive Director’s recommendation for the project. The NCPC action stated the following:
 - a. Noted that the proposed map amendment “would allow for medium-density, compact mixed-use development with an emphasis on residential use, as well as facilities for shopping and business needs”; and
 - b. Advised “the Zoning Commission that certain matter-of-right uses in this district, such as residential, shopping, and business uses, are inconsistent with the acceptable uses stipulated in the Statement of Non-Disturbance established on March 7, 1990 between the District of Columbia government and the U.S. General Services Administration.”

The NCPC’ Executive Director’s Recommendation stated in the “Project Analysis” portion of the report that, “[s]taff has evaluated the referral from the Zoning Commission of the District of Columbia and finds that the proposed map amendment would not be inconsistent with the Federal Elements of the *Comprehensive Plan for the National Capital*, but that uses allowed in this zone designation would have an adverse effect on an identified federal interest, which is reflected in the Statement of Non-Disturbance developed between the District and GSA.” (Ex. 33.)

20. On May 8, 2018, the Applicant submitted a letter in response to the NCPC report.¹ The letter stated that the Applicant believed the Commission’s determination in this case should be solely based on the standards enumerated in 11-X DMR § 500.3, which do not include issues related to the 1990 Statement of Non-Disturbance with NCPC (“SNDA”). And that accordingly, the issues related to the SNDA have no bearing on the Commission’s decision in this case, and should be considered title issues for the Applicant to overcome in its eventual development of the Property, not zoning issues pertinent to the Commission’s action in this case. The Applicant stated that it plans to resolve issues related to the SNDA in another forum. (Ex. 35).

¹ The Commission granted the Applicant’s motion to re-open the record to allow it to submit the letter after the Commission had closed the record at the end of the hearing, pursuant to 11-Z DCMR § 602.6.

21. On May 9, 2018, ANC 5A submitted an email message stating that it does not intend to submit a separate response to the NCPC report, and that it supported the Commission re-opening the record to receive the Applicant's response to the NCPC Report.² (Ex. 36.)
22. At its May 14, 2018 public meeting, the Commission considered the NCPC report and its advice regarding the SNDA, along with the Applicant's and the ANC's responses. The Commission concluded that in deciding the map amendment, its role is limited to deciding whether the Applicant has met its burden of proof under 11-X DCMR § 500.3 of the Zoning Regulations. Accordingly, approval of the map amendment is limited to these criteria, which do not include an evaluation of whether hypothetical residential, shopping, and business uses included in future development, if constructed, would violate the SNDA. In approving the application, the Commission takes no position as to whether the development of the site with future residential, shopping, and business uses is inconsistent with the acceptable uses stipulated in the SNDA. The Applicant proceeds at its own risk with respect to the SNDA.

As directed by 11-Z DCMR § 408.8, the Commission has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for approval of a Zoning Map amendment pursuant to 11-X DCMR § 500.

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. ANC 5A's reports expressed no issues or concerns. Because the ANC expressed no issues or concerns, there is nothing for the Zoning Commission to give great weight to. (*See Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The Commission carefully considered the ANC 5A position supporting approval of the application and concurred in its recommendation of approval.

The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code §6-623.04) to give great weight to OP recommendations. The Commission carefully considered OP's recommendation to approve and has given it great weight.

Based upon the record before the Commission, the Commission concludes that the proposed map amendment from unzoned to the MU-5-B zone, where the Property is designated for Mixed Use: Medium-Density Residential and Moderate-Density Commercial in the Future Land Use Map of the Comprehensive Plan, furthers multiple policies of the Comprehensive Plan. Pursuant to 11-X DCMR § 500.3, the Commission concludes that the map amendment is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the Property, as detailed in the application and in the OP Report.

² The Commission must give great weight to all ANC reports received prior to the Commission taking final action, pursuant to 11-Z DCMR § 402.6.

DECISION

On April 12, 2018, upon the motion of Commissioner Turnbull, as seconded by Commissioner Shapiro, the Zoning Commission took **PROPOSED ACTION** to **APPROVE** the application at the close of the public hearing by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Michael G. Turnbull to approve; Peter G. May not present, not voting).

On May 14, 2018, upon the motion of Vice Chairman Miller, as seconded by Commissioner Turnbull, the Zoning Commission took **FINAL ACTION** to **APPROVE** the application at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve; Peter A. Shapiro not present, not voting).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is on June 22, 2018.

BY THE ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING**

AND

Z.C. ORDER NO. 17-27

Z.C. Case No. 17-27

Spring Flats MD, LLC

(Zoning Map Amendment @ Lots 804 and 807 in Square 2902)

June 11, 2018

The full text of this Zoning Commission Order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.

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