

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council schedules a public hearing on health bills concerning certificates of stillbirth, Lyme disease testing, Opioid prescription labeling, suicide prevention continuing education, Spinal Muscular Atrophy testing, and nurse staffing agencies
- D.C. Council schedules a public hearing on education bills related to expanding equitable access to great schools, African American and Cultural Studies inclusion, and child enrollment preference
- Alcoholic Beverage Regulation Administration allows on emergency basis businesses with on-site sales and consumption permits to register with the Board to operate on new or expanded outdoor public/private space not listed on their license
- Department of Energy and Environment schedules a public hearing on the Draft FY 2021 Clean Water Construction Project Priority Lists
- Department of Health announces funding availability for Harm Reduction Programs related to syringe services, medication assisted therapy, and transgender health initiatives
- Executive Office of the Mayor establishes the District of Columbia Presidential Inauguration Executive Steering Committee (Mayor’s Order 2020-077)
- Office of Tax and Revenue updates real property tax requirements and payment deadlines for hotels, motels, and mixed use properties
- University of the District of Columbia implements a discretionary reserved/premium parking rate for university faculty, staff, and contractors

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.).

All documents published in the *District of Columbia Register* (*Register*) must be submitted in accordance with the applicable provisions of the Rules of the Office of Documents and Administrative Issuances. Documents which are published in the *Register* include (1) Acts and resolutions of the Council of the District of Columbia; (2) Notices of proposed Council legislation, Council hearings, and other Council actions; (3) Notices of public hearings; (4) Notices of final, proposed, and emergency rulemaking; (5) Mayor's Orders and information on changes in the structure of the D.C. government (6) Notices, Opinions, and Orders of D.C. Boards, Commissions and Agencies; (7) Documents having general applicability and notices and information of general public interest.

Deadlines for Submission of Documents for Publication

The Office of Documents and Administrative Issuances accepts electronic documents for publication using a Web-based portal. To submit documents for publication, agency heads, or their representatives, may obtain a username and password by email at dcdocuments@dc.gov. For guidelines on how to format and submit documents for publication, email dcdocuments@dc.gov.

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

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Legal Effect of Publication - Certification

Except in the case of emergency rules, no rule or document of general applicability and legal effect shall become effective until it is published in the *Register*. Publication creates a rebuttable legal presumption that a document has been duly issued, prescribed, adopted, or enacted and that the document complies with the requirements of the *District of Columbia Documents Act* and the *District of Columbia Administrative Procedure Act*. The Administrator of the Office of Documents and Administrative Issuances hereby certifies that this issue of the *Register* contains all documents required to be published under the provisions of the *District of Columbia Documents Act*.

DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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ADMINISTRATOR

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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 <http://www.dccouncil.us>.

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

B23-0817 UDC Board of Trustees Term Limit Amendment Act of 2020

Intro. 07-06-2020 by Chairman Mendelson and referred to the Committee of the Whole

B23-0818 Child Enrollment Preference Amendment Act of 2020

Intro. 07-06-2020 by Chairman Mendelson, and Councilmember Grosso and referred sequentially to the Committee on Education, and Committee of the Whole

B23-0836 Lead Service Line Replacement Amendment Act of 2020

Intro. 07-06-2020 by Councilmember Cheh and referred to the Committee on Transportation and the Environment

PR23-0851 Contract No. CFOPD-20-C-010A, Unclaimed Property Audit Services Approval Resolution of 2020

Intro. 06-26-2020 by Chairman Mendelson and referred to the Retained by the

Council with comments from the Committee on Business and Economic Development

PR23-0852 Contract No. CFOPD-20-C-010B, Unclaimed Property Audit Services Approval Resolution of 2020

Intro. 06-26-2020 by Chairman Mendelson and referred to the Retained by the Council with comments from the Committee on Business and Economic Development

PR23-0853 Contract No. CFOPD-20-C-010C, Unclaimed Property Audit Services Approval Resolution of 2020

Intro. 06-26-2020 by Chairman Mendelson and referred to the Retained by the Council with comments from the Committee on Business and Economic Development

PR23-0854 Contract No. CFOPD-20-C-010D, Unclaimed Property Audit Services Approval Resolution of 2020

Intro. 06-26-2020 by Chairman Mendelson and referred to the Retained by the Council with comments from the Committee on Business and Economic Development

PR23-0855 Contract No. CFOPD-20-C-010E, Unclaimed Property Audit Services Approval Resolution of 2020

Intro. 06-26-2020 by Chairman Mendelson and referred to the Retained by the Council with comments from the Committee on Business and Economic Development

PR23-0856 Contract No. CFOPD-20-C-010F, Unclaimed Property Audit Services Approval Resolution of 2020

Intro. 06-26-2020 by Chairman Mendelson and referred to the Retained by the Council with comments from the Committee on Business and Economic Development

PR23-0857 Contract No. CFOPD-20-C-010G, Unclaimed Property Audit Services Approval Resolution of 2020

Intro. 06-26-2020 by Chairman Mendelson and referred to the Retained by the Council with comments from the Committee on Business and Economic Development

PR23-0858 Contract No. CFOPD-20-C-010H, Unclaimed Property Audit Services Approval Resolution of 2020

Intro. 06-26-2020 by Chairman Mendelson and referred to the Retained by the Council with comments from the Committee on Business and Economic Development

PR23-0861 Local Rent Supplement Program Contract No. 2010-LRSP-01A Approval Resolution of 2020

Intro. 06-25-2020 by Chairman Mendelson and referred to the Retained by the Council with comments from the Committee on Housing and Neighborhood Revitalization

PR23-0878 Council Period 23 Committee Membership Resolution of 2020

Intro. 07-06-2020 by Chairman Mendelson and referred to the Retained by the Council

COUNCIL OF THE DISTRICT OF COLUMBIA

Accommodation Requests for Council Hearings and Roundtables

For accommodation requests, including spoken language or sign language interpretation, please inform the relevant Committee office of the need as soon as possible but no later than five (5) business days before the proceeding. The Council will make every effort to fulfill timely requests, however requests received in less than five (5) business days may not be fulfilled and alternatives may be offered.

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

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

ANNOUNCES A PUBLIC HEARING ON

B23-0351, THE “REUNION SQUARE TAX INCREMENT FINANCING ACT OF 2019”

AND

**B23-0608, THE “SPRING FLATS MIXED-INCOME FAMILY APARTMENTS REAL
PROPERTY TAX ABATEMENT ACT OF 2020”**

Thursday, July 30, 2020, 3:00 p.m.
Remote Hearing via Virtual Platform
Broadcast live on DC Council Channel 13
Streamed live at www.dccouncil.us and entertainment.dc.gov.

On Thursday, July 30, 2020, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on Business and Economic Development, will hold a public hearing to consider the following measures:

1. Bill 23-0351, the “Reunion Square Tax Increment Financing Act of 2019”
2. Bill 23-0608, the “Spring Flats Mixed-Income Family Apartments Real Property Tax Abatement Act of 2020”

Bill 23-0351, the “Reunion Square Tax Increment Financing Act of 2019”, would authorize the issuance of tax increment financing bonds to support the Reunion Square development project. The goal of the project is to redevelop the site, located near the Anacostia Metrorail Station, into a mixed-use project that will contribute to the revitalization of the Anacostia neighborhood.

Bill 23-0608, the “Spring Flats Mixed-Income Family Apartments Real Property Tax Abatement Act of 2020”, would provide an abatement of property, recordation, and transfer taxes for the real property located at 1001 Spring Road NW.

The Committee invites the public to testify remotely or to submit written testimony. Anyone wishing to testify must sign up in advance by contacting the Committee by e-mail at BusinessEconomicDevelopment@dccouncil.us or by phone and provide their name, phone number or e-mail, organizational affiliation, and title (if any) by **5:00 p.m. on July 24, 2020**. Witnesses are encouraged to submit their testimony in writing electronically in advance to

BusinessEconomicDevelopment@dccouncil.us. Public witnesses will participate remotely, and the Committee will follow-up with witnesses with additional instructions on how to provide testimony through a web conferencing platform.

All public witnesses will be allowed a maximum of three minutes to testify. At the discretion of the Chair, the length of time provided for oral testimony may be reduced or extended.

The Committee encourages the public to submit written testimony to be included for the public record. Copies of written testimony should be submitted either by e-mail at BusinessEconomicDevelopment@dccouncil.us. To be included in the record, please indicate that you are submitting testimony for this hearing in the subject line of the e-mail. **The record for this public oversight roundtable will close at 5:00 p.m. on July 31, 2020.**

Please contact Justin Roberts, Committee Director for the Committee on Business and Economic Development, at jroberts@dccouncil.us for additional information.

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

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

ANNOUNCES A PUBLIC HEARING ON

BILL 23-0529, THE CERTIFICATE OF STILLBIRTH AMENDMENT ACT OF 2019

**BILL 23-0534, THE LYME DISEASE TESTING INFORMATION DISCLOSURE ACT OF
2019**

BILL 23-0535, THE OPIOID LABELING AMENDMENT ACT OF 2019

**BILL 23-0543, THE SUICIDE PREVENTION CONTINUING EDUCATION
AMENDMENT ACT OF 2019**

BILL 23-0690, THE SMA SCREENING ACT OF 2020

AND

BILL 23-0752, THE NURSE STAFFING AGENCY AMENDMENT ACT OF 2020

WEDNESDAY, JULY 29, 2020, 9:00 A.M.

REMOTE HEARING VIA WEBEX

BROADCAST LIVE ON DC COUNCIL CHANNEL 13

STREAMED LIVE AT WWW.DCCOUNCIL.US AND ENTERTAINMENT.DC.GOV.

Councilmember Vincent C. Gray, Chairperson of the Committee on Health, announces a Public Hearing on Bill 23-0529, the Certificate of Stillbirth Amendment Act of 2019, Bill 23-0534, the Lyme Disease Testing Information Disclosure Act of 2019, Bill 23-0535, the Opioid Labeling Amendment Act of 2019, Bill 23-0543, the Suicide Prevention Continuing Education Amendment Act of 2019, Bill 23-0690, the SMA Screening Act of 2020, and Bill 23-0752, the Nurse Staffing Agency Amendment Act of 2020. The hearing will be held on Wednesday, July 29, 2020, at 9:00 a.m., via Webex.

Bill 23-0529, the Certificate of Stillbirth Amendment Act of 2019, requires the Department of Health (DOH) to establish a certificate of stillbirth to be made available at the request of the parents named on a fetal death report registered with DOH. It also prohibits the certificate from being used to calculate live birth statistics or to be used to create liability. It also limits the access of information available on the certificate.

Bill 23-0534, the Lyme Disease Testing Information Disclosure Act of 2019, requires hospitals, health care facilities and testing centers to provide notice regarding the danger of receiving inaccurate results to early testing for Lyme disease.

Bill 23-0535, the Opioid Labeling Amendment Act of 2019, requires prescription opioid medications to include a statement that the drug is an opioid and that opioids may cause dependence, addiction, or overdose.

Bill 23-0543, the Suicide Prevention Continuing Education Amendment Act of 2019, requires continuing education for licensed health professionals on the subject of suicide risk assessment, treatment, and management to provide comprehensive care for at-risk patients. Training includes 2 credits of evidence-based training in suicide prevention, assessment and screening, treatment, management, and postvention.

Bill 23-0690, the SMA Screening Act of 2020, adds spinal muscular atrophy to the list of disorders for which neonatal testing must be made available.

Bill 23-0752, the Nurse Staffing Agency Amendment Act of 2020, amends the Nurse Staffing Agency Act of 2003 to clarify that nurse staffing agencies are only authorized to provide personnel to a health care facility or agency, not to an individual.

Persons wishing to provide oral testimony should contact Malcolm Cameron, Legislative Analyst of the Committee on Health by e-mail at mcameron@dccouncil.us or by phone at (202) 341-4425 by before 9:00 a.m. on Monday, July 27, 2020. When sending an e-mail or leaving a voicemail, please provide Mr. Cameron with the following information:

- Your first and last name;
- The name of the organization you are representing (if any);
- Your title with the organization;
- Your e-mail address;
- Your phone number; and
- The specific bill/s you will be testifying about.

Mr. Cameron will e-mail a confirmation of your attendance with an agenda, witness list, and attached instructions for accessing the Webex video conference hearing by 5:00 p.m. on July 27, 2020. Oral testimony will be strictly limited to three minutes to allow everyone an opportunity to testify. Due to technological limitations during the COVID-19 pandemic, only the first six hours of the hearing will be broadcasted, however, the Webex hearing will continue until all witnesses who have signed up have had an opportunity to testify.

Persons wishing to provide written testimony should e-mail their written testimony to Malcolm Cameron, Legislative Analyst of the Committee on Health at mcameron@dccouncil.us before 5:00 p.m. on Friday, July 31, 2020. Any testimony provided after this time will not be made part of the hearing record. Please indicate that you are submitting testimony for this hearing in the subject line of the e-mail. The Committee also welcomes e-mails commenting on the proposed legislation, however, this correspondence is not included in the official Committee report if it is not labeled as testimony.

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

REVISED

NOTICE OF PUBLIC HEARING ON

B23-548, the 1666 Articles of Peace and Amity Recognition Amendment Act of 2019;
B23-624, the Impervious Area Charge Water Utility Consumer Protection Fund Act of 2020;
B23-640, the District of Columbia Water and Sewer Authority Transparency Amendment Act of 2020; and
B23-836, the Lead Service Line Replacement Amendment Act of 2020

Thursday, July 30th, 2020, from 9:00 AM to 3:00 PM

On Thursday, July 30th, 2020, Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment, will hold a public hearing on B23-548, the 1666 Articles of Peace and Amity Recognition Amendment Act of 2019, B23-624, the Impervious Area Charge Water Utility Consumer Protection Fund Act of 2020, and B23-640, the District of Columbia Water and Sewer Authority Transparency Amendment Act of 2020. The hearing will begin at 9:00 AM, and will be broadcast live on DC Council Channel 13 and streamed live at www.dccouncil.us and entertainment.dc.gov.

B23-548 would provide, without cost, free fishing licenses to members of the Piscataway Indian Nation and the Piscataway Conoy Tribe. B23-624 would allow funds from the Clean Rivers Impervious Area Charge Relief Assistance Fund to be used for accounts belonging to low-income residents that are in arrears. B23-640 would require DC Water to hold a public comment period following notice of any proposed establishment or adjustment of water and sewer rates and post public comments received within 5 days of the close of the comment period, submit to the Mayor and Council and post on their website a Cost of Service study, provide residents with 30 days to dispute a bill and to notify customers of this requirement when contacted regarding a dispute, list contact information for the DC Water complaint line and the Office of the People's Counsel on water bills, and prescribe annual reporting requirements on the Clean Rivers Impervious Area Charge Relief Assistance Fund; and would also amend the Lead Service Line Priority Replacement Assistance Act of 2004 to prescribe annual reporting requirements regarding the status of the replacement assistance program. B23-836 would make several amendments to DC Water's lead water service line replacement program, specifically to allow DC water to complete private side partial replacements where a public side partial replacement was completed previously, to allow funds to be used to replace pipes containing lead or that are brass or galvanized, to allow DC water to complete public side repairs immediately upon providing notice to the property owner, and to allow funds from the lead water service line payment assistance program to be used to replace small, leftover

portions of the service line on the public side, in addition to funding costs for replacement of the portion of the private side of the service line.

On March 11, 2020, Mayor Muriel Bowser issued the Declaration of Public Emergency: Coronavirus (COVID-19) and the Declaration of Public Health Emergency: Coronavirus (COVID-19) due to the imminent threat to the health, safety, and welfare of District residents posed by the spread of the coronavirus. These orders require that the Council adapt the methods by which committees may hold public hearings and roundtables to comply with social distancing, large public gathering, and other public health and safety requirements. Therefore, this public hearing will be held remotely through the WebEx teleconferencing platform.

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; witnesses will receive with information on how to join the hearing at that time. Witnesses who anticipate needing language interpretation, or requiring sign language interpretation, are requested to inform the Committee of the need as soon as possible but no later than five business days before the hearing, which is July 25th, 2020. We will make every effort to fulfill timely requests, however requests received in less than five business days may not be fulfilled and alternatives may be offered.

If you are unable to testify at the public roundtable, written statements are encouraged and will be made a part of the official record; testimony may be submitted to abenjamin@dccouncil.us. The public may also leave voicemail testimony for the Committee by calling (202) 350-1344, which will be transcribed and made part of the hearing record. Members of the public leaving voicemail testimony should speak slowly and clearly, state their full name and the organization they represent, if any, and note the bill, hearing, or agency that they are submitting testimony on. Members of the public are asked to not provide an e-mail, phone number, or other person contact information in voicemail testimony.

The record will close at the end of the business day on August 13th, 2020.

This hearing notice is revised to reflect the addition of B23-836, the Lead Service Line Replacement Amendment Act of 2020, to the hearing agenda.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
COMMITTEE ON EDUCATION
NOTICE OF JOINT PUBLIC HEARING**
1350 Pennsylvania Avenue, NW, Washington, DC 20004

**CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
&
COUNCILMEMBER DAVID GROSSO
COMMITTEE ON EDUCATION
ANNOUNCE A JOINT PUBLIC HEARING**

on

B23-0717, the “Expanding Equitable Access to Great Schools Act of 2020;”

B23-0642, “African American and Cultural Studies Inclusion Amendment Act of 2020;”

And

B23-818, the “Child Enrollment Preference Amendment Act of 2020”

On

Friday, July 31, 2020 at 10:00 a.m.
Live via Zoom Video Conference Broadcast
Council Channel 13 (Cable Television Providers)
DC Council Website (www.dccouncil.us)
Office of Cable Television Website (entertainment.dc.gov)

Chairman Phil Mendelson and Councilmember David Grosso announce the scheduling of a joint public hearing of the Committee of the Whole and the Committee on Education B23-0717, the “Expanding Equitable Access to Great Schools Act of 2020;” B23-0642, “African American and Cultural Studies Inclusion Amendment Act of 2020;” and B23-818, the “Child Enrollment Preference Amendment Act of 2020” The hearing will be held on Friday, July 31, 2020 at 10:00 a.m. Live via Zoom Video Conference Broadcast.

The stated purpose of B23-0717 is to expand equitable access to public charter schools to at-risk students upon approval from the Public Charter School Board. The stated purpose of B23-0642 is to require the Office of the State Superintendent of Education to develop an African-American history and cultural studies curriculum for high school students enrolled in a District of Columbia Public or Public Charter School. The stated purpose of B23-818 is to add an enrollment preference for a child of a student already attending or selected for admission to a public charter school in which the child is seeking enrolment.

Those who wish to testify may sign-up by emailing Ashley Strange, Committee Assistant, at astrange@dccouncil.us or call the Committee on Education at (202) 724-8061 by 5:00 p.m. on Wednesday, July 29 and include your name, organization affiliation (if any), and title. Persons

wishing to testify are encouraged, but not required, to submit 10-15 copies of written testimony via email. Witnesses appearing on his or her own behalf should limit their testimony to four minutes. If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Statements should be submitted by email to astrange@dccouncil.us. The record will close at 5:00 p.m. on Wednesday, August 14, 2020.

Witnesses who anticipate needing spoken language interpretation, or require sign language interpretation, are requested to inform Education Committee of the need as soon as possible but no later than five (5) business days before the proceeding. We will make every effort to fulfill timely requests, however requests received in less than five (5) business days may not be fulfilled, and alternatives may be offered.

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

1350 Pennsylvania Avenue, NW, Washington, DC 20004

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

on

Bill 23-817, UDC Board of Trustees Term Limit Amendment Act of 2020

on

Friday, July 31, 2020 at 9:00 a.m.

**Live via Zoom Video Conference Broadcast
Council Channel 13 (Cable Television Providers)
DC Council Website (www.dccouncil.us)**

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on Bill 23-817 the “UDC Board of Trustees Term Limit Amendment Act of 2020.” The hearing will be held at 9:00 a.m. on Friday, July 31, 2020 via a Zoom virtual hearing.

The stated purpose of **Bill 23-817** is to amend the term limits for the University of the District of Columbia (UDC) Board of Trustees. Specifically, this bill extends the total length that a UDC Trustee, appointed by the Mayor, may serve consecutively, lengthening the time from two 5-year terms to three 5-year terms. Additionally, it provides clarity with regard to determining how long a Trustee has served and may continue to serve. Notably, the language in this bill is identical to the language included in D.C. Act 23-328, the Coronavirus Support Congressional Review Emergency Amendment Act of 2020.”

Those who wish to testify are asked to email the Committee of the Whole at cow@dccouncil.us, or call Christina Setlow, Deputy Committee Director, at (202) 724-4865, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business Wednesday, July 29, 2020. Witnesses who anticipate needing spoken language interpretation, or require sign language interpretation, are requested to inform the Committee office of the need as soon as possible but no later than five business days before the proceeding. We will make every effort to fulfill timely requests, although alternatives may be offered. Requests received in less than five business days may not be fulfilled.

Persons wishing to testify are encouraged, but not required, to email their written testimony to cow@dccouncil.us. If submitted by the close of business on July 29, 2020 the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses. The hearing will be limited to one hour. 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>. Hearing materials, including a draft witness list, can be accessed at <http://www.chairmanmendelson.com/circulation>, 24 hours in advance of the hearing.

If you are unable to testify at the hearing, written statements are encouraged and will be made 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, NW, Washington, DC 20004. The record will close at 5:00 p.m. on August 14, 2020.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON FACILITIES AND PROCUREMENT

ROBERT C. WHITE, JR., CHAIR

NOTICE OF PUBLIC ROUNDTABLE

on

PR23-0655, the “Board of Directors of the Washington Metrorail Safety Commission Victoria Wassmer Confirmation Resolution of 2020”**and****PR23-0656, the “Board of Directors of the Washington Metrorail Safety Commission Robert Bobb Confirmation Resolution of 2020”**Friday, July 10th, 2020, 3:00 PMLive via Zoom Video Conference Broadcast
Council Channel 13 (Cable Television Providers)
DC Council Website (www.dccouncil.us)

On Friday, July 10th, 2020, Councilmember Robert C. White Jr., Chair of the Committee on Facilities and Procurement, will hold a public roundtable on PR23-0655, the “Board of Directors of the Washington Metrorail Safety Commission Victoria Wassmer Confirmation Resolution of 2020” and on PR23-0656, the “Board of Directors of the Washington Metrorail Safety Commission Robert Bobb Confirmation Resolution of 2020.” The public oversight roundtable will take place via the Zoom web conferencing platform at 3:00 PM. Members of the public will be able to view the public oversight roundtable on cable television on Council Channel 13 or online at: <https://dccouncil.us/council-videos/> or at: entertainment.dc.gov.

The stated purpose of PR23-0655, the “Board of Directors of the Washington Metrorail Safety Commission Victoria Wassmer Confirmation Resolution of 2020” is to confirm the appointment of Ms. Victoria Wassmer to the Washington Metrorail Safety Commission as an alternate member, replacing Christopher Geldart, for a term to end February 6, 2021.

The stated purpose of PR23-0656, the “Board of Directors of the Washington Metrorail Safety Commission Robert Bobb Confirmation Resolution of 2020” is to confirm the re-appointment of Mr. Robert Bobb to the Washington Metrorail Safety Commission for a term to end February 6, 2024.

The Committee invites the public to testify remotely or to submit written testimony. Anyone wishing to testify must sign up in advance by contacting the Committee by e-mail at facilities@dccouncil.us or by phone at (202) 741-8593, and provide their name, phone number or e-mail, organizational affiliation, and title (if any) by **the close of business on Wednesday, July 8th, 2020**. Witnesses are encouraged, but not required, to submit their testimony in writing electronically in advance to facilities@dccouncil.us. Public witnesses will participate remotely

and using audio only. The Committee will follow-up with witnesses with additional instructions on how to provide testimony through a web conferencing platform.

All public witnesses will be allowed a maximum of four minutes to testify, while Advisory Neighborhood Commissioners will be permitted five minutes to testify. At the discretion of the Chair, the length of time provided for oral testimony may be reduced.

The Committee encourages the public to submit written testimony to be included for the public record. Copies of written testimony should be submitted either by e-mail at facilities@dccouncil.us or by mail to Nyasha Smith, Secretary of the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, DC 20004. **The record for this public oversight roundtable will close at the close of business on Friday, July 10th, 2020.**

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON FACILITIES AND PROCUREMENT

ROBERT C. WHITE, JR., CHAIR

COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT

KENYAN R. MCDUFFIE, CHAIR

NOTICE OF JOINT PUBLIC ROUNDTABLE

on

PR23-0837, the “Ferebee-Hope School Surplus Declaration Resolution of 2020”

and

PR23-0838, the “Ferebee-Hope School Disposition Approval Resolution of 2020”

Thursday, July 9, 2020, 9:00 AM

Live via Zoom Video Conference Broadcast
Council Channel 13 (Cable Television Providers)
DC Council Website (www.dccouncil.us)

On Thursday, July 9th, 2020, Councilmember Robert C. White Jr., Chair of the Committee on Facilities and Procurement and Councilmember Kenyan R. McDuffie will hold a Joint Public Roundtable on PR23-0837, the “Ferebee-Hope School Surplus Declaration Resolution of 2020” and PR23-0838, the “Ferebee-Hope School Disposition Approval Resolution of 2020”. The public oversight roundtable will take place via the Zoom web conferencing platform at 9:00 AM. Members of the public will be able to view the public oversight roundtable on cable television on Council Channel 13 or online at: <https://dccouncil.us/council-videos/> or at: entertainment.dc.gov.

PR23-0837, the “Ferebee-Hope School Surplus Declaration Resolution of 2020”, was introduced on June 18, 2020 by Chairman Mendelson. The resolution was referred to the Committee on Facilities and Procurement on July 7th, 2020. The stated purpose of the resolution is to declare as no longer required for public purposes the District-owned real property located at 3999 8th Street SE (also known as 700 Yuma Street SE), in Washington, D.C., commonly known as the Ferebee-Hope School, and known for tax and assessment purposes as Square 6124, Lot 0045.

PR23-0838, the “Ferebee-Hope School Disposition Approval Resolution of 2020”, was also introduced by Chairman Mendelson on June 18, 2020. The resolution was referred to the Committee on Business and Economic Development on July 7th, 2020. The stated purpose of the resolution is to approve the disposition of District-owned real property located at 3999 8th Street SE (also known as 700 Yuma Street SE), in Washington, D.C., commonly known as the Ferebee-Hope School, and known for tax and assessment purposes as Square 6124, Lot 0045.

The Committee invites the public to testify remotely or to submit written testimony. Anyone wishing to testify must sign up in advance by contacting the Committee by e-mail at facilities@dccouncil.us or by phone at (202) 741-8593, and provide their name, phone number or e-mail, organizational affiliation, and title (if any) by **the close of business on Tuesday, July 7th, 2020**. Witnesses are encouraged, but not required, to submit their testimony in writing electronically in advance to facilities@dccouncil.us. Public witnesses will participate remotely and using audio only. The Committee will follow-up with witnesses with additional instructions on how to provide testimony through a web conferencing platform.

All public witnesses will be allowed a maximum of four minutes to testify, while Advisory Neighborhood Commissioners will be permitted five minutes to testify. At the discretion of the Chair, the length of time provided for oral testimony may be reduced.

The Committee encourages the public to submit written testimony to be included for the public record. Copies of written testimony should be submitted either by e-mail at facilities@dccouncil.us. **The record for this public oversight roundtable will close at the close of business on Thursday, July 9th, 2020.**

COUNCIL OF THE DISTRICT OF COLUMBIA
CONSIDERATION OF TEMPORARY LEGISLATION

B23-786, Black Lives Matter Plaza Designation Temporary Act of 2020, **B23-808**, Appraisal Management Company Regulation Temporary Act of 2020, **B23-811**, Criminal Justice Coordinating Council Information Sharing Temporary Amendment Act of 2020, **B23-813**, Investigating Maternal Mortalities Temporary Amendment Act of 2020, **B23-815**, Concealed Pistol Licensing Review Board Membership Temporary Amendment Act of 2020, **B23-820**, Commercial Insurance Physical Loss of Property Claim Tolling Temporary Act of 2020, **B23-822**, Adams Morgan BID Tax Temporary Act of 2020, **B23-824**, Standby Guardian Temporary Amendment Act of 2020, **B23-826**, Comprehensive Policing and Justice Reform Second Temporary Amendment Act of 2020, **B23-830**, Reunion Square Tax Increment Financing Second Temporary Act of 2020, **B23-833**, Business Support Grants Temporary Amendment Act of 2020 and **B23-835**, Performance Arts Promotion Temporary Amendment Act of 2020 were adopted on first reading on July 7, 2020. These temporary measures were considered in accordance with Council Rule 413. A final reading on these measures will occur on July 21, 2020.

<p style="text-align: center;">COUNCIL OF THE DISTRICT OF COLUMBIA EXCEPTED SERVICE APPOINTMENTS AS OF JUNE 30, 2020</p>
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NOTICE OF EXCEPTED SERVICE EMPLOYEES

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

COUNCIL OF THE DISTRICT OF COLUMBIA			
NAME	POSITION TITLE	GRADE	TYPE OF APPOINTMENT
Brennan, Maya	Special Assistant	7	Excepted Service - Reg Appt

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

ABBREVIATED NOTICE OF INTENT TO CONSIDER LEGISLATION

The Committee on Transportation and the Environment of the Council of the District of Columbia hereby gives notice of its intention to take action on Bill 23-836, the “Lead Service Line Replacement Amendment Act of 2020” prior to its inclusion in the Secretary’s Log of Introductions, to ensure that the bill can be added to the agenda for the Committee’s hearing of July 30, 2020. The abbreviated notice is necessary to allow the Committee to consider the measure in a timely manner.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: July 10, 2020
Protest Petition Deadline: September 14, 2020
Roll Call Hearing Date: September 28, 2020

License No.: ABRA-100515
Licensee: Stephen Lawrence
Trade Name: 600 T
License Class: Retailer's Class "C" Tavern
Address: 600 T Street, N.W.
Contact: Stephen Lawrence: (757) 646-6282

WARD 6 ANC 6E SMD 6E02

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 September 28, 2020 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline.

NATURE OF SUBSTANTIAL CHANGE

Applicant requests a Summer Garden endorsement with 28 seats.

CURRENT HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE PREMISES

Sunday 12pm - 2am, Monday through Thursday 5pm - 2am, Friday and Saturday 5pm - 3am

PROPOSED HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR OUTDOORS IN SUMMER GARDEN

Sunday through Saturday 2pm - 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: July 10, 2020
Protest Petition Deadline: September 14, 2020
Roll Call Hearing Date: September 28, 2020
Protest Hearing Date: December 2, 2020

License No.: ABRA-116948
Licensee: Falafelshop, Inc.
Trade Name: Amsterdam Falafelshop AdMo
License Class: Retailer's Class "C" Restaurant
Address: 2425 18th Street, N.W.
Contact: Arianne Bennett: (202) 468-6489

WARD 1

ANC 1C

SMD 1C07

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 September 28, 2020 at 11 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The Protest Hearing date is scheduled on December 2, 2020 at 4:30 p.m.

NATURE OF OPERATION

A Restaurant serving Middle Eastern and European sandwiches and fries. Total Occupancy Load of 19. Requesting a Sidewalk Café with 10 seats.

HOURS OF OPERATION FOR INSIDE PREMISES AND FOR OUTDOOR SIDEWALK CAFE

Sunday and Monday 11am – 12am, Tuesday and Wednesday 11am – 2:30am, Thursday 11am-3am, Friday and Saturday 11am – 4am

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION INSIDE PREMISES AND FOR OUTDOOR SIDEWALK CAFE

Sunday through Saturday 11am – 11pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: July 10, 2020
Protest Petition Deadline: September 14, 2020
Roll Call Hearing Date: September 28, 2020
Protest Hearing Date: December 2, 2020

License No.: ABRA-116859
Licensee: Cheers Wine & Spirits, LLC
Trade Name: Cheers Wine & Spirits
License Class: Retailer's Class "A" Liquor Store
Address: 1901 Michigan Avenue, N.E.
Contact: Bernard C. Dietz: (703) 244-3028

WARD 5

ANC 5B

SMD 5B01

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 September 28, 2020 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The **Protest Hearing date** is scheduled on **December 2, 2020 at 1:30 p.m.**

NATURE OF OPERATION

A new Retailer's Class A Liquor Store.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES

Sunday through Saturday 8am – 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: July 10, 2020
Protest Petition Deadline: September 14, 2020
Roll Call Hearing Date: September 28, 2020

License No.: ABRA-101261
Licensee: GoBrands, Inc.
Trade Name: Go Puff - Rive
License Class: Retailer's Class "A" Internet
Address: 327 S Street, N.E.
Contact: Stephen O'Brien, Esq.: (202) 625-7700

WARD 5 ANC 5E SMD 5E03

Notice is hereby given that this licensee has requested to transfer their license to a new location 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 September 28, 2020 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline.

NATURE OF OPERATION

Applicant requests to Transfer License from 3401 Water Street, N.W., to a new location at 327 S Street, N.E. Licensee is a Class A Internet Retailer selling beer, wine, and spirits online only for off-premises consumption. This location will not be open to the public.

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES

Sunday through Saturday 7am - 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
7/10/2020

Notice is hereby given that:

License Number: ABRA-097707

License Class/Type: A Retail - Liquor Store

Applicant: NAI SATURN EASTERN LLC

Trade Name: Safeway

ANC: 6B06

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

415 14TH ST SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
9/14/2020

A HEARING WILL BE HELD ON:
9/28/2020

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	5 am - 12 am	7 am - 12 am
Monday:	5 am - 12 am	7 am - 12 am
Tuesday:	5 am - 12 am	7 am - 12 am
Wednesday:	5 am - 12 am	7 am - 12 am
Thursday:	5 am - 12 am	7 am - 12 am
Friday:	5 am - 12 am	7 am - 12 am
Saturday:	5 am - 12 am	7 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: July 10, 2020
Protest Petition Deadline: September 14, 2020
Roll Call Hearing Date: September 28, 2020
Protest Hearing Date: December 2, 2020

License No.: ABRA-116969
Licensee: Squash Club, LLC
Trade Name: Squash Club DC
License Class: Retailer's Class "B" Internet
Address: 4221 Connecticut Avenue, N.W.
Contact: Justin L. Rose: (301) 221-8337

WARD 3

ANC 3F

SMD 3F02

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 September 28, 2020 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The **Protest Hearing date** is scheduled on **December 2, 2020 at 1:30 p.m.**

NATURE OF OPERATION

New Class "B" Internet Retailer selling beer and wine online only for off-premises consumption. This location will not be open to the public.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES

Sunday CLOSED, Monday through Saturday 8am – 7pm

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

****READVERTISEMENT**

Placard Posting Date: June 26, 2020
Protest Petition Deadline: August 31, 2020
Roll Call Hearing Date: September 14, 2020

License No.: ABRA-116881
Licensee: MAHK Meetings, LLC
Trade Name: TBD
License Class: Retailer's Class "C" Tavern
Address: **1806 Vernon Street, N.W.**
Contact: Sidon Yohannes: (202) 686-7600

WARD 1

ANC 1C

SMD 1C01

Notice is hereby given that this licensee has requested to transfer the license to a new location with Substantial Changes 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 September 14 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline.

NATURE OF OPERATION/SUBSTANTIAL CHANGES

Licensee requests to transfer license from 1723 Columbia Road N.W, to a new location at **1806 Vernon Street, N.W. Total Occupancy Load of 50 with seating for 30 patrons. Applicant is also requesting the following Substantial Changes to the license: To add a Summer Garden with 30 seats and to change the hours of operation, alcoholic beverage sales and consumption and live entertainment hours for inside premise and summer garden.

CURRENT HOURS OF OPERATION/ALCOHOLIC BEVERAGES SALES, SERVICE AND CONSUMPTION FOR INSIDE PREMISES AND SIDEWALK CAFE

Sunday 12pm – 2am, Monday through Thursday 4pm – 2am, Friday and Saturday 4pm – 3am

CURRENT HOURS OF LIVE ENTERTAINMENT

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

PROPOSED HOURS OF OPERATION/ALCOHOLIC BEVERAGES SALES, SERVICE AND CONSUMPTION/LIVE ENTERTAINMENT FOR INSIDE PREMISES

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

PROPOSED HOURS OF OPERATION/ALCOHOLIC BEVERAGES SALES, SERVICE AND CONSUMPTION/LIVE ENTERTAINMENT FOR SUMMER GARDEN

Sunday through Friday 8am – 1am, Saturday 8am – 2am

PROPOSED HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION FOR SIDEWALK CAFE

Sunday through Saturday 8am – 11pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
NOTICE OF PUBLIC HEARING

**RESCIND

Placard Posting Date: June 26, 2020
Protest Petition Deadline: August 31, 2020
Roll Call Hearing Date: September 14, 2020

License No.: ABRA-116881
Licensee: MAHK Meetings, LLC
Trade Name: TBD
License Class: Retailer's Class "C" Tavern
Address: **1807 Florida Avenue, N.W.
Contact: Sidon Yohannes: (202) 686-7600

WARD 1 ANC 1C SMD 1C01

Notice is hereby given that this licensee has requested to transfer the license to a new location with Substantial Changes 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 September 14 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline.

NATURE OF OPERATION/SUBSTANTIAL CHANGES

Licensee requests to transfer license from 1723 Columbia Road N.W, to a new location at **1807 Florida Avenue, N.W. Total Occupancy Load of 50 with seating for 30 patrons. Applicant is also requesting the following Substantial Changes: To add a Summer Garden with 30 seats and to change the hours of operation and alcoholic beverage sales and consumption indoors and outdoors, and change live entertainment hours for inside premise and summer garden.

CURRENT HOURS OF OPERATION/ALCOHOLIC BEVERAGES SALES, SERVICE AND CONSUMPTION FOR INSIDE PREMISES

Sunday 12pm - 2am, Monday through Thursday 4pm - 2am, Friday and Saturday 4pm - 3am

CURRENT HOURS OF OPERATION/ALCOHOLIC BEVERAGES SALES, SERVICE AND CONSUMPTION FOR SIDEWALK CAFE

Sunday through Friday 4pm - 1am, Saturday 6pm - 2am

CURRENT HOURS OF LIVE ENTERTAINMENT INSIDE PREMISES

Sunday through Thursday 6pm - 2am, Friday and Saturday 6pm - 3am

PROPOSED HOURS OF OPERATION/ALCOHOLIC BEVERAGES SALES, SERVICE AND CONSUMPTION/LIVE ENTERTAINMENT FOR INSIDE PREMISES

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

PROPOSED HOURS OF OPERATION/ALCOHOLIC BEVERAGES SALES, SERVICE AND CONSUMPTION/LIVE ENTERTAINMENT FOR SUMMER GARDEN

Sunday through Friday 8am - 1am, Saturday 8am - 2am

PROPOSED HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION FOR SIDEWALK CAFE

Sunday through Saturday 8am - 11pm

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

Placard Posting Date: July 10, 2020
Protest Petition Deadline: September 14, 2020
Roll Call Hearing Date: September 28, 2020

License No.: ABRA-097774
Licensee: TG Cigars, Inc.
Trade Name: TG Cigars
License Class: Retailer's Class "C" Tavern
Address: 1120 9th Street, N.W.
Contact: Risa Hirao, Esq.: (202) 544-2200

WARD 2

ANC 2F

SMD 2F06

Notice is hereby given that this licensee has applied to transfer the license to a new location with a substantial change 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 September 28, 2020 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline.

NATURE OF OPERATION/SUBSTANTIAL CHANGE

Licensee requests to transfer license from 1118 9th Street, N.W. to a new location at 1120 9th Street, N.W. Applicant would also like to add an Entertainment Endorsement inside the premises and Summer Garden.

CURRENT HOURS OF OPERATION (INSIDE PREMISES AND SUMMER GARDEN)

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

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (INSIDE PREMISES AND SUMMER GARDEN)

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

PROPOSED HOURS OF LIVE ENTERTAINMENT (INSIDE PREMISES AND SUMMER GARDEN)

Sunday through Thursday 10am – 2am
Friday and Saturday 10am – 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: July 10, 2020
Protest Petition Deadline: September 14, 2020
Roll Call Hearing Date: September 28, 2020
Protest Hearing Date: December 2, 2020

License No.: ABRA-116937
Licensee: H&O, LLC
Trade Name: The Roasted Boon Co.
License Class: Retailer's Class "C" Tavern
Address: 1018 Rhode Island Avenue, N.W.
Contact: Sidon Yohannes, Esq.: (202) 686-7600

WARD 6

ANC 6E

SMD 6E01

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 September 28, 2020 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The **Protest Hearing date** is scheduled on **December 2, 2020 at 4:30 p.m.**

NATURE OF OPERATION

New Retailer's Class "C" Tavern serving as a wine & coffee bar. Applicant is applying for a Sidewalk Cafe Endorsement with 20 seats. Total seating inside is 18 with a Total Occupancy Load of 50.

HOURS OF OPERATION (INSIDE PREMISES AND SIDEWALK CAFE)

Sunday through Saturday 6am – 12am

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (INSIDE PREMISES AND SIDEWALK CAFE)

Sunday through Saturday 8am – 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: July 10, 2020
Protest Petition Deadline: September 14, 2020
Roll Call Hearing Date: September 28, 2020
Protest Hearing Date: December 2, 2020

License No.: ABRA-116874
Licensee: Balance & Bloom LLC
Trade Name: Vinchase.com
License Class: Retailer's Class "B" Internet
Address: 175 R Street, N.E.
Contact: Sasha Burekovic: (312) 753-9134

WARD 5

ANC 5E

SMD 5E03

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 September 28, 2020 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The **Protest Hearing date** is scheduled on **December 2, 2020 at 1:30 p.m.**

NATURE OF OPERATION

New Class "B" Internet Retailer selling beer and wine online only for off-premises consumption. This location will not be open to the public.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES

Saturday, Sunday, and Monday CLOSED, Tuesday through Friday 10am – 4pm

DEPARTMENT OF ENERGY AND ENVIRONMENT
NOTICE OF PUBLIC HEARING AND PUBLIC COMMENT PERIOD
Draft FY 2021 Clean Water Construction Project Priority Lists

The Department of Energy and Environment (DOEE) invites the public to comment on the Draft Fiscal Year (FY) 2021 Project Priority Lists (PPLs) for the District of Columbia's Clean Water Construction Grants Program. Comments can be given in writing, by email, or at a virtual public hearing. The PPLs identify and rank projects eligible to receive federal funds to construct or improve green infrastructure, wastewater treatment facilities, and other related infrastructure in FY 2021 and in future years.

The draft PPLs can be downloaded from DOEE's web page for public notices and hearings: <https://doee.dc.gov/service/public-notice-hearings>. A copy can also be emailed upon request. Please email Samantha.gross@dc.gov to arrange for email to you or for pick-up at DOEE (7th Floor, 1200 First Street, NE, Washington DC 20002). Look for or ask for "Draft PPL List FY 2021".

Public Hearing

HEARING DATE: August 10, 2020 (Monday)

TIME: 6:00 PM – 7:00 PM

JOIN THE VIRTUAL HEARING:

Meeting number: 160 250 5900

Password: publicmeeting

Website:

<https://dcnet.webex.com/dcnet/j.php?MTID=mbb5953ac6654bda2131896b8739dd2f2>

JOIN BY PHONE: 1-650-479-3208 Call-in toll number (US/Canada)

Access code: 160 250 5900

Persons may submit written testimony by email, with a subject line of "PPL Public Hearing 2021," to the attention of Samantha Gross at samantha.gross@dc.gov. All comments should be received no later than the conclusion of the public hearing.

Persons present at the hearing who wish to be heard may testify. All presentations shall be limited to five minutes. Presenters are urged to submit written statements. In the notice publishing its final PPL, DOEE will consider all comments received.

DEPARTMENT OF HEALTH**STATE HEALTH PLANNING AND DEVELOPMENT AGENCY****NOTICE OF PUBLIC HEARING**

Pursuant to 22-B DCMR § 4302.1, the District of Columbia State Health Planning and Development Agency ("SHPDA") will hold a public hearing on District Hospital Partners, L.P. d/b/a George Washington University Hospital (Certificate of Need Registration No. 19-2-6) for the establishment of liver and pancreas transplant services.

The hearing will be held on Thursday, July 23, 2020, beginning at 10:00 a.m. using Webex Conferencing. **Please send an email to dana.mitchener@dc.gov to register for the public hearing.**

Testimony from affected persons will be received at the hearing. Comments may be submitted in writing before the hearing, or they may be presented at the hearing orally or in writing. Written statements may also be submitted to the SHPDA, 899 North Capitol Street, N.E., Sixth Floor, Washington, D.C. 20002, until 4:45 p.m. on Thursday, July 30, 2020 before the record closes. The referenced application is available at the SHPDA for review.

Persons who wish to testify should contact the SHPDA on (202) 442-5875 before 4:45 p.m., by Wednesday, July 22, 2020. Each member of the public who wishes to testify will be allowed a maximum of five (5) minutes.

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, JULY 15, 2020
Virtual Hearing via WebEx**

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

TIME: 9:30 A.M.

WARD FOUR

20256
ANC 4C **Application of 3905 Kansas LLC**, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under the RF-use requirements of Subtitle U § 320.2, and under Subtitle C § 703.2 from the minimum parking requirements of Subtitle C § 701.5, to permit the conversion of an existing semi-detached principal dwelling into a three-unit apartment house in the RF-1 Zone at premises 3905 Kansas Avenue N.W. (Square 2906, Lot 830).

WARD TWO

20258
ANC 2B **Application of William G. Springer and Forrest Kettler**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle F § 5201 from the maximum lot occupancy requirements of Subtitle F § 604.1, to construct a two-story rear addition to an existing attached principal dwelling in the RA-8 Zone at premises 1416 15th Street, N.W. (Square 195, Lot 104).

WARD SIX

20206
ANC 6C **Application of Tim Purdy**, as amended, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 5201, from the lot occupancy requirements of Subtitle E § 304.1 and from the rear yard requirements of Subtitle E § 306.1, to construct a rear deck addition to an existing attached principal dwelling unit in the RF-1 Zone at premises 627 Orleans Place N.E. (Square 855, Lot 367).

WARD FOUR

20261
ANC 4D **Application of Ramon Argueta**, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle D § 5201, from the rear yard requirements of Subtitle D § 306.2, and from the pervious surface requirements of Subtitle D § 308.3, and pursuant to Subtitle X, Chapter 10, for an area variance from the lot occupancy requirements of

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JULY 15, 2020

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Subtitle D § 304.1, to allow a second-story rear deck addition to an existing attached principal dwelling unit in the R-3 Zone at premises 5104 3rd Street N.W. (Square 3301, Lot 45).

WARD EIGHT20221
ANC 8E

Application of Bridges 2 Psychological Services and Consultation LLC, pursuant to 11 DCMR Subtitle X, Chapter 10, for a use variance from the use requirements of Subtitle U § 201.1, to convert an existing detached residential building to a medical office building in the R-2 Zone at premises 639 Atlantic Street S.E. (Square 3105, Lot 72).

WARD SIX20238
ANC 6B

Application of James Silk, Application of James Silk, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle G § 1200, from the height requirements of Subtitle G § 1102.2, from the rear yard requirements Subtitle G § 1103.1, and from the setback requirements of Subtitle G § 1105.1, and pursuant to 11 DCMR Subtitle X, Chapter 10, for an area variance from minimum alley width requirements of Subtitle C § 303.3 (a), to construct a second story addition to an existing semi-attached principal dwelling unit in the MU-26 Zone at premises 0203 Rear 3rd Street S.E. (Square 0762, Lot 0823).

PLEASE NOTE:

This public hearing will be held virtually through WebEx. Information for parties and the public to participate, view, or listen to the public hearing will be provided on the Office of Zoning website and in the case record for each application or appeal by the Friday before the hearing date.

The public hearing in these cases will be conducted in accordance with the provisions of Subtitles X and Y of the District of Columbia Municipal Regulations, Title 11, including the text provided in the Notice of Emergency and Proposed Rulemaking adopted by the Zoning Commission on May 11, 2020, in Z.C. Case No. 20-11.

Individuals and organizations interested in any application may testify at the public hearing via WebEx or by phone and are strongly encouraged to sign up to testify 24 hours prior to the start of the hearing on OZ's website at <https://dcoz.dc.gov/> or by calling Robert Reid at 202-727-5471. Pursuant to Subtitle Y, Chapter 2 of the Regulations, the Board may impose time limits on the testimony of all individuals and organizations.

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Individuals and organization may also submit written comments to the Board by uploading submissions via IZIS or by email to bzasubmissions@dc.gov. Submissions are strongly encouraged to be sent at least 24 hours prior to the start of the hearing.

Do you need assistance to participate?

Americans with Disabilities Act (ADA)

If you require an auxiliary aide or service in order to participate in the public hearing under Title II of the ADA, please contact Zelalem Hill at (202) 727-0312 or Zelalem.Hill@dc.gov. In order to ensure any requested accommodations can be secured by the scheduled hearing, please contact Ms. Hill as soon as possible in advance of that date.

Language Access

Amharic

ለመሳተፍ ዕርዳታ ያስፈልግዎታል?

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

Chinese

您需要有人帮助参加活动吗?

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

French

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

Korean

참여하시는데 도움이 필요하세요?

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

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Spanish

¿Necesita ayuda para participar?

Si tiene necesidades especiales o si necesita servicios de ayuda en su idioma (de traducción o

interpretación), por favor comuníquese con Zee Hill llamando al (202) 727-0312 o escribiendo a

Zelalem.Hill@dc.gov cinco días antes de la sesión. Estos servicios serán proporcionados sin costo alguno.*Vietnamese*

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

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

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

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

OFFICE OF TAX AND REVENUE

NOTICE OF FINAL RULEMAKING

The Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue (OTR), of the Office of the Chief Financial Officer, pursuant to the authority set forth in D.C. Official Code §§ 47-874 and 47-1010 (2015 Repl.), Section 201(a) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2019, Pub. L. 109-356; D.C. Official Code § 1-204.24d (2016 Repl.)), and the Office of the Chief Financial Officer Financial Management and Control Order No. 00-5, effective June 7, 2000, hereby gives notice of the final action to amend Chapter 3#(Real Property Taxes) of Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (DCMR).

The purpose of this rulemaking is to amend Section 313 (Payment of Real Property Tax) to define hotels and motels for purposes of the June 30, 2020 real property tax payment deadline applicable to such entities, and to provide for an equivalent deadline relating to possessory interest taxes owed by such entities.

The rulemaking was published as emergency and proposed rulemaking in the *D.C. Register* on March 27, 2020 at 67 DCR 3599. No comments were received and there has been no change to the rule as proposed. This rule was adopted as final on June 26, 2020 and will be effective upon publication in the *D.C. Register*.

Chapter 3, REAL PROPERTY TAXES, of Title 9 DCMR, TAXATION AND ASSESSMENTS, is amended as follows:

New Subsection 313.6, of Section 313, PAYMENT OF REAL PROPERTY TAX, is added to read as follows.

313.6

- (a) For purposes of D.C. Official Code § 811(b), the terms “hotel” and “motel” mean a real property any part of which is classified for tax year 2020 as Class 2 Property under § 47-813, is commercially improved and occupied, and is a hotel, motel, inn, or other place which is regularly used for the purpose of furnishing rooms, lodgings, or accommodations to transients.
- (b) A hotel or motel, as defined herein, may pay its first half tax year 2020 real property tax installment through June 30, 2020, and such payment made by such date shall be timely, to the extent it brings the tax liability current. Penalty and interest owed for prior periods are unaffected by the Act. No payment may be designated to a particular period, and a payment is subject to the application of payments under this section. Further, a hotel or motel may not benefit from penalty and interest tax relief relating to sales and use taxes, as provided under D.C. Official Code § 47-4221(d).

- (c) Possessory interest tax, owing by the lessee of immune or exempt government real property in lieu of real property tax, shall benefit from the same extension due date and under the same terms and limitations as real property tax owed by hotels and motels as defined under this subsection.

OFFICE OF TAX AND REVENUE**NOTICE OF FINAL RULEMAKING**

The Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue (OTR), of the Office of the Chief Financial Officer, pursuant to the authority set forth in D.C. Official Code § 47-874 (2015 Repl.), Section 201(a) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2019, Pub. L. 109-356; D.C. Official Code § 1-204.24d (2016 Repl.)), and the Office of the Chief Financial Officer Financial Management and Control Order No. 00-5, effective June 7, 2000, hereby gives notice of the final action to amend Chapter 3 (Real Property Taxes) of Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (DCMR).

The purpose of this rulemaking is to amend Sections 327 (Taxation of Mixed Use Property), 328 (Application for Mixed Use Classification) and 329 (Time Limitations and Extensions of Time) to conform the filing dates to the current tax year and the property tax classifications to those currently in effect.

The rulemaking was published as a proposed rulemaking in the *D.C. Register* on May 1, 2020 at 67 DCR 4777. No comments were received and there has been no change to the rule as proposed. This rule was adopted as final on June 26, 2020 and will be effective upon publication in the *D.C. Register*.

Chapter 3, REAL PROPERTY TAXES, of Title 9 DCMR, TAXATION AND ASSESSMENTS, is amended as follows:

Section 327, TAXATION OF MIXED USE PROPERTY, is amended to read as follows:

- 327.1 The Deputy Chief Financial Officer shall make every effort to afford affected taxpayers the opportunity to apply and qualify for mixed use status, but it shall be the affected taxpayer's responsibility to inform the Deputy Chief Financial Officer of the existence of a mixed use property by properly completing and timely filing the mixed use form. The classes of property for tax purposes are set forth in D.C. Code § 47-813 and § 9903 of this title.
- 327.2 For the purposes of this chapter, an "affected taxpayer," is an owner of real property in the District who is required to file a mixed use form in accordance with the provisions of this section.
- 327.3 If any mixed use form is not submitted (postmarked) to the Deputy Chief Financial Officer on or before September 1st of the year in which such forms are mailed to affected taxpayers, or within the time extended by the Deputy Chief Financial Officer, or any mixed use form is timely submitted (postmarked) on or before September 1st, but is either inaccurate or incomplete and, after written notice from the Deputy Chief Financial Officer and, in the opinion of the Deputy Chief Financial Officer, remains inaccurate or incomplete, the Deputy Chief

Financial Officer shall classify the affected taxpayer's real property as Class 2 Property for the next taxable year (October 1st-September 30th), subject to the property being classified as Class 3 or Class 4.

327.4 The Deputy Chief Financial Officer shall notify affected taxpayers of Class 2 Property status which results because of the application of § 327.3 through the billing process or by any other method which is deemed appropriate.

327.5 Whenever the mixed use form or information sought under the form, or records or documents sought to completely and accurately inform the Deputy Chief Financial Officer as to the mixed use of the property are not submitted in the time provided for by this chapter, and it is shown to the Deputy Chief Financial Officer's satisfaction that the failure to provide the form, information, record, or document was due to reasonable cause and was not due to simple neglect, the Deputy Chief Financial Officer shall apportion the mixed uses of the property according to the best information available.

Subsection 328.3, of Section 328, APPLICATION FOR MIXED USE CLASSIFICATION, is amended to read as follows:

328.3 The mixed use form to be completed by affected taxpayers shall contain a request for the following general information with respect to the mixed use property for the reporting period in question:

- (a) Property identification, including but not limited to square, suffix, and lot;
- (b) The square foot area of improved residential real property defined as Class One Property, if any, and the square foot area of improved real property defined as Class Three Property, if any, and the square foot area of improved real property defined as Class Four Property, if any. [Note: The classes of property for tax purposes are defined in Chapter 99 of this title and D.C. Official Code § 47-813.
- (c) The total building area (square foot area) of Class 1 Property, if any, and Class 2 Property;
- (d) The affected taxpayer's business registration number. The Deputy Chief Financial Officer may utilize this information for purposes of verifying that the taxpayer is subject to taxes imposed under the District of Columbia Code; and
- (e) A certification from the owner or owner's agent that the information supplied on the mixed use form is complete and accurate and the date of certification.

Section 329, TIME LIMITATIONS AND EXTENSIONS OF TIME, is amended to read as follows:

- 329.1 The information required to be accurately completed on the mixed use form must be delivered to the Deputy Chief Financial Officer at the address provided on the form (or in any accompanying instructions) not later than September 1st of the year in which the forms are mailed to affected taxpayers.
- 329.2 Mixed use forms will be mailed to affected taxpayers approximately thirty (30) days prior to the due date provided for in § 329.1.
- 329.3 For the purposes of this section, the word “delivered” also includes a timely postmark if mailed.
- 329.4 Unless the postmark is illegible, no proof of a different postmark will be accepted other than a registered or certified mail receipt or an affidavit from the proper postal representative.
- 329.5 If the postmark is illegible, an affected taxpayer shall submit a duly notarized affidavit which indicates a timely postmark.
- 329.6 In computing any period of time prescribed or allowed, the day of the act from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or a legal holiday, in which case the period shall run until the end of the next day which is not a Saturday, Sunday, or legal holiday.
- 329.7 An extension of time to submit the forms may be granted, in the discretion of the Deputy Chief Financial Officer, for good cause.
- 329.8 A request for an extension of time to file shall be submitted (postmarked) to the Deputy Chief Financial Officer not later than August 20th of the year in which the forms are mailed to affected taxpayers. Requests for extensions delivered after that date will not be granted.
- 329.9 If, in the opinion of the Deputy Chief Financial Officer, a mixed use form delivered prior to the deadline set forth in this section has not been accurately completed (that is, it is either inaccurate or incomplete), the Deputy Chief Financial Officer may so inform the affected taxpayer (or the taxpayer's agent), and request that the form be accurately completed. In no instance shall the Deputy Chief Financial Officer be accountable for the accuracy or correctness of the mixed use form supplied and certified to by the affected taxpayer or agent of the taxpayer.
- 329.10 The mixed use form shall be filed annually on or before the date provided for in § 329.1.

329.11 Failure of the Deputy Chief Financial Officer to mail a mixed use form to an affected taxpayer shall in no manner diminish the obligation of the taxpayer to secure and file in a timely manner a mixed use form.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING

The Board of Trustees of the University of the District of Columbia pursuant to the authority set forth under the District of Columbia Public Postsecondary Education Reorganization Act Amendments (Act) effective January 2, 1976 (D.C. Law 1-36; D.C. Official Code §§ 38-1202.06(10); 38-1202.06)(13)(16) (2018 Repl. & 2019 Supp.)) hereby gives notice of the adoption of amendments to Chapter 1 (Board of Trustees of Subtitle B (University of the District of Columbia) of Title 8 (Higher Education) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the rulemaking is to amend Title 8-B DCMR, Chapter 1, Subsection 105.10 of the University Rules, to provide that all Board members, including the Chair of the Board of Trustees and Chair of standing committees or ad hoc meetings may participate by telephone, electronic video or internet medium during such emergency declaration issued by the Board of Trustees Executive Committee or other public emergency declaration.

The substance of the rules adopted herein was published in the *D.C. Register* on May 8, 2020 at 67 DCR 4912 for a thirty-day public comment period, in accordance with D.C. Official Code §2-505(a). No public comment was received by the Board during the public comment period.

The rule was adopted by the Board as final on June 16, 2020 and will become effective upon publication of this notice in the *D.C. Register*.

Chapter 1, MEETINGS OF THE BOARD OF TRUSTEES, of Title 8-B DCMR, UNIVERSITY OF THE DISTRICT OF COLUMBIA, is amended as follows:

Section 105, QUORUM AND VOTING, is amended as follows:

Subsection 105.10(b), is amended to read as follows:

105.10

...

- (b) A quorum at an emergency or special meeting where notice is received less than five (5) days prior to the meeting may be established by the presence of a majority of the voting members of the Board participating in person or by telephone, video, or internet. Notwithstanding this section Board members shall make every reasonable effort to be physically present at all Board meetings.

Subsection 105.10(d) is amended to read as follows:

- (d) All Board members including the Chair of the Board of Trustees, Chair of standing committees or ad hoc meetings may participate remotely by

telephone, electronic video or internet medium during an emergency declaration issued by Board of Trustees Executive Committee or other public emergency declaration. The Chair of the Board of Trustees may unilaterally issue such emergency declaration and authorize the convening of meetings remotely by telephone, electronic video or internet medium subject to subsequent ratification of the emergency declaration by the Executive Committee.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING

The Board of Trustees of the University of the District of Columbia pursuant to the authority set forth under the District of Columbia Public Postsecondary Education Reorganization Act Amendments (Act) effective January 2, 1976 (D.C. Law 1-36; D.C. Official Code §§ 38-1202.01(a); 38-1202.06)(3),(13) (2018 Repl. & 2019 Supp.)) hereby gives notice of the adoption of amendments to Chapter 6 (Campus Life) of Subtitle B (University of the District of Columbia) of Title 8 (Higher Education) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the rulemaking is to implement a discretionary reserved/premium parking rate for faculty, staff, and contractors with University-issued identification beginning in the spring semester of 2020.

The substance of the rules adopted herein was published in the *D.C. Register* on March 27, 2020 at 67 DCR 3586 for a thirty-day public comment period in accordance with D.C. Official Code § 2-505(a).

No public comment was received by the Board during the public comment period. The rule was adopted by the Board as final on June 16, 2020 and will become effective upon publication of this notice in the *D.C. Register*.

Chapter 6, CAMPUS LIFE, of Title 6-B DCMR, UNIVERSITY OF THE DISTRICT OF COLUMBIA, is amended as follows:**Subsection 607.4 of Section 607, PARKING FEES, is amended as follows:**

607.4 The reserved/premium parking fee for faculty, staff, and contractors with University issued identification shall be \$175.00 (Fall & Spring Semester) and \$75.00 (Summer), except as otherwise provided in this chapter.

Subsection 608.4 of Section 608, VISITOR AND GUEST PARKING, is added to read as follows:

608.4 The adopted parking rates are applicable to faculty, staff, students or contractors with University issued identification except in instances where parking is provided via a lease or contract by a third-party contractor to the University.

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Small and Local Business Development (“Director”), pursuant to the authority set forth in Section 2372 of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.72 (2016 Repl.)) (“Act”), and Mayor’s Order 2009-58, dated April 15, 2009, hereby gives notice of her intent to adopt the following amendments to Chapter 8 (Local, Small, and Disadvantaged Business Enterprises Contracting) of Title 27 (Contracts and Procurement) of the District of Columbia Municipal Regulations (“DCMR”), in not less than thirty (30) days after the publication of this notice in the *D.C. Register*.

This rulemaking, replacing the Department’s current regulations (27 DCMR §§ 800 *et seq.*), originally issued in 2009, reflects the significant changes made by the Small and Certified Business Enterprise Development and Assistance Amendment Act of 2014 (“2014 Act”), effective June 10, 2014 (D.C. Law 20-108; 61 DCR 3892 (April 18, 2014)). The following summarizes some of the major aspects of the Proposed Rules:

Small and Local Business Opportunity Commission

The Proposed Rules delete all references to the Commission. A business may now appeal the denial of an application for certification, the revocation or change to a previously issued certification, or an enforcement action taken pursuant to the Act directly to the Office of Administrative Hearings (OAH).

Subcontracting Requirements for Construction & Non-Construction Contracts and Subcontracting Plans

The Proposed Rules reflect changes in the 2014 Act requiring that all construction and non-construction contracts for government-assisted projects in excess of \$250,000 include at least 35% of the dollar volume of the contract be subcontracted to small business enterprises (SBEs). If there are insufficient qualified SBEs to completely fulfill the 35% subcontracting requirement, the subcontracting requirement may be satisfied by subcontracting 35% of the dollar volume to any qualified certified business enterprise (CBE), provided that all reasonable efforts shall be made to ensure that qualified SBEs are significant participants in the overall subcontracting work.

Enforcement & Penalties for Breach of Subcontracting Plan

Under the Proposed Rules, for any subcontracting plan required by law, the beneficiary shall be deemed to have breached the subcontracting plan for utilization of SBEs or CBEs in the performance of the contract if the beneficiary fails to submit subcontracting plan monitoring or compliance reports or other required subcontracting information in a reasonably timely manner, submits a monitoring or compliance report or other required subcontracting information containing a materially false statement, or fails to meet the subcontracting requirements outlined in Section 2346 of the Act (D.C. Official Code § 2-218.46).

A contractor that is found to have breached a subcontracting plan for utilization of CBEs shall be subject to the imposition of penalties, including monetary fines, pursuant to Section 2363 of the Act (D.C. Official Code § 2-218.63).

The Department may conduct periodic spot checks of CBEs, now defined in the Proposed Rules as an unannounced cursory, on-site inspection of a CBE headquarters to ensure continued compliance with eligibility requirements of the Act and these regulations. The Department may revoke CBE certification upon discovery of non-compliance.

The thirty (30)-day notice to cure given to non-compliant entities is eliminated and replaced by a notice of corrective action before the Department would implement any sanctions.

The Department may refer a matter to the Attorney General for the District of Columbia for civil action, or the Office of Contracting and Procurement (“OCP”) for investigation and possible debarment, if it is found that a CBE, certified joint venture, or beneficiary has engaged in conduct in violation of Section 2363(a)(3) of the Act (D.C. Official Code § 2-218.63(a)(3)).

Waiver of Subcontracting Requirements

The Proposed Rules require that a waiver request must come from an agency, not the beneficiary. For public-private development projects the Department may exclude acquisition costs and related financing fees from the total development budget amount when determining the 35% SBE subcontracting requirement of Section 2346 of the Act (D.C. Official Code § 2-218.46).

Enforcement Mechanism Against an Agency

Under the Proposed Rules, the performance plan for each agency shall include a metric for compliance with the provisions of the Act and the performance evaluation for each agency director shall reflect the agency’s success in meeting those compliance goals.

Certification and Subsequent Certificate of Registration (Recertification) Process

The Proposed Rules extend the certification period from two (2) years to three (3) years, provide guidance on shared work spaces, define Principal Office as “The headquarters for the business”, provide guidance on demonstrating that the chief business officer and highest level managers perform functions in the Principal Office, and provide guidance on how affiliation with another business is reviewed by the Department.

Under the Proposed Rules, a CBE that has had no material change in its business status can obtain recertification by submitting a sworn affidavit attesting that the CBE has had no material change and still meets the certification requirements; and, has clean hands and is in good standing required by D.C. Official Code §§ 47-2861 and 29-102.08. “Material change” is defined as a change in a business’ ownership, address, or size (if an SBE). A CBE that meets the requirements above is deemed recertified upon the submission of the written application.

Small Business Capital Access Fund

In keeping with the 2014 Act, the Proposed Rules convert references to the Microloan Fund into references to the Small Business Capital Access Fund and delete all references to the Collateral

Support Loan Guarantee Program, which is a program run by the Department of Insurance, Securities, and Banking (DISB).

Equity and Development Participation

The Proposed Rules define the requirements for certification as a Small Investor, Disadvantaged Investor and Certified Equity Participant.

Council Review

The Proposed Rules will be submitted to the Council of the District of Columbia for a forty-five (45)-day period of review, pursuant to Section 2372 of the Act (D.C. Official Code § 2-218.72), and final rulemaking action will not be taken until completion of the forty-five (45)-day review period or Council approval of the rules by resolution before the end of the review period.

Chapter 8, LOCAL, SMALL, AND DISADVANTAGED BUSINESS ENTERPRISES CONTRACTING, of Title 27 DCMR, CONTRACTS AND PROCUREMENTS, is amended to read as follows:

800 GENERAL PROVISIONS

800.1 This chapter is promulgated pursuant to the Small and Certified Business Enterprise Development and Assistance Act of 2005 (Act), effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code §§ 2-218.01 *et seq.*).

801 APPLICATION FOR CERTIFIED BUSINESS ENTERPRISE STATUS

801.1 An applicant for certification with the Department shall submit, via the Department's website or as otherwise directed by the Department, a completed application that is signed and sworn to by the applicant, setting forth the basis for certification as a certified business enterprise ("CBE"), accompanied by documentation requested by the Department.

801.2 An applicant for certification shall also submit the following documentation:

- (a) Business documentation, including business licenses or authorization to operate in the District, by-laws, operating agreements, certificates of clean hands and good standing, partnership agreements, joint venture agreements, and tax returns;
- (b) Copies of current financial or operating statements, including balance sheets, income statements, statements of retained earnings, and statements of cash flows, all of which must be current up to the ninety (90)-day period prior to the application date, along with federal and District of Columbia and applicable state tax returns, including all forms, schedules, worksheets and statements filed with the Internal Revenue Service, the District of Columbia and applicable states, for the three most recent years;

- (c) Type, quantity, and location of equipment owned, and equipment which has been transferred or donated, including the supporting documents of these transfer or donation transactions, if applicable;
- (d) Lease or ownership information for every location at which the applicant maintains an office as well as any space that the applicant has leased or purchased in the District relating to the business including, but not limited to, a warehouse, storage space, storage lots, and land;
- (e) A list of all employees, including name, title, home address, and the office to which each employee reports; and
- (f) Any other documentation the Department may require.

801.3 An applicant may also be required to demonstrate compliance with the requirements of the Act, this chapter, and other laws of the District of Columbia. In furtherance of such demonstration, the applicant shall:

- (a) Permit the Department to enter and conduct an on-site inspection of the applicant's business premises and any affiliated locations;
- (b) Provide the Department, during the on-site inspection, with immediate access to any records or area of the premises that the Department deems necessary to review to determine whether the applicant is in compliance with the Act and these regulations; and
- (c) Provide any other information the Department deems necessary to demonstrate compliance with the Act and these regulations.

801.4 An applicant currently certified as a CBE seeking to update their CBE certificate shall submit, via the Department's website or as otherwise directed by the Department, a complete application of changes requested that is signed and sworn to by the applicant and shall provide additional information and/or documentation required by the Act and this chapter, and any other information requested by the Department.

801.5 An applicant may withdraw an application submitted for certification, except that:

- (a) An applicant that withdraws an application may not file another application for thirty (30) days from the date of withdrawal; and
- (b) An applicant may not withdraw an application after the Department notifies the applicant that the Department intends to deny the application.

801.6 If the Department determines that the application submitted for certification is incomplete, the application shall be deemed deficient, and returned to the applicant until the applicant cures the deficiencies and resubmits the application.

802 LOCAL BUSINESS ENTERPRISE REQUIREMENTS

802.1 An applicant for certification as a local business enterprise must demonstrate, *inter alia*, that the principal office of the business enterprise is located in the District of Columbia. To be considered the principal office:

- (a) The space must be a dedicated suite, office, or desk that the applicant owns, or that the applicant leases for a minimum of twelve (12) months;
- (b) To the extent that the space is an office space that the applicant shares with other businesses:
 - (1) There must be a clear separation between the businesses;
 - (2) The applicant must have a dedicated office or desk for exclusive use of the business seeking certification;
 - (3) Assets and business functions of the business shall not be commingled with other businesses; and
 - (4) The lease or addendum to the membership agreement must identify the desk or office number the applicant is occupying; and
- (c) Legal documents, and if applicable, the website, insignia, signs, printed material, business cards, and letterhead where the principal office or headquarters is identified, must indicate that the office, located in the District of Columbia, is the applicant's principal office.

802.2 In determining the principal office for the business enterprise, the Department may also consider:

- (a) The totality of the business activities in which routine and essential business functions occur such as the following:
 - (1) Bookkeeping and other recordkeeping;
 - (2) Payroll maintenance;
 - (3) Receipt of business telephone calls;
 - (4) Receipt of correspondence and bills;

- (5) Storing of books and records; and
 - (6) Directing, controlling and coordinating activities and policies by officers, principals and managers; and
- (b) The number of vehicles owned by the applicant that are registered in jurisdictions outside of the District of Columbia in comparison to the number of such vehicles registered in the District of Columbia. The Department reserves the right to request copies of the vehicle registrations for all company-owned vehicles.

802.3

- (a) An applicant for certification as a local business enterprise must also demonstrate that its chief executive officer and the highest-level managerial employees perform their managerial functions in their principal office located in the District.
- (b) The principal office in the District must be a dedicated space with size and functionality that enables the chief executive officer and highest-level managerial employees to perform their managerial functions.

802.4

The Department will rely on an applicant's filed District and federal taxes, among other things, to calculate the applicant's gross receipts and to determine whether the applicant meets the requirements of Section 2331(2A)(C) and (D) of the Act (D.C. Official Code §§ 2-218.31(2A)(C) and (D)).

- (a) Pursuant to Section 2331(2A)(C) of the Act (D.C. Official Code § 2-218.31(2A)(C)), in determining whether the applicant has more than fifty percent (50%) of the assets of the business enterprise located in the District, the Department will consider:
 - (1) The location of fixed assets, including property, plant, and equipment, and exclude bank accounts, accounts receivable, and intangible assets, such as goodwill, patents, copyrights, or trademarks; and
 - (2) The number of vehicles owned by the applicant and used for the business enterprise that are registered in jurisdictions inside and outside of the District of Columbia.
- (b) The Department will evaluate whether the applicant meets the local business enterprise category pursuant to section 2331(2A)(C) of the Act (D.C. Official Code § 2-218.31(2A)(C)) by relying on the following:
 - (1) The applicant's detailed list of fixed assets in the District to include:

- (A) Type, quantity, location and value of equipment owned;
 - (B) Real estate properties and corresponding recent property tax bills; and
 - (C) List of vehicles, year, make and model and Kelley Blue Book values;
- (2) The Department’s site visit(s) to verify fixed assets located in the District; and
 - (3) The Department may require an audited or certified financial statement by an independent auditor that attests to the statement’s compliance with generally accepted accounting principles.

803 SMALL BUSINESS ENTERPRISE; ADDITIONAL REQUIREMENTS

803.1 Pursuant to Section 2332(a)(3)(B) of the Act (D.C. Official Code § 2-218.32(a)(3)(B)), an applicant seeking certification as a small business enterprise (“SBE”) shall, in addition to satisfying other requirements of the Act, demonstrate to the Department that the business enterprise has had averaged annualized gross receipts for the three (3) years preceding certification not exceeding the following limits:

Construction, Heavy (Street and Highways, Bridges, etc.)	\$ 23 million
Construction, Building (General Construction, etc.)	\$ 21 million
Construction, Specialty Trades	\$ 13 million
Goods and Equipment	\$ 20 million
General Services	\$ 19 million
Professional Services, Personal Services (Hotel, Beauty, Laundry, etc.)	\$ 5 million
Professional Services, Business Services	\$ 10 million
Professional Services, Health and Legal Services	\$ 10 million
Professional Services, Health Facilities Management	\$ 19 million
Manufacturing Services	\$ 10 million
Transportation and Hauling Services	\$ 13 million
Financial Institutions	\$ 300 million.

804 DISADVANTAGED BUSINESS ENTERPRISE; ADDITIONAL REQUIREMENTS

804.1 An applicant seeking certification as a disadvantaged business enterprise ("DBE") shall demonstrate to the Department that the individuals representing more than

fifty percent (50%) of those who own, operate, and control the business enterprise are:

- (a) Socially disadvantaged because those individuals have reason to believe that they have faced instances of prejudice or bias without regard to their qualities as individuals due to their identity as members of a group, as evidenced by documentation that the individuals seeking socially disadvantaged status as members of a group hold themselves out as members of that group; and
- (b) Economically disadvantaged because of diminished opportunities (specifically, lack of access to credit and capital as compared to others in the same line of business) related to their status as socially disadvantaged as described in paragraph (a) of this subsection, that have precluded these individuals from successfully competing in the open marketplace, as evidenced by documentation of the following:
 - (1) The personal financial statement of the individuals seeking economically disadvantaged status; and
 - (2) The financial condition of the individuals or of business enterprises the individuals own or operate.

804.2 An individual seeking DBE certification for a business enterprise shall provide the Department with a narrative describing how the owner or owners of more than fifty percent (50%) of the business enterprise are socially and economically disadvantaged as described in this section. The individual may also provide the Department with the personal financial statement of the owner or owners claiming to be economically disadvantaged, demonstrating that the personal net worth of each owner, excluding the value of his or her primary residence and the value of his or her ownership interest in the certified business enterprise ("CBE"), is less than one million dollars (\$ 1 million).

804.3 An individual seeking DBE certification pursuant to Section 2333(b) of the Act (D.C. Official Code § 2-218.33(b)) for a business enterprise must demonstrate that the business enterprise's annualized gross receipts for the tax year prior to seeking certification do not exceed the limits enumerated in § 803.1, as evidenced by District and federal tax returns filed.

805 RESIDENT-OWNED BUSINESS ENTERPRISE; ADDITIONAL REQUIREMENTS

805.1 An applicant requesting certification as a resident-owned business enterprise must provide proof of residency, including federal and District of Columbia personal income tax returns solely in the District, a deed, mortgage, or lease for his or her

primary residence, a District of Columbia driver's license or identification card, and utility bills or voter registration card for the residence.

806 [RESERVED]

807 DEPARTMENT PROCESS FOR CERTIFIED BUSINESS ENTERPRISE STATUS

807.1 Upon receipt of an application for certification as a certified business enterprise (“CBE”), the Department will conduct a preliminary review of the submission for compliance with the requirements of the Act and this chapter and take one of the following actions:

- (a) If the application is complete, it will be accepted for review by the Department; or
- (b) If the application is incomplete or lacks the required verification, the Department shall notify the applicant of the need for additional actions or materials in order for the application to be accepted for review.

807.2 The Department may conduct site inspections and hold interviews or discussions with an applicant or applicant's representative(s) as part of the review process.

807.3 In addition to the information supplied in the application and documents accompanying the application, the Department may require an applicant to supply or provide access to additional information and documents relevant to the Department's investigation and determination of the applicant's eligibility as a CBE.

807.4 While the application is under review by the Department, an applicant shall report to the Department any material change as defined by the Act, and any other change that may affect the eligibility for certification of the applicant, within five (5) days of the change.

- 807.5
- (a) Upon completion of the Department's review of an application for certification, the Department shall determine the eligibility of the applicant and advise the applicant in writing of the determination regarding its application.
 - (b) The Department shall deny an application if the applicant fails to demonstrate eligibility for certification.

808 SCOPE AND TERM OF CERTIFICATE OF REGISTRATION

808.1 A certificate issued to a certified business enterprise (“CBE”) shall:

- (a) Authorize the CBE to receive the benefits as outlined in the Act and this chapter on all applicable District government solicitations; and
- (b) Be effective for a period of three (3) years from the date of issuance, provided that the CBE remains in compliance with the Act and this chapter.

809 APPLICATION FOR JOINT VENTURES

809.1 An applicant for certification as a joint venture shall:

- (a) Submit a complete application, as prescribed by the Department, no later than fifteen (15) business days before the solicitation closes;
- (b) Submit an executed copy of the applicant's joint venture agreement which must:
 - (1) Specify in reasonable detail the purpose of the joint venture, including the specific procurement, solicitation, or project the applicant wishes to be certified to perform;
 - (2) Identify the parties to the joint venture and define their respective obligations, rights, and responsibilities, including the management structure, control of the joint venture, financial contributions, bonding requirements, service and labor contributions, revenue or fees for services or labor, and distribution of profits;
 - (3) Demonstrate that one of the joint venture members is a certified business enterprise ("CBE") or an applicant for CBE certification;
 - (4) Provide for the establishment and administration of a separate bank account in the name of the joint venture into which all funds received will be deposited and through which all expenses will be paid, and which requires all withdrawals and deposits to be approved by the CBE member of the joint venture management committee;
 - (5) Contain an itemized description of all major equipment, facilities, and other resources to be furnished by each participant in the joint venture with a detailed schedule of costs;
 - (6) Contain a provision indicating that the CBE's interest in the joint venture shall not be reduced or diluted;

- (7) Contain a provision indicating that the CBE's financial risk is commensurate with its percentage interest in the joint venture;
 - (8) Contain a provision indicating that the joint venture agreement is the controlling agreement between the parties regarding interest, ownership, control, responsibilities, duties, and functions of the parties and the joint venture agreement shall prevail if there is any conflict between the joint venture agreement and any other agreement between the parties;
 - (9) Contain a provision that all other agreements between the joint venture parties, concerning the joint venture and the joint venture seeking certification, has been provided to the Department;
 - (10) Specify the responsibilities of the parties in at least the areas of negotiations with the owners, subcontract negotiation, contract and subcontract performance; and
 - (11) Indicate that the CBE shall perform services of the joint venture, receive profits of the joint venture, provide labor hours required of the joint venture, and perform other work for the joint venture as approved by the Department that is at a minimum equal to its percentage of ownership interest in the joint venture.
- (c) Submit additional information that must:
- (1) Inform the Department of whether the CBE has relinquished its ownership interest in any joint venture within the one (1)-year period prior to the application date; and
 - (2) Demonstrate that each participant in the joint venture has the competence and expertise necessary to perform the type of work in connection with which the joint venture wishes to be certified.
- (d) Submit all other agreements between the parties regarding the operations of the joint venture;
- (e) Submit the most current audited or certified financial statement for the non-CBE participant by an independent auditor that attests to the statement's compliance with generally accepted accounting principles.
- (f) Submit its certified payroll upon request;
- (g) Submit, if applicable, its bonding limit and the name of its bonding company; and

(h) Permit the Department to enter and conduct an onsite inspection or re-inspection of the proposed joint venture's business premises.

809.2 An application for joint venture certification may be submitted to and reviewed by the Department simultaneously with an application for certification of one or more of the individual members as a CBE.

809.3 Unless a joint venture's certification is revoked or relinquished pursuant to the Act and this chapter, a certified joint venture will retain its certification for the duration of the contract awarded through the solicitation for which it was certified, including any extension of the contract.

809.4 The Department shall deny certification of any joint venture whose joint venture agreement lacks any of the provisions in § 809.1.

809.5 The joint venture shall make its records available to the Department at any time deemed necessary by the Department.

809.6 Upon receipt of an application for certification as a joint venture, the Department will follow the process outlined in § 807.

809.7 If the joint venture, having the same participants and structure, has been certified by the Department on a previous government-assisted project within the last calendar year, and submits a complete application at least seven (7) business days before the solicitation closes, the Department will make an expedited determination; provided; that.

(a) If the application is incomplete or lacks the required documentation and verification, the Department shall notify the joint venture that additional actions or materials are needed in order to complete the application; and

(b) Within three (3) calendar days of any notification from the Department requesting additional actions or materials under paragraph (a) of this subsection, the joint venture shall complete any requested actions and provide any requested materials.

809.8 Subsection 801.5(a) of this chapter shall not apply to applications for joint venture certifications.

810 REPORTING REQUIREMENTS FOR JOINT VENTURES

810.1 The joint venture shall notify the Department within five (5) days of the award of the contract whether the joint venture was awarded the contract.

810.2 The joint venture shall notify the Department within five (5) days of the solicitation being withdrawn or cancelled.

- 810.3 A joint venture shall submit to the Department quarterly reports showing all income and contract and subcontract receipts, all expenses (including fees for services and labor, salaries of the joint venture principals, and distribution of profits) no later than sixty (60) days after the end of each operating quarter of the calendar year.
- 810.4 A joint venture shall submit to the Department the information contained in § 810.3 for the final quarter and a project-end income statement no later than forty-five (45) days after completion of the contract with a statement of final profit distribution.
- 810.5 Information provided under §§ 810.3 and 810.4 could be commercial or financial information which, if disclosed, could result in substantial harm to the competitive position of the provider of the information and, accordingly, may be exempt from disclosure under Section 204(a)(1) of the District of Columbia Administrative Procedure Act, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-534(a)(1)).

811 BID AND PROPOSAL PREFERENCES FOR JOINT VENTURE

- 811.1 If the Department determines that a certified business enterprise (“CBE”) owns a majority interest in the joint venture, the Department shall assign bid and proposal preferences, as provided in Section 2339a(h) of the Act (D.C. Official Code § 2-218.39a(h)), upon certification of the joint venture.
- 811.2 If the Department determines that a CBE owns a minority interest in the joint venture, the Department shall assign bid and proposal preferences if the percentage of ownership of the CBE(s) in the joint venture is as follows:
- (a) Greater than or equal to thirty-five percent (35%) and less than or equal to fifty percent (50%), the joint venture shall receive up to four (4) preferences;
 - (b) Greater than or equal to twenty percent (20%) and less than thirty-five percent (35%), the joint venture shall receive up to two (2) preferences; or
 - (c) Less than twenty percent (20%), the joint venture shall receive zero (0) preferences.
- 811.3 Notwithstanding Subsection 811.2, and pursuant to Section 2339a(h)(2) of the Act (D.C. Official Code § 2-218.39a(h)(2)), in no event shall the preference exceed fifty percent (50%) of the preference that would otherwise be applicable to the CBE joint venture partner.

812 [RESERVED]

813 COMPLIANCE REVIEW AND ENFORCEMENT

- 813.1 The Department may conduct periodic compliance reviews of certified business enterprises (“CBEs”), certified joint ventures, and beneficiaries to confirm ongoing compliance with the requirements of the Act and this chapter, including continuing certification eligibility and confirmation that CBEs are performing a commercially useful function.
- 813.2 In conducting a compliance review, the Department may perform spot checks and site visits, review documents, take photographs, and interview witnesses.
- 813.3 If, through a compliance review, the Department finds that a beneficiary, certified business enterprise (“CBE”), or certified joint venture has not complied with the Act and this chapter, the Department shall issue a notice which shall specify:
- (a) The nature of the non-compliance;
 - (b) The corrective action that must be taken; and either
 - (c) The date by which the deficiencies must be corrected; or
 - (d) The Department’s intent to issue a fine and/or revoke CBE certification in accordance with the Act and this chapter if the Department determines the deficiencies cannot be corrected.
- 813.4 In the event that a CBE or certified joint venture fails to take corrective action within the timeframe specified in the notice, the Department may issue a notice to revoke the certification. The Department may also issue a fine to the CBE or certified joint venture in accordance with Section 2363 of the Act (D.C. Official Code § 2-218.63).
- 813.5 As part of confirming compliance, CBE subcontractors must cooperate with beneficiaries in the preparation of Quarterly Reports by submitting notarized/electronic Vendor Verification Forms (VVF’s) confirming receipt of payment; and must immediately notify the Department in writing if there is reason to suspect a breach of the subcontracting plan.
- 813.6 The Department shall issue and serve on the beneficiary, CBE, or joint venture alleged to have committed a violation a written notice of violation, which shall explain the violation and related penalties, as well as procedures for seeking reconsideration and appeal.
- 813.7 Within twenty (20) days of receiving a notice of violation of Sections 2346 or 2348 of the Act, a respondent may submit a Request for Reconsideration, including any additional information that justifies modifying or rescinding the

notice. Requests for Reconsideration received by the Department after twenty (20) days will not be considered. If, following receipt of the Department's response to the Request for Reconsideration, the Respondent disagrees with the Department's decision, the Respondent may submit a written appeal to the Office of Administrative Hearings, within twenty (20) days of receipt, pursuant to instructions included in the Notice.

- 813.8 Upon a finding that a CBE, certified joint venture, or beneficiary has engaged in conduct in violation of Section 2363(a)(3) of the Act (D.C. Official Code § 2-218.63(a)(3)), the Department may refer the matter to the Attorney General for the District of Columbia for civil action, and shall refer the matter to the Office of Contracting and Procurement ("OCP") for investigation and possible debarment, as well as a possible determination that the CBE, joint venture, or beneficiary shall be ineligible to be considered for government-assisted project with the District government for up to five (5) years.

814 COMPLAINT PROCEDURE AND DEPARTMENT INTERNAL HEARING

- 814.1 Any person may file a complaint with the Department, pursuant to Section 2363(e)(1) of the Act (D.C. Official Code § 2-218.63(e)(1)), by submitting to the Department a completed written notarized complaint form, provided by the Department, identifying the nature of the complaint and swearing to the truth of the allegations in the complaint.

- 814.2 The Department shall review the complaint and determine the action to be taken as outlined in the Act and these regulations.

814.3

- (a) If the Department determines that a complaint is not frivolous or otherwise without merit, it shall investigate the facts surrounding the allegations, including reviewing the file and all paperwork contained therein, interviewing witnesses, or any other reasonable action necessary given the nature of the allegations in the complaint.
- (b) Within three (3) months of the filing of the complaint, the Department shall:
 - (1) Conduct an internal hearing at a location and time determined by the Department if it does not determine that there was no violation of the Act or these regulations upon completing its investigation; or
 - (2) If the Department determines there was no violation of the Act or these regulations upon completing its investigation, to the

Department shall notify the complainant and the business entity of that determination.

- 814.4 An internal hearing conducted by the Department conducted pursuant to Subsection 814.3(b)(1):
- (a) Shall be open to the public;
 - (b) The complainant and the business entity shall be given notice to attend at least thirty (30) days before the hearing date;
 - (c) The complainant shall testify;
 - (d) The respondent shall have a right to:
 - (1) Be present in person;
 - (2) Designate a representative or representatives to appear on their behalf;
 - (3) Present oral and documentary evidence;
 - (4) Submit rebuttal evidence; and
 - (5) Cross-examine opposing witnesses.
 - (e) The Department may exclude or order the removal of any participant in an internal hearing who becomes disruptive to the internal hearing process.
- 814.5 The Department shall issue a decision in writing no later than thirty (30) days after the conclusion of the internal hearing.
- 814.6 A decision of the Department that is adverse to a business entity shall contain the following:
- (a) Findings of fact;
 - (b) Conclusions of law;
 - (c) Final decision; and
 - (d) A statement informing the business entity that pursuant to Section 2363(g) of the Act (D.C. Official Code § 2-218.63(g)), the business entity has a right to file an appeal with the Office of Administrative Hearings (“OAH”) within twenty (20) calendar days after service of the Department’s decision.

- 814.7 The Department shall serve a copy of the decision on the business entity, representative and counsel if any, and the complainant within ten (10) days of the date the Department issues the decision.
- 814.8 Upon appeal of the Department's decision, the decision of OAH shall be the final administrative decision for judicial review in accordance with Section 2363(g)(3) of the Act (D.C. Official Code § 2-218.63(g)(3)).

815 GROUND FOR REVOCATION

- 815.1 Upon a finding that a certified business enterprise ("CBE") or certified joint venture engaged in conduct in violation of Section 2363(a)(2) or (3) of the Act (D.C. Official Code § 2-218.63(a)(2) or (3)), the Department may issue an intent to revoke the certificate of registration for the CBE or certified joint venture under procedures set forth in Section 2363 of the Act.
- 815.2 In considering whether the certificate of registration should be revoked, in addition to any other consideration, the Department shall consider whether any member of the CBE or certified joint venture has been convicted of a crime that bears directly on the fitness of the CBE or certified joint venture to participate in programs established pursuant to the Act and these regulations.
- 815.3 Upon revocation, the Department shall not accept, or evaluate for a period of twelve (12) months from the date the CBE and certified joint venture receives notice of the decision to revoke:
- (a) Amendments to or new information on the revoked certification; or
 - (b) A new certification application from the CBE and certified joint venture, their agent(s), representative(s), or other members of the public on their behalf.

816 OPPORTUNITY FOR A HEARING: REVOCATION

- 816.1 If the Department issues an intent to revoke the certification of a certified business enterprise ("CBE") or certified joint venture, the CBE or certified joint venture may request a hearing before OAH.
- 816.2 The procedures described in this section shall apply to a CBE or certified joint venture when the Department issues an intent to revoke the certificate of registration. The Department shall give the CBE or certified joint venture written notice of an opportunity for a hearing prior to the revocation of its certificate of registration. The Department shall serve that intent to revoke notice on the CBE or certified joint venture, and the notice shall include:

- (a) The intended action;
- (b) The basis for the intended action in the Act or this chapter;
- (c) A brief summary of the deficiencies or factual allegations in support of the intended action; and
- (d) A statement which informs the CBE or certified joint venture that the Department's decision will be final unless, pursuant to Section 2363(g) of the Act (D.C. Official Code § 2-218.63(g)), the CBE or certified joint venture files an appeal with OAH within twenty (20) calendar days after service of the Department's intent to revoke notice.

816.3 If a CBE or certified joint venture does not timely appeal to OAH, the Department's intent to revoke action shall be final and the CBE's or certified joint venture's certification shall be revoked.

816.4 Pursuant to Section 2363(g) of the Act (D.C. Official Code § 2-218.63(g)), the CBE or certified joint venture may appeal the final revocation action by filing a written appeal with OAH within twenty (20) calendar days after the date on which the Department's revocation is final.

816.5 The decision of OAH shall be the final administrative decision for judicial review in accordance with Section 2363(g)(3) of the Act (D.C. Official Code § 2-218.63(g)(3)).

817 OPPORTUNITY FOR A HEARING: DENIAL

817.1 The procedures described in this section shall apply to an applicant for certification whose certification application has been denied. The Department shall serve written notice of the denial on the applicant, which shall include the following:

- (a) The basis for the denial in the Act or these regulations;
- (b) A brief summary of the deficiencies or factual allegations in support of the denial; and
- (c) A statement which informs the applicant that he or she may appeal the Department's denial of certification by submitting a written request to appeal, pursuant to Section 2363(g) of the Act (D.C. Official Code § 2-218.63(g)), to OAH within twenty (20) days after service of the Department's notice.

817.2 The Department shall include in the denial notice the applicant's right to appeal to OAH.

817.3 Any decision issued by OAH will be the final administrative decision for the purposes of judicial review, in accordance with Section 2363(g)(3) of the Act (D.C. Official Code § 2-218.63(g)(3)).

818 COMPUTATION OF TIME

818.1 In computing any period of time specified in this chapter, the day of the act, event, or default shall not be counted, and the last day of the period shall be counted unless it is not a business day, in which event the time period shall continue until the next business day. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

818.2 Where the Department or a respondent to an action pursuant to this chapter has the right or is required to perform some act within a specified period of time, and that act is completed by mail, three (3) days shall be added to the prescribed period.

819 SERVICE

819.1 Documentation that is required by this chapter to be served on an applicant or a respondent shall be served at the last known address of the applicant or respondent on file with the Department, or any representative thereof.

819.2 Service shall be to:

- (a) The business enterprise or majority owners or any representative's mailing address as provided on the application or otherwise updated with the Department by:
 - (1) Personal delivery;
 - (2) Use of a process server;
 - (3) Certified or registered mail, return receipt requested; or
- (b) The business enterprise or majority owners or any representative's email address as provided on the application or otherwise updated with the Department. The Department will maintain an email -generated delivery receipt system.

820 JUDICIAL REVIEW

820.1 A party suffering a legal wrong or adversely affected or aggrieved by a final decision of the OAH may seek review of the decision by the District of Columbia

Court of Appeals pursuant to Sections 19(c)-(e) of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code §§ 2-1831.16(c)-(e)).

821 LIST OF CERTIFIED BUSINESS ENTERPRISES

821.1 The Department shall establish and maintain a centralized list of certified business enterprises (“CBEs”).

821.2 The Department's centralized list of CBEs shall set forth the name of each CBE, contact information for each CBE, the CBE's business certification categories (e.g., Small Business Enterprise, Resident Owned Business), and the expiration date of the CBE's registration.

822 AGENCY EXPENDABLE BUDGETS; SMALL BUSINESS ENTERPRISE EXPENDITURE

822.1 No later than one hundred twenty (120) days (June 1st) prior to the beginning of each fiscal year, the Department shall meet and confer with the Office of the Chief Financial Officer (“OCFO”), the Office of Contracting and Procurement (“OCP”), the Office of the City Administrator (“OCA”), and independent agencies regarding the total appropriated budget, comptroller object codes to be excluded from agencies’ expendable budgets, and anticipated requests for special exceptions.

822.2 No later than eighty-five (85) days prior to the beginning of each fiscal year, the Department shall review the appropriated budget data received from OCFO and update the list of the comptroller object codes that shall be excluded from the agency's expendable budget.

822.3 No later than eighty (80) days prior to the beginning of each fiscal year, each agency shall itemize its total appropriated budget as prescribed by the Department.

822.4 (a) No later than sixty (60) days (August 1st) prior to the beginning of each fiscal year, each agency may request special exceptions not included in the list provided by the Department for exclusion from the amount of the expendable budget for the agency.

(b) Any requests for special exceptions shall be submitted in a manner prescribed by the Department and must include supporting documentation.

822.5 The Department shall approve a special exception requested under Subsection 822.4 if:

- (a) No small business enterprises (“SBEs”) or certified business enterprises (“CBEs”) can provide the required goods or services;
- (b) The expenditure cannot be made to an SBE or CBE because the goods or services are proprietary;
- (c) The line item is not for goods or services;
- (d) There are federal or other restrictions on how the funds may be expended; or
- (e) The goods or services must be provided by an organization not certified by the Department.

822.6 Prior to the beginning of each fiscal year, the Department will make a determination on each request for special exception timely submitted by an agency.

822.7 Only budget items listed in Subsection 822.1, and either excluded under § 822.2 or approved for exclusion under § 822.6, shall be excluded from the agency's expendable budget.

822.8 If an agency receives unanticipated funding or funding transferred from another agency, experiences a reduction in funding, or experiences any other change in circumstances that affects its expendable budget, such changes shall be included in the proceeding quarterly updated appropriated budget data provided by OCFO to the Department. Quarterly, each agency shall make any additional special exception requests based on changes to the agency's expendable budget. The Department will process additional special exceptions requested by an agency.

822.9 The Department shall inform each agency of the agency's projected expendable budget and its projected goals under Section 2341 of the Act (D.C. Official Code § 2-218.41); and, make available to Council information on each agency's total appropriated budget, exclusions from the agency's total appropriated budget by comptroller object code, list of exclusions in Subsections 822.1 and 822.2, approved special exceptions, each agency's expendable budget, and the projected goal for each agency under Section 2341 of the Act.

822.10 Pursuant to Sections 2341(a-3)(2) of the Act (D.C. Official Code §§ 2-218.41(a-3)(2)), each agency shall complete the annual allocation process at least one (1) month prior to the beginning of each fiscal year by submitting in the District Enterprise System (DES) an allocation confirmation that details the following:

- (a) The name of the agency;
- (b) The fiscal year;

- (c) The budget of the agency approved by the Council for the fiscal year;
- (d) The expendable budget of the agency for the fiscal year, as approved by the Department; and
- (e) The agency's projected small business enterprise (“SBE”) expenditure goal for the fiscal year.

823 [RESERVED]

824 AGENCY SPENDING PLAN

- 824.1 No later than fourteen (14) days prior to the beginning of each fiscal year, each agency shall submit its spending plan as described in Subsection 824.5 for the fiscal year, in a manner designated by the Department. Spending plans for agencies that contract or procure via the Office of Contracting and Procurement (“OCP”) shall be submitted via the Procurement Automated Support System Acquisition Planning Tool.
- 824.2 Failure of an agency to timely submit spending plan for the fiscal year shall be reported to the City Administrator no later than thirty (30) days after the start of the fiscal year; and
- 824.3 A report to the City Administrator under Subsection 824.2, an agency’s failure to report an increase in its agency's set-aside, or the Department’s failure to provide an agency allocation letter shall not eliminate the requirement for the agency to submit a spending plan to the Department.
- 824.4 The Department may consider the quarterly reports submitted by the agency for the previous fiscal year in determining the set-aside for the agency.
- 824.5 An agency spending plan shall specifically set forth the following information for the fiscal year covered by the spending plan:
- (a) Contracts or procurements that the agency intends to award, and the source funding for each contract and procurement;
 - (b) Contracts or procurements that the agency has set aside for small business enterprises (“SBEs”);
 - (c) A description of the contract or procurement;
 - (d) Whether the contract or procurement is a new or existing contract or procurement;

- (e) The anticipated start and end date for each procurement; and
- (f) Particular dollar amounts relating to the procurements specified in each of the above paragraphs of this subsection.

824.6 If an agency cannot include with its spending plan all of the information required by this section, it shall submit with its spending plan a statement and supporting documentation which establishes good cause for the failure, as well as a request for an extension of time for submission of the required information.

824.7 If an agency fails to meet the goals set forth in Section 2341 of the Act (D.C. Official Code § 2-218.41), the Department may, pursuant to Section 2352(a) of the Act (D.C. Official Code § 2-218.52(a)), require that a portion of the agency's contracts and procurements be made part of a set-aside program for SBEs.

825 AGENCY PROGRAM REPORTS

825.1 Quarterly reporting periods are as follows: October 1 through December 31, January 1 through March 31, April 1 through June 30, and July 1 through September 30.

825.2 An agency shall provide the Department with a quarterly program report, containing information provided by the Office of Contracting and Procurement ("OCP") and the Office of the Chief Financial Officer ("OCFO"), within thirty (30) days after the end of each quarter. Agencies with independent contracting authority shall submit quarterly reports from their financial system. Each quarterly report submitted pursuant to this subsection must:

- (a) Include funding source, vendor name, description of the expenditure, proof of payment, the identities of active SBEs, and the dollar amount; and
- (b) Be submitted within thirty (30) days after the end of each quarter, except in the case of the fourth (4th) quarter report, which shall be submitted along with the annual report.

825.3 The Department shall notify the agency in writing of any discrepancies in the agency's quarterly report within fifteen (15) days of its receipt of the report.

825.4 If an agency's quarterly report indicates that the agency is not currently meeting its SBE contracting and procuring requirements under Section 2341 of the Act (D.C. Official Code § 2-218.41) and its spending plan, the agency may submit to the Department:

- (a) An explanation for the projected shortfall;

- (b) The specific steps the agency will take to remedy the shortfall, along with supporting documentation; and
- (c) Evidence of compliance with Sections 2341(a-2) of the Act.

825.5 The Department will reply to an agency's submission in response to a Subsection 825.3 notification within fifteen (15) days of its receipt of the response. The Department's reply may include recommendations concerning how best to remedy the discrepancies identified in the report, including a scheduled meeting with the OCFO and the Department.

826 AGENCY SET-ASIDE AND PREFERENCE PROGRAM IMPLEMENTATION

826.1 When an entire solicitation has been placed in the small business enterprise ("SBE") set-aside program pursuant to Sections 2344 and 2345 of the Act (D.C. Official Code §§ 2-218.44 and 2-218.45), the solicitation shall:

- (a) State that it is a set-aside for SBE and certified business enterprise ("CBE") offerors under the provisions of the Act; and
- (b) Require that responses include a copy of the certification letter/email issued by the Department.

826.2

- (a) Once a solicitation has been placed in the SBE set-aside program as required by Sections 2344, 2345 and 2345a of the Act (D.C. Official Code §§ 2-218.44, 2-218.45, and 2-218.45a), the agency shall not remove it from the set-aside program unless:
 - (1) There are no SBEs that qualify for the procurement;
 - (2) The prices of the bids or proposals from SBEs are twelve percent (12%) or more above the likely price on the open market; or
 - (3) The removal is otherwise authorized by law.
- (b) Each solicitation removed from the SBE set-aside program shall be posted on the Department's website.
- (c) Pursuant to Section 2345a of the Act (D.C. Official Code § 2-218.45a), a follow-on and renewable acquisition must obtain the Director's approval to waive the SBE set-aside requirements.

826.3 Each agency shall provide to the Department, if requested, the following types of procurement records:

- (a) Small purchase sources;
- (b) Term contracts;
- (c) Blanket purchases orders;
- (d) Repetitive or recurring procurement; and
- (e) GSA Schedule procurement.

826.4 If an agency with independent contracting authority, or the Office of Contracting and Procurement (“OCP”), intends to place a solicitation covered under Sections 2344, 2345 and 2345a of the Act (D.C. Official Code §§ 2-218.44, 2-218.45, and 2-218.45a) on the open market, the agency or OCP shall provide a written notice to the Department as soon as practicable that the agency intends to exclude the contract or procurement from its SBE set-aside program. The written notice shall be posted on the Department’s website and include, at a minimum, a description of:

- (a) The steps taken to identify SBEs and CBEs that may be able to provide the goods or services;
- (b) A list of all SBEs and CBEs that were contacted by the agency;
- (c) The information contained in the written determination(s) required under Sections 2344 and 2345, if applicable; and
- (d) If applicable, the agency’s request to the Director pursuant to Section 2345a to waive the SBE set-aside requirement for follow-on and renewable acquisitions.

827 GOVERNMENT-ASSISTED PROJECT CERTIFIED BUSINESS ENTERPRISE SUBCONTRACTING

827.1 Pursuant to Section 2346(a)(3) of the Act (D.C. Official Code § 2-218.46(a)(3)), a small business enterprise (“SBE”), local business enterprise (“LBE”), or disadvantaged business enterprise (“DBE”) shall not be required to comply with the requirements set forth in Sections 2346(a)(1) and (2) of the Act (D.C. Official Code § 2-218.46(a)(1) and (2)).

827.2 Pursuant to Section 2346(d)(3) of the Act (D.C. Official Code § 2-218.46(d)(3)), the subcontracting plan required by Section 2346(d)(2) of the Act shall, to the extent consistent with Section 2346(d-1), be provided before the District accepts the submission of the bid or proposal for all government-assisted projects as

defined in Section 2302(9A)(A) of the Act (D.C. Official Code § 2-218.02(9A)(A)).

827.3 When determining enforcement and penalties following a beneficiary's breach of a subcontracting plan under Section 2348 of the Act (D.C. Official Code § 2-218.48), the Department shall consider:

- (a) Whether the beneficiary notified the Department prior to the breach;
- (b) The beneficiary's efforts at replacing the CBE subcontractor with another subcontractor certified by the Department in the same categories;
- (c) Changes in the business operation or certification of the CBE subcontractor; and
- (d) Changes in economic conditions from the time the subcontracting plan was developed.

827.4

- (a) An agency seeking a waiver of the subcontracting requirements of Section 2346 of the Act (D.C. Official Code § 2-218.46) under Section 2351 of the Act (D.C. Official Code § 2-218.51), for government-assisted projects described in Section 2302(9A)(A) of the Act (D.C. Official Code § 2-218.02(9A)(A)), including contracts executed by an agency on behalf of the District, shall submit a waiver request to the Department no less than twenty (20) days prior to issuance of a solicitation or the exercise of an option.
- (b) If a bid or proposal requires a small business enterprise ("SBE") subcontracting plan, and no SBE subcontracting plans are submitted, that bid or proposal shall, pursuant to Section 2346(d)(1) of the Act (D.C. Official Code § 2-218.46(d)(1)), be deemed nonresponsive and be rejected. However, an agency may seek a waiver of the subcontracting requirements, and if a waiver is approved, the solicitation shall be revised and reissued or extended to allow for new responses to be submitted by the public in accordance with that waiver.

827.5

- (a) Pursuant to Section 2341(c) of the Act (D.C. Official Code § 2-218.41(c)), the following types of contracts for government-assisted projects identified in Section 2302(9A)(A) of the Act (D.C. Official Code § 2-218.02(9A)(A)), are not required to seek a waiver and will be exempted from the thirty-five percent (35%) SBE subcontracting requirement of Section 2346 of the Act (D.C. Official Code § 2-218.46):

- (1) Direct travel purchases, including airline tickets, train tickets, metro tickets, bus tickets, taxi fares, and accommodation costs while on travel;
 - (2) Human Care Agreements that require consumer/client choice without any input, manipulation, or selection by the awarding agency. The exemption excludes those instances where the awarding agency selects the entities that are able to participate in the pool from which the consumer/client chooses;
 - (3) Contracts in which the District is a tenant and pays costs to a landlord for use of private property, which may include paying for rent or lease, taxes, parking, paying the costs of existing building service contracts, paying operating costs, or paying information technology and other costs;
 - (4) Contracts for proprietary goods and services procured by an agency from a documented patent/copyright/license holder; and
 - (5) Contracts for projects with federal restrictions on how the funds may be expended, as documented by the agency and confirmed by the Department.
- (b) An agency seeking specific exemptions pursuant to this subsection shall submit to the Department a determination and finding, or similar justification memo, in a manner prescribed by the Department. Any determination and finding or justification memo received by the Department shall be posted on the Department's website.

828-837 [RESERVED]

838 EQUITY AND DEVELOPMENT PARTICIPATION

838.1 Small investors, disadvantaged investors, or certified equity participants shall receive a minimum of twenty percent (20%) Equity Participation in any Covered Project.

- (a) Small investor as defined by Section 2302 of the Act (D.C. Official Code § 2-218.02) means:
- (1) An SBE pursuant to Section 2332 of the Act; or
 - (2) A District-domiciled individual with a personal net worth that does not exceed five million dollars (\$5,000,000), excluding the value of his or her primary residence.

- (b) (1) To be a District-domiciled individual:
 - (A) The District of Columbia must be the present fixed place of residence of the individual to which he or she returns following temporary absences and at which he or she intends to reside indefinitely; and
 - (B) The District of Columbia must be the individual's only domicile.
- (2) For an individual to establish that he or she is domiciled in the District, the individual must submit sufficient evidence to the Department, including providing the following:
 - (A) Copies of a District of Columbia deed or lease in the District of Columbia covering the twelve (12) consecutive months preceding the Department's evaluation for premises at which the individual resides;
 - (B) Copies of utility bills for utility services provided in the District of Columbia residence covering the twelve (12) consecutive months preceding the Department's evaluation;
 - (C) Copies of earnings and leave statements (i.e., pay stubs) that show residency in the District of Columbia and the withholding of District of Columbia income tax covering the twelve (12) consecutive months preceding the Department's evaluation;
 - (D) Certified copies of District of Columbia and federal income tax returns for the tax year preceding the Department's evaluation;
 - (E) Copies of voter registration, motor vehicle registration, driver's license, and non-driver's identification; and
 - (F) Copies of any other documents required by the Department that demonstrate that the District is the domicile of the individual.
- (c) (1) Disadvantaged investor as defined by Section 2302 of the Act (D.C. Official Code § 2-218.02) means:
 - (A) A disadvantaged business enterprise ("DBE") pursuant to Section 2333 of the Act (D.C. Official Code § 2-218.33); or

- (B) A District-domiciled economically disadvantaged individual.
- (2) To be a District-domiciled economically disadvantaged individual, an individual must be:
 - (A) A District-domiciled individual, as defined by § 838.1(b); and
 - (B) Economically disadvantaged, as defined by § 804.1(b).
- (d)
 - (1) Certified equity participant as defined by Section 2302 of the Act means a single-purpose legal entity created to participate in real estate development projects and includes members that are small investors or disadvantaged investors.
 - (2) The Department shall verify that each single-purpose legal entity meets the definition of certified equity participant to be designated as such.
- (e) The Department will determine the manner in which the documents required in this section shall be submitted.
- (f) The documents required to prove District domicile under this section must be submitted to the Department in a single submission.
- (g) Each year throughout the duration of the Covered Project, each small investor and disadvantaged investor shall provide the Department in a single submission updated documents proving District-domicile status. These updated documents shall be submitted by the end of the same month as the initial submission required by § 838.1(f) (*e.g.*, if the initial submission was in February, by the end of each February thereafter).
- (h) A certified equity participant, small investor, or disadvantaged investor will retain its designation for the duration of the Covered Project in which it is an Equity Participant, as required by Section 2349a of the Act (D.C. Official Code § 2-218.49a) and this chapter, provided the entity or individual remains in compliance with the Act and this chapter.

838.2 As appropriate, the Department may provide guidance to District agencies, business enterprises, and interested members of the public regarding the equity and development participation requirements.

- 838.3 An agency considering a solicitation for a Covered Project may contact the Department as needed to coordinate outreach efforts to Equity Participants and Development Participants and provide the Department with the specific details regarding the Covered Project.
- 838.4 With respect to public and private development (PPD) related solicitations, including Requests for Proposals ("RFPs"), Invitations for Bids ("IFBs"), Requests for Qualifications ("RFQs"), and Calls for Expressions of Interest, issued by District agencies in connection with Covered Projects, to the extent required by the Act and these rules, the solicitation shall include the Equity Participation and Development Participation requirements and a requirement that the party responding to the solicitation agrees to comply with the Equity Participation and Development Participation requirements, including submission to the Department of a separate "Service Agreement" detailing the specifics of the terms, conditions and financial requirements of the equity involvement.
- 838.5 Not more than one (1) business day after the issuance of any request for proposals, request for qualifications, call for expressions of interest or other similar document relating to any Covered Project, the District agency involved shall provide the Department with an electronic copy of the document, which the Department shall post on the Department's website.

839 EQUITY AND DEVELOPMENT PARTICIPATION REQUIREMENTS

- 839.1 The Equity Participant(s) shall receive a return on investment in a Covered Project that is pari passu with all other sources of Sponsor Equity.
- 839.2 The Equity Participation shall be maintained for the duration of the Covered Project. Completion of the Covered Project shall be measured by the issuance of one or more certificates of occupancy, certifications of completion, or other documents evidencing completion as determined by the Department.
- 839.3 Pursuant to Section 2349a(b) of the Act (D.C. Official Code § 2-218.49a(b)), the Department shall measure the Development Participation in addition to the general SBE subcontracting requirements of Section 2346 of the Act (D.C. Official Code § 2-218.46). The Development Participation shall not be used to satisfy the general SBE subcontracting requirements of Section 2346 of the Act.
- 839.4 The Department may require a beneficiary of a development project that is subject to Section 2349a(b) of the Act to submit a form, provided by the Department, to calculate and track the Development Participation.

840 EVALUATION OF EQUITY AND DEVELOPMENT PARTICIPATION

- 840.1 When evaluating the percentage of Equity Participation by an Equity Participant in a Covered Project, the Department will take the following into account:

- (a) The financing plan for the Covered Project;
- (b) The amount and nature of leverage in the form of debt or other sources incurred by the Sponsor Entity;
- (c) The amount of institutional equity being provided for the benefit of the Sponsor Entity;
- (d) The amount of mezzanine financing being provided for the benefit of the Sponsor Entity, including the roles and rights of the mezzanine financier;
- (e) The total amount of equity required from the Sponsor Entity;
- (f) The percentage of the Sponsor Entity's equity being provided by an Equity Participant and the terms thereof;
- (g) The percentage of institutional equity being provided by an Equity Participant;
- (h) Provisions in funding documents related to the sale, dilution, or conversion of equity interests prior to project completion that may result in a change in the amount of the Equity Participant's Equity Participation and ownership;
- (i) Whether Equity Participants are treated similarly, with respect to the determination of returns, as compared to other entities with similar risk profiles on a Covered Project; and
- (j) The amount of sweat equity and the categories in which the Equity Participant(s) is (are) certified.

841 [RESERVED]

842 CHANGES IN EQUITY AND DEVELOPMENT PARTICIPATION

842.1 Once the selection of an Equity Participant or a Development Participant to participate in a Covered Project has been approved by the Department, there can be no change in the Equity Participant or Development Participant and no dilution of a participant's Equity Participation without the express written consent of the Director.

843 CLOSING REQUIREMENTS REGARDING EQUITY PARTICIPATION

843.1 The closing documents executed in connection with any Covered Project shall contain provisions indicating there can be no change of the Equity and no dilution

of a participant's Equity Participation without the Director's express written consent.

843.2 The closing documents shall expressly covenant and agree that the Department shall have third-party beneficiary rights to enforce the provisions, for and in its own right.

843.3 The agreements and covenants in the closing documents shall expressly run in favor of the Department for the entire period during which the agreements and covenants shall be in force and effect, without regard to whether the District was or is an owner of any land or interest therein or in favor of which the agreements and covenants relate.

843.4 The closing documents shall expressly covenant and agree that the Department shall have the right, in the event of a breach of the agreement or covenant in the closing documents, to exercise all the rights and remedies – and to maintain any actions or suits, at law or in equity, or other proceedings to enforce the curing of the breach of agreement or covenant – to which it may be entitled.

844 EQUITY AND DEVELOPMENT PARTICIPATION RESTRICTIVE COVENANT

844.1 If there is a transfer of title to any District-owned land that will become part of a Covered Project, the Department may require that a restrictive covenant be filed on that land requiring compliance with the Equity Participation and Development Participation requirements of the Act, if applicable.

844.2 A restrictive covenant requiring compliance with the Equity Participation and Development Participation requirements of the Act shall run with the land and otherwise remain in effect until released by the Department following the completion of construction of and the issuance of certificates of occupancy for the Covered Project. A release of the restrictive covenant shall be executed by the Department only after either the developer and the Equity and Development Participants submit a sworn certification together with documentation demonstrating to the satisfaction of the Department that, or the Department otherwise determines that:

- (a) The Development Participants received at least twenty percent (20%) of the non-construction development goods and services for the Covered Project, in addition to the general SBE subcontracting requirements of Section 2346 of the Act; and
- (b) The Equity Participant has maintained at least a 20% ownership interest in the Sponsor Entity in the Covered Project throughout its development.

845 [RESERVED]

846 DEPARTMENT ASSISTANCE FOR COVERED PROJECTS

846.1 If a District agency receives no response from prospective Equity Participants or Development Participants to develop a Covered Project, it may contact the Department for further assistance. The Department may:

- (a) Post on its website notices of Equity and Development Participation opportunities for Covered Projects; and
- (b) Assist the District agency in identifying qualified Equity Participants and Development Participants by hosting outreach sessions.

847 EQUITY OR DEVELOPMENT PARTICIPANT LOSS OF CERTIFICATION

847.1 If an Equity Participant or Development Participant loses its certified business enterprise (“CBE”) certification, or an individual no longer qualifies to be an Equity Participant, during the course of a Covered Project, and the loss of certification or qualification results in the Covered Project failing to meet the minimum Equity Participation or Development Participation requirements under Section 2349a of the Act (D.C. Official Code § 2-218.49a), the Department will evaluate whether another Equity Participant or Development Participant can participate in the Covered Project without causing any detriment to the overall project or the lead developer, so that the twenty percent (20%) Equity Participation and 20% Development Participation requirements are met.

848 EQUITY AND DEVELOPMENT REPORTS

848.1 Beneficiaries must submit quarterly reports to the Department regarding the fulfillment of the Equity Participation and Development Participation Program requirements on such forms as determined by the Department. The reports shall include, at a minimum, information regarding:

- (a) Changes in ownership interest of the owners/partners;
- (b) Additions or deletions of an owner/partner;
- (c) Changes in the legal status of an existing owner/partner;
- (d) Changes in the percentage of revenue distribution to an owner/partner; and
- (e) Each Development Participant, their certified business enterprise (“CBE”) certification number, a description and dates of the non-construction development good and service they provided, the contract amount, a copy of the executed contract, and any other information required by the Department.

848.2 Information provided under § 848.1(a)-(d) may be considered commercial or financial information which could result in substantial harm if disclosed to the competitive position of the provider of the information, and may be exempt from disclosure under Section 204(a)(1) of the District of Columbia Administrative Procedure Act, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-534(a)(1)).

849 [RESERVED]

850 [RESERVED]

851 SMALL BUSINESS CAPITAL ACCESS FUND

851.1 The Department shall implement and administer the Small Business Capital Access Fund ("Fund") established pursuant to Section 2375 of the Act (D.C. Official Code § 2-218.75). The Fund is a financing tool designed to sustain and/or increase the level of business activity, job creation and retention, and provide access to capital for the sustainability and expansion of designated categories of certified business enterprises ("CBEs").

851.2 Monies issued from the Fund may be structured as a grant, loan loss reserve funding, senior or subordinated secured or unsecured loan, loan guarantee, collateral, surety, or any other financial assistance, and any issuance of monies from the Fund shall serve a public purpose identified by the Department. The Department may, in its discretion, issue grants to assist qualified businesses with credit facility origination or the provision of financial-based professional services (e.g., grants to assist with hiring a certified public accountant, bookkeeper, escrow agent, bonding agent, qualified non-profit organization, financial institution, or professional service provider).

851.3 To be eligible for funding from the Fund a recipient must:

- (a) Be certified or eligible to be certified, pursuant to the Act as a small business enterprise ("SBE") or disadvantaged business enterprise ("DBE");
- (b) Be independently owned, operated, and controlled;
- (c) Be in good standing with the Department of Consumer and Regulatory Affairs; and
- (d) Have a Certificate of Clean Hands from the Office of Tax and Revenue.

851.4 The following business enterprises are ineligible to receive funding from the Fund: consumer and marketing cooperatives; dealers of rare coins and stamps;

enterprises engaged in gambling; enterprises engaged in illegal activity; lending firms and loan packaging firms; enterprises engaged in multi-sales distribution; nonprofits; enterprises engaged in pyramid schemes or multi-level marketing schemes; real estate investment firms; non-profit institutions; and businesses engaged in speculation.

851.5 To the extent consistent with the grant agreement or other agreement between the Department and an eligible recipient, the recipient may use proceeds from the Fund for the following purposes:

- (a) Working capital;
- (b) Inventory;
- (c) Acquisition or repair of furniture, fixtures, machinery, or equipment;
- (d) Ecologically efficient improvements;
- (e) Purchase or implementation of financial management systems (*e.g.*, point of sale, upgrades to meet prime contractor standards);
- (f) Leasehold improvements;
- (g) Property renovation; or
- (h) Financial and/or Procurement-based professional services.

851.6 The Department will develop underwriting criteria and rates and terms for funding from the Fund. Such criteria will include, at minimum, the maximum funding amount(s), interest rate(s) and any applicable deferral periods, term limits, security or collateral requirements and fees and costs. The Department will include the underwriting criteria with the application and/or publish the underwriting criteria on its website. The Department may modify the underwriting criteria as necessary to account for changes in budgeted amounts of the Fund or changing needs of the local business community. The Department may work with a qualified non-profit organization or financial institution to develop or modify, as necessary, the underwriting criteria.

851.7 An eligible recipient seeking funding from the Fund shall submit a written application to the Department or to a qualified non-profit organization and/or financial institution designated by the Department on such form or forms as may be prescribed or approved by the Department. The application shall include, at a minimum, submission of the following documents and information:

- (a) Current CBE Certification and evidence that the applicant is certified as an SBE or DBE or evidence that the applicant is eligible to be certified as a SBE or DBE;
- (b) Clean Hands Certification from the Office of Tax and Revenue;
- (c) Certificate of Good Standing from the Department of Consumer and Regulatory Affairs;
- (d) Financial status of the applicant, including current and past tax returns, balance sheet(s) and profit and loss statements;
- (e) Amount of funding from the Fund requested by the applicant;
- (f) Reason for requesting funding from the Fund; and
- (g) Any other information or documents the Department may require in order to assess the applicant's eligibility and/or credit worthiness.

851.8 Within sixty (60) days of receipt of a complete application, the Department or its non-profit or financial institution partner shall notify the applicant whether the funding request has been approved, denied, or if additional information is needed to make a determination. If an application is denied, the Department or its non-profit/financial institution partner shall provide the applicant an explanation of the underwriting determination.

851.9 The Department may, in its discretion, require the potential borrower or borrower to participate in targeted training, technical assistance, and/or periodic monitoring to help strengthen business operations as a condition of funding from the Fund or as a pre-condition for future funding.

899 DEFINITIONS

899.1 The definitions set forth in the Act are incorporated by reference into this chapter. As used in this chapter, the following words and phrases shall have the meanings ascribed:

Act – the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01).

Application date - the date on which the Department receives an application.

Certificate - a letter issued by the Department indicating that a firm is a business enterprise or joint venture certified pursuant to Part D of the Act (D.C. Official Code § 2-218.31 *et seq.*).

Contractor - any natural person or business organization, such as a corporation, partnership, joint venture, limited liability company, or similar enterprise that enters into a contract with the District, a public employee, or private developer to provide goods or services.

Construction - the building, alteration, repair, or improvement of real property. This term does not include the operation or routine maintenance of real property.

Covered Project - any development project conducted pursuant to a disposition under section 1 of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801).

Day - a calendar day.

Development Participant - a small business enterprise (“SBE”) or certified business enterprise (“CBE”) that participates in one or more phases of project development in a Covered Project in accordance with Section 2349a(b) of the Act (D.C. Official Code § 2-218.49a(b)).

Development Participation - participation on a Covered Project performed by a small business enterprise (“SBE”) or certified business enterprise (“CBE”) in accordance with Section 2349a(b) of the Act (D.C. Official Code § 2-218.49a(b)).

Development Project –

- (a) Means a government-assisted project involving either:
 - (1) The private development or redevelopment of real property improvements conducted pursuant to a disposition under Section 1 of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801); or
 - (2) Private development or redevelopment of real property improvements to which the District has contributed through a grant at least fifteen percent (15%) of the development costs or \$500,000, whichever is less.
- (b) Shall not include improvements on real property where the owner will occupy at least twenty-five percent (25%) of the real property and the development budget is \$ 500,000 or less.

Eligible Recipient - a business enterprise as defined in Section 2375(a)(1) of the Act (D.C. Official Code § 2-218.75(a)(1)).

Entity - an organization, including a corporation, partnership, limited liability company, sole proprietor, or trust.

Equity Participant - a small investor, disadvantaged investor or certified equity participant that, in accordance with the Act, provides capital or other monetarily valued services in exchange for an ownership interest in a Covered Project.

Equity Participation - an ownership interest acquired by an Equity Participant in a Covered Project.

Fiscal year - October 1 of each year through September 30 of the following year.

Fixed Assets - Any long-term item of economic value owned by an individual or corporation, especially that which could be converted to cash, that the owner does not expect to convert into cash in less than one year. Examples are buildings, office equipment (not supplies), vehicles, computers, and other property.

Good Faith Efforts - a bidder/offeror's unsuccessful actions to meet established goals, including all necessary and reasonable steps taken, such as conducting market research, strategic outreach, advertisements, and contacting the Department's Business Opportunities Division for assistance.

Grant - a public subsidy for which the District does not anticipate repayment, such as a cash contribution, tax increment financing, payment in lieu of taxes, or similar programs or agreements. A grant shall not include a public contribution for which the District anticipates repayment, such as a loan.

Legal Holiday – a public holiday observed by the District of Columbia, on which the District of Columbia government is closed.

Principal Office – a business's corporate headquarters where the central operational, financial and recordkeeping functions of the business occur.

Respondent - an applicant for or holder of a certificate against whom a denial or adverse action is proposed or taken.

Site Visit - an announced or unannounced, on-site, comprehensive review of a business operation to determine compliance or continued eligibility for certification as a local business enterprise.

Sponsor Equity - the equity that is intended to be contributed by the non-institutional investors or by the private developer, excluding debt financing, mezzanine financing, or other equity contributions by limited or institutional investors.

Sponsor Entity - an individual or an entity with the day-to-day responsibilities for a development project (*e.g.*, a Managing Member, or a General Partner).

Spot Check - an unannounced cursory, on-site inspection of a certified business enterprise (“CBE”) headquarters to ensure continued compliance with eligibility requirements of the Act and these regulations.

Persons wishing to comment on these rules should submit their comments in writing to Kristi C. Whitfield, Director, Department of Small and Local Business Development, 441 4th Street, N.W., Suite 850N, Washington, D.C. 20001, Attn: Robert “Bobby” Dorsey, Legislative Analyst or via email to robert.dorsey1@dc.gov. All comments must be received by the Department of Small and Local Business Development not later than thirty (30) days after publication of this notice in the *D.C. Register*. Copies of this rulemaking and related information may be obtained on the DSLBD website at dslbd.dc.gov, by writing to the above address, or by calling the Department of Small and Local Business Development at (202) 727-3900.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING

The Board of Trustees of the University of the District of Columbia pursuant to the authority set forth under the District of Columbia Public Postsecondary Education Reorganization Act Amendments (Act) effective January 2, 1976 (D.C. Law 1-36; D.C. Official Code §§ 38-1202.06(10); 38-1202.01(a)(7) (2018 Repl. & 2019 Supp.)), hereby gives notice of its intent to amend Chapter 2 (Administration and Management) of Subtitle B (University of the District of Columbia) of Title 8 (Higher Education) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The purpose of the proposed rulemaking is to amend 8-B DCMR Section 200 of the University Rules to provide that in the event of a vacancy in the position of the President, the Chief Academic Officer shall immediately become Interim President, unless the Board of Trustees makes a different appointment.

The Board of Trustees will take final action to adopt this amendment to the University Rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 2, ADMINISTRATION AND MANAGEMENT, of Title 8-B DCMR, UNIVERSITY OF THE DISTRICT OF COLUMBIA, is amended as follows:

Subsection 200.2 of Section 200, THE PRESIDENT OF THE UNIVERSITY, is amended as follows:

200.2 Upon the permanent vacancy in the Office of President, the Chief Academic Officer, shall immediately become Interim President, unless the Board of Trustees makes a different appointment. The appointment of the Chief Academic Officer as Interim President must be approved by the Board within seven (7) days of the vacancy of the Office of President. During the period before approval, the Chief Academic Officer shall only exercise administrative duties to maintain operations of the University. After approval by the Board of the appointment of the successor, the successor shall exercise such powers as authorized by the Board. If the Chief Academic Officer is appointed Interim President, the Board shall approve an Acting Chief Administrative Officer upon the recommendation of the Interim President.

All persons desiring to comment on the subject matter of the proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with the Office of General Counsel, Building 39- Room 301-Q, University of the District of Columbia, 4200 Connecticut Avenue, N.W., Washington, D.C. 20008. Comments may also be submitted by email to OfficeofGC@udc.edu. Individuals wishing to comment by email must include the phrase “Comment to Proposed Rulemaking: “Amendment to The President of the University” in the subject line.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING

The Board of Trustees of the University of the District of Columbia, pursuant to the authority set forth under the District of Columbia Public Postsecondary Education Reorganization Act Amendments (Act), effective January 2, 1976 (D.C. Law 1-36; D.C. Official Code §§ 38-1202.06(10); 38-1202.06(8) (2018 Repl. & 2019 Supp.)) hereby gives notice of its intent to amend Chapter 7 (Admissions and Academic Standards) of Subtitle B (University of the District of Columbia) of Title 8 (Higher Education) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The purpose of the proposed rule is to revise the student health insurance fees the University charges students.

The Board of Trustees will take final action to adopt these amendments to the University Rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 7, ADMISSIONS AND ACADEMIC STANDARDS, of Title 8-B DCMR, UNIVERSITY OF THE DISTRICT OF COLUMBIA, is amended as follows:

Subsection 728.9(q) of Section 728, TUITION AND FEES: DEGREE-GRANTING PROGRAMS, is amended as follows:

(q)	Student Health Insurance	\$1353(Fall Enrollment) \$793(Spring Enrollment) \$327 (Summer 1 Enrollment) \$171 (Summer 2 Enrollment)
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All persons desiring to comment on the subject matter of the proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with the Office of General Counsel, Building 39- Room 301-Q, University of the District of Columbia, 4200 Connecticut Avenue, N.W., Washington, D.C. 20008. Comments may also be submitted by email to OfficeofGC@udc.edu. Individuals wishing to comment by email must include the phrase “Comment to Proposed Rulemaking: Student Health Insurance Fees” in the subject line.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING

The Board of Trustees of the University of the District of Columbia, pursuant to the authority set forth under the District of Columbia Public Postsecondary Education Reorganization Act Amendments (Act), effective January 2, 1976 (D.C. Law 1-36; D.C. Official Code §§ 38-1202.06(8) (2018 Repl. & 2019 Supp.)) hereby gives notice of its intent to amend Chapter 7 (Admissions and Academic Standards) of Subtitle B (University of the District of Columbia) of Title 8 (Higher Education) of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The purpose of the proposed rule is to amend 8-B DCMR Section 728 to consolidate a wide range of fees assessed uniformly to all enrolled students in the University and the Law School.

The Board of Trustees will take final action to adopt this amendment to the University Rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 7, ADMISSIONS AND ACADEMIC STANDARDS, of Title 8-B DCMR, UNIVERSITY OF THE DISTRICT OF COLUMBIA, is amended as follows:

Section 728, TUITION AND FEES: DEGREE-GRANTING PROGRAMS, is amended by adding the following Subsection 728.13:

728.13 A student fee not to exceed four hundred thirty dollars (\$430.00) for certain mandatory activities, including but not limited to athletics, health services, technology, student center, career services and sustainability fees assessed uniformly to all enrolled students in the University and law school shall be charged each semester and summer term. An additional fee for all enrolled law students not to exceed two hundred ninety-five dollars (\$295.00) for activities at the law school each semester and summer term.

All persons desiring to comment on the subject matter of the proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with the Office of General Counsel, Building 39- Room 301-Q, University of the District of Columbia, 4200 Connecticut Avenue, N.W., Washington, D.C. 20008. Comments may also be submitted by email to OfficeofGC@udc.edu. Individuals wishing to comment by email must include the phrase “Comment to Proposed Rulemaking: Student Fee” in the subject line.

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

NOTICE OF EMERGENCY 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(c) (2012 Repl. & 2019 Supp.)) and D.C. Official Code § 25-502 (2012 Repl. & 2019 Supp.), and Mayor's Order 2001-96, dated June 28, 2001, as amended by Mayor's Order 2001-102, dated July 23, 2001, gives notice of its intent to amend Chapter 10 (Endorsements) of Title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (DCMR).

The emergency rulemaking will allow on-premises retailer's licenses and manufacturer licenses, class A or B, holding an on-site sales and consumption permit, or a Convention Center food and alcohol business to register with the Board to sell, serve, and allow the consumption of alcoholic beverages on new or expanded outdoor public and private space not listed on its license.

On May 27, 2020, Mayor Bowser issued Mayor's Order 2020-067, which announced that the District has entered Phase 1 of Washington DC's reopening. Among other things, Mayor's Order 2020-067 partially lifts the restriction prohibiting on-site dining by allowing restaurants, taverns, nightclubs, mixed-use facilities and other licensed food establishments to offer table service to seated patrons on outdoor public or private space. The Board interprets the phrase mixed-use facilities to include hotels, multipurpose facilities, private clubs and other class CX and DX licensees, and licensed manufacturers that serve food and satisfy the requirements set forth below.

In light of Mayor's Order 2020-067, the Board finds that emergency action is warranted to allow ABRA licensees who either seek to expand existing outdoor space or who do not presently have outdoor public or private space on their licenses to register with the Board so that they may be able to sell, serve, and allow the consumption of alcoholic beverages on new or expanded outdoor public or private space. The Board finds that emergency action is also warranted in order to allow as many qualifying ABC licensed establishments to return to operation as possible in accordance with the Mayor's Order. This emergency rulemaking, however, will not allow these licensees to sell, serve, or allow the consumption of alcoholic beverages inside of the establishment; thus, continuing to protect the public health by prohibiting the sale, service, and consumption of alcoholic beverages indoors.

Thus, on May 28, 2020, the Board adopted the *Addition of Outdoor Public and Private Space Notice of Emergency Rulemaking*, by a vote of six (6) to zero (0). This rulemaking shall remain in effect for the duration of the Extensions of Public Emergency and Public Health Emergency but in no event longer than one hundred twenty (120) days from the Board's adoption; expiring on or before September 25, 2020, unless superseded. The emergency rulemaking shall take effect on Friday, May 29, 2020.

Chapter 10, ENDORSEMENTS, of 23 DCMR, ALCOHOLIC BEVERAGES, is amended by adding a new Section 1007, ADDITIONAL OUTDOOR SEATING ON PUBLIC AND PRIVATE SPACE, on an emergency basis to read as follows:

1007 ADDITIONAL OUTDOOR SEATING ON PUBLIC AND PRIVATE SPACE

1007.1 Notwithstanding 23 DCMR § 810.2, a licensee under an on-premises retailer's license, class C/R, D/R, C/T, D/T, C/N, D/N, C/H, D/H, C/X, or D/X, including multipurpose facilities and private clubs, a manufacturer's license, class A or B, holding an on-site sales and consumption permit, or a Convention Center food and alcohol business shall be permitted to sell, serve, and allow the consumption of alcoholic beverages on new or expanded temporary ground floor or street level outdoor public and private space not listed on its existing license, provided that the licensee:

- (a) Registers with the Board, at no cost, and receives written authorization from ABRA prior to selling, serving, or permitting the consumption of alcoholic beverages on the proposed outdoor public or private space;
- (b) Registers with DDOT prior to operating on any proposed outdoor public space or receives written approval from the property owner prior to utilizing any proposed outdoor private space; and
- (c) Agrees to follow all applicable DCRA, DOH, and DDOT laws and regulations and Mayor's Orders.

1007.2 An on-premises retailer's license, class C/R, D/R, C/T, D/T, C/N, D/N, C/H, D/H, C/X, or D/X, including multipurpose facilities and private clubs, a manufacturer's license holding an on-site sales and consumption permit, class A or B, or a Convention Center food and alcohol business that registers with the Board in accordance with § 1007.1 to sell, serve, and allow the consumption of alcoholic beverages on new or expanded ground floor or street level outdoor public or private space not listed on its existing license shall:

- (a) Place tables on the sidewalk café or summer garden serving separate parties at least six (6) feet apart from one another;
- (b) Ensure that all outdoor dining customers are seated and place orders and are served food or alcoholic beverages at tables;
- (c) Prohibit events and activities that would require patrons to cluster or be in close contact with one another, including dancing, playing darts, video games, or other outdoor games;
- (d) Prohibit patrons from bringing their own alcoholic beverages;

- (e) Prohibit self-service buffets;
- (f) Have a menu in use containing a minimum of three (3) prepared food items available for purchase by patrons;
- (g) Require the purchase of one or more prepared food items per table;
- (h) Ensure that prepared food items offered for sale or served to patrons are prepared on the licensed premises or off-premises at another licensed entity that has been approved to sell and serve food by the District Department of Health;
- (i) Ensure that the proposed outdoor public or private space is located in a commercial or mixed-use zone as defined in the District's zoning regulations;
- (j) Restrict its operations, excluding carry-out and delivery, and the sale, service, or the consumption of alcoholic beverages outdoors for on-premises consumption to the hours between 8:00 a.m. and midnight, Sunday through Saturday;
- (k) Not have more than six (6) individuals seated at a table or a joined table;
- (l) Require patrons to wait outside at least six feet (6 ft.) apart until they are ready to be seated;
- (m) Not provide live music or entertainment, except for background or recorded music played at a conversational level that is not heard in the homes of District residents;
- (n) Not serve alcoholic beverages or food to standing patrons;
- (o) Prohibit standing or seating at an outdoor bar provided tables or counter seats that do not line up to a bar may be used for patron seating as long as there is a minimum of six feet (6 ft.) between parties;
- (p) Prohibit the placement of alcohol advertising, excluding non-contact menus, on outdoor public space;
- (q) Provide and require that wait staff wear masks;
- (r) Request that patrons wear masks when waiting in line outside of the restaurant or while traveling to use the restroom or until they are seated and eating or drinking;

- (s) Implement a reservation system by phone or on-line and consider keeping customer logs to facilitate contact tracing by DC Health;
- (t) Implement sanitization and disinfection protocols including the provision of single use condiment packages; and
- (u) Have its own clearly delineated outdoor space and shall not share tables and chairs with another business.

1007.3 Registration under § 1007.1 shall be valid from May 29, 2020, to July 24, 2020, unless extended by the Mayor or the District of Columbia Council.

1007.4 The Board may fine, suspend, or revoke an on-premises retailer's license, class C or D, or a manufacturer's license, class A or B, with an on-site sales and consumption permit, and shall revoke the registration issued in accordance with § 1007.1 if the licensee fails to comply with requirements set forth in § 1007.1 or 1007.2.

1007.5 Notwithstanding § 1007.2, if an on-premises retailer's license, class C or D, or a manufacturer's license, class A or B, with an on-site sales and consumption permit, has a settlement agreement governing its operations, the Board:

- (a) Shall interpret settlement agreement language that restricts sidewalk cafes or summer gardens as applying only to those outdoor spaces that are currently licensed by the Board as sidewalk cafes or summer gardens;
- (b) Shall not interpret language that restricts or prohibits sidewalk cafes or summer gardens to apply to new or extended outdoor space now permitted under this subsection on a temporary basis because prior to the Coronavirus pandemic this new registration process was not available to eligible licensees;
- (c) Shall not interpret language that restricts or prohibits the operation of permanent outdoor space to mean prohibiting the temporary operation of sidewalk cafes or summer gardens because prior to the Coronavirus pandemic this new registration process was not available to eligible licensees; and
- (d) Shall require all on-premises retailer licenses, class C or D, or manufacturer licenses, class A or B, with an on-site sales and consumption permit, to delineate or mark currently licensed outdoor space from new or extended outdoor space authorized by DDOT or the property owner.

1007.6 With regard to existing outdoor public or private space, parties to a settlement agreement shall be permitted to waive provisions of settlement agreements that

address currently licensed outdoor space for a period not to exceed one hundred eighty (180) days.

1007.7 A manufacturer’s license, class A or B, with an on-site sales and consumption permit, or an on-premises retailer’s license, class C/T, D/T, C/N, D/N, C/X, or D/X, including multipurpose facilities or private clubs, may partner with a food vendor during its operating hours to satisfy the use of a menu containing a minimum of three (3) prepared food items available to patrons requirement set forth in § 1007.2(f), provided patrons are seated when ordering and ordered food is delivered by the licensee or the food vendor to the seated patron.

1007.8 For purposes of this section:

- (a) Ground floor or street level sidewalk cafes or summer gardens with awnings or tents containing no more than one (1) side shall be considered outdoor space;
- (b) Retractable glass walls and other forms of operable walls shall be considered indoor dining; and
- (c) Temporary unlicensed rooftops and summer gardens not located on the ground floor or street level are not eligible for registration under § 1007.1.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEMMayor's Order 2020-077
July 1, 2020

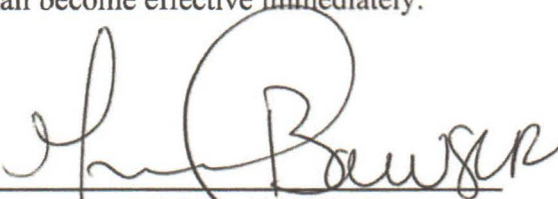
SUBJECT: Establishment – District of Columbia Presidential Inauguration Executive Steering Committee

ORIGINATING AGENCY: Office of the Mayor

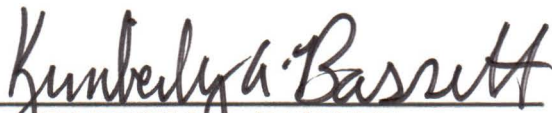
By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(11) (2016 Repl.), it is hereby **ORDERED** that:

1. There is established within the District of Columbia government the District of Columbia Presidential Inaugural Executive Steering Committee (“Committee”), organized under the Mayor's Special Events Task Group, which shall plan and coordinate services provided by the District of Columbia in support of the 2021 Presidential Inauguration in cooperation with the federal government, the President Elect's Presidential Inaugural Committee, and other relevant private and public organizations.
2. The following individuals shall serve as *ex officio* members on the Committee:
 - a. Mayor;
 - b. City Administrator;
 - c. Mayor's Chief of Staff;
 - d. Mayor's Senior Advisor; and
 - e. Director of the Mayor's Office of Legal Counsel.
3. The following individuals, or their designees, shall serve as members of the Committee:
 - a. Director of the Mayor's Office of Community Affairs;
 - b. Attorney General for the District of Columbia;
 - c. Communications Director of the Executive Office of the Mayor;
 - d. Chief of the Metropolitan Police Department;
 - e. Chief of the Fire and Emergency Medical Services Department;
 - f. Director of the Office of Risk Management;
 - g. Director of the Homeland Security and Emergency Management Agency;
 - h. Director of the District Department of Transportation;
 - i. Director of the Department of Public Works;
 - j. Director of the Department of Health;
 - k. Director of the Department of Human Services;
 - l. Director of the Department of Consumer and Regulatory Affairs;
 - m. Director of the Office of the Chief Technology Officer;
 - n. Director of the Office of Unified Communications;
 - o. Director of the Office of Contracting and Procurement;
 - p. Director of the Department of General Services;

- q. Director of the Department of Motor Vehicles; and
 - r. Commanding General of the District of Columbia National Guard.
4. Each individual shall utilize the services of his or her agency to further the objectives of the Committee.
 5. The Director of the Mayor's Office of Community Affairs shall serve as Chair of the Committee and shall ensure appropriate coordination and direction in the planning and preparedness efforts in support of activities related to the 2021 Presidential Inauguration.
 6. The Chair of the Committee may appoint such subcommittees and additional members of the Committee as shall be necessary to carry out its assigned responsibilities.
 7. This Committee shall sunset on February 28, 2021.
 8. This Order supersedes all prior Mayor's Orders to the extent of any inconsistency.
 9. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

ATTEST: 
KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

OFFICE OF ADMINISTRATIVE HEARINGS**DISTRICT OF COLUMBIA COMMISSION ON SELECTION AND TENURE OF
ADMINISTRATIVE LAW JUDGES****NOTICE SEEKING COMMENTS REGARDING REAPPOINTMENT OF
ADMINISTRATIVE LAW JUDGE**

The Commission on Selection and Tenure of Administrative Law Judges (“Commission”) seeks comments regarding the potential reappointment of Administrative Law Judge Repunzelle Bullock. This is to notify members of the District of Columbia Bar and the general public, pursuant to section 3705.7 of Title 6 of the District of Columbia Municipal Regulations (“DCMR”), that the Commission has begun reviewing Administrative Law Judge Bullock’s qualifications for reappointment to the District of Columbia Office of Administrative Hearings. Administrative Law Judge Bullock has filed a statement with the Commission requesting reappointment to a six-year term upon the expiration of her two-year term on September 16, 2020.

Section 3705.21 of Title 6 of the DCMR provides:

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

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

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

All communications must be received by the Commission on or before July 27, 2020. All communications must be mailed or delivered in a sealed envelope marked “Confidential – ALJ Reappointments,” addressed to:

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

The members of the Commission are:

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

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

Bridges Public Charter School intends to enter into a sole source contract with The Literacy Lab for tutors to be placed within the school. These tutors are serving as effective reading assistants specifically equipped to promote educational achievement.

- Bridges Public Charter School establishes the sole source with The Literacy Lab intended for the low cost and high quality initiatives in reading as a fundamental that will lead to student achievement.
 - For further information regarding this notice, contact bids@bridgespcs.org no later than **4:00 pm Monday, July 20, 2020**.

CREATIVE MINDS INTERNATIONAL PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Active Whiteboards

Creative Minds International PCS located in Washington DC invites proposals for Active Whiteboards. Deadline is 12:00 PM Eastern Time on July 22, 2020.

To request full scope and/or seek additional information, please email:

Heather Hesslink
Director of Operations & Compliance
heather.hesslink@creativemindspcs.org

CREATIVE MINDS INTERNATIONAL PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Apple Computers

Creative Minds International PCS located in Washington DC invites proposals for Apple computers. Deadline is 12:00 PM Eastern Time on July 22, 2020.

To request full scope and/or seek additional information, please email:

Heather Hesslink
Director of Operations & Compliance
heather.hesslink@creativemindspcs.org

CREATIVE MINDS INTERNATIONAL PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Chrome Tablets

Creative Minds International PCS located in Washington DC invites proposals for Chrome Tablets. Deadline is 12:00 PM Eastern Time on July 22, 2020.

To request full scope and/or seek additional information, please email:

Heather Hesslink
Director of Operations & Compliance
heather.hesslink@creativemindspcs.org

**OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION
OFFICE OF PUBLIC CHARTER SCHOOL FINANCING AND SUPPORT**

**ANNOUNCES JULY 16, 2020 PUBLIC MEETING
FOR THE DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL CREDIT
ENHANCEMENT COMMITTEE**

The Office of the State Superintendent of Education (OSSE) hereby announces that it will hold a public meeting for the District of Columbia Public Charter School Credit Enhancement Committee as follows:

**12:30 p.m. – 2:00 p.m.
Thursday July 16, 2020
Phone Conference
Conference Line (866) 836-4385
Passcode: 5280417**

For additional information, please contact:

Darryl Brantley, Financial Program Specialist
Office of Public Charter School Financing and Support
Office of the State Superintendent of Education
1050 First St. NE, Fifth Floor
Washington, DC 20002
(202) 258-3541
Darryl.Brantley@dc.gov

The draft agenda for the above-referenced meeting will be:

- I. Call to Order
- II. Approval of agenda for the July 16, 2020, committee meeting
- III. Approval of minutes from February 20, 2020, committee meeting
- IV. Review Conflict of Interest – Transaction Disclosure Checklist
- V. Kingsman Academy PCS – Refinance of \$900,000 Direct Loan
- VI. Inspired Teaching Demonstration PCS – \$1,750,000 Direct Loan
- VII. Charter School Incubator Initiative – Additional Debt Request for \$2,000,000 Direct Loan at Elsie Whitlow Stokes PCS Location

Any changes made to the agenda that are unable to be submitted to the DC Register in time for publication prior to the meeting will be posted on the [public meetings calendar](#) no later than two (2) business days prior to the meeting.

DEPARTMENT OF ENERGY AND ENVIRONMENT

PUBLIC NOTICE

**AIR QUALITY TITLE V OPERATING PERMIT AND
GENERAL PERMIT FOR
POTOMAC CREEK ASSOCIATES, L.L.C. – L’ENFANT PLAZA**

Notice is hereby given that Potomac Creek Associates, L.L.C. has applied for a Title V air quality permit pursuant to the requirements of Title 20 of the District of Columbia Municipal Regulations, Chapters 2 and 3 (20 DCMR Chapters 2 and 3) to continue operation of the following equipment at L’Enfant Plaza, located at L’Enfant Plaza SW, Washington DC 20024:

- Two (2) 21.106 MMBTU/hr natural gas-fired boilers;
- Two (2) 13.69 MMBTU/hr dual fuel-fired (natural gas and No. 2 fuel oil) boilers;
- Two (2) diesel-fired emergency generator sets;
- Two (2) diesel-fired fire pumps;
- Seven (7) cooling towers;
- One (1) 20,000 gallon above ground storage tank for No. 2 fuel oil;
- Six (6) above ground storage tanks for ultra-low sulfur diesel fuel with capacities ranging from 25 gallons to 750 gallons; and
- Seven (7) small external combustion units burning natural gas only, each with a rated heat input less than 1 MMBTU/hr.

The contact person for the facility is Kathy Guy, CPM, Senior Vice President, Management Services at (240) 333-7716 or kguy@jbgsmith.com.

The following is an estimate of overall potential emissions from the equipment to be covered by this permit:

FACILITY-WIDE EMISSIONS SUMMARY [TONS PER YEAR]	
Pollutants	Potential Emissions
Sulfur Dioxide (SO ₂)	0.33
Oxides of Nitrogen (NO _x)	23.72
Total Particulate Matter (PM Total)	10.70
Volatile Organic Compounds (VOCs)	1.66
Carbon Monoxide (CO)	27.89
Total Hazardous Air Pollutants (HAPs)	0.47

For purposes of Title V applicability, the equipment covered by this permit is being aggregated with that of the Southeast Office Building owned by JBG/L’Enfant Plaza Southeast, L.L.C., but under the common control of JBG Smith, which controls both limited liability companies.

With the emission limitations included in the draft permit, in combination with a small contribution of 0.92 tons per year of nitrogen oxides (NOx) from the Southeast Office Building, the facility has the potential to emit approximately 24.64 tons per year of NOx, just under the District's major source threshold of 25 tons per year of NOx. Under normal maximum operating conditions for determination of the potential emissions of the facility (i.e. 500 hours per year per emergency generator), the combined emissions of the equipment would have exceeded the major source threshold for NOx. In order to avoid major source status, the facility opted for operating hour restrictions to keep their potential to emit NOx under the major source threshold. The Chapter 3 permitting process is being used in this case to make these limits federally enforceable and enforceable as a practical matter.

The Department of Energy and Environment (DOEE) has reviewed the permit application and related documents and has made a preliminary determination that the applicant meets all applicable air quality requirements promulgated by the U.S. Environmental Protection Agency (EPA) and the District. Therefore, draft permit No. 016-R2 has been prepared.

The application, the draft permit and associated Fact Sheet and Statement of Basis, and all other materials submitted by the applicant [except those entitled to confidential treatment under 20 DCMR 301.1(c)] considered in making this preliminary determination are available for public review during normal business hours at the offices of the Department of Energy and Environment, 1200 First Street NE, 5th Floor, Washington DC 20002. Copies of the draft permit and related fact sheet are available at <http://doee.dc.gov/service/public-notice-hearings>.

A public hearing on this permitting action will not be held unless DOEE has received a request for such a hearing within 30 days of the publication of this notice. Interested parties may also submit written comments on the permitting action.

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

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington DC 20002
stephen.ours@dc.gov

No comments or hearing requests submitted after August 10, 2020 will be accepted.

For more information, please contact Stephen Ours at (202) 535-1747 or stephen.ours@dc.gov.

DEPARTMENT OF HEALTH

PUBLIC NOTICE

The District of Columbia Board of Massage Therapy (“Board”) hereby gives notice of its upcoming meeting, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b) (2016 Repl.)).

The Board holds its meetings on a bi-monthly basis and the next meeting will be held on Thursday, July 16, 2020 from 1:30 PM – 4:00 PM. The meeting will be open to the public from 1:30 PM until 2:00 PM to discuss various agenda items and any comments and/or concerns from the public. In accordance with § 575(b) of the Open Meetings Act of 2010 (D.C. Official Code § 2-575(b) (2016 Repl.)), the meeting will be closed from 2:00 PM to 4:00 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

Due to the COVID-19 public health emergency, the meeting will be conducted via videoconference. The public may attend the open session in the following ways:

By videoconference:

Webex meeting number: 473 998 269

Password: e8bM4kYdMu7

<https://dcnet.webex.com/dcnet/j.php?MTID=mbf1c085fe626a413fa9f3afd9c32502b>

By phone

1-650-479-3208 Call-in toll number (US/Canada)

Access code: 473 998 269

The agenda is available at <https://dchealth.dc.gov/event/board-massage-therapy-calendar-and-meetings>. For additional information, contact the Health Licensing Specialist at thelma.ofosumensah@dc.gov.

DEPARTMENT OF HEALTH

PUBLIC NOTICE

The District of Columbia Board of Psychology (“Board”) hereby gives notice of its upcoming meeting, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b) (2016 Repl.)).

The Board holds its meetings on a bi-monthly basis on the second Tuesday every other month. The next meeting will be held on Tuesday, July 14, 2020 from 2:30 PM to 5:30 PM. The meeting will be open to the public from 2:30 PM until 3:00 PM to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Act of 2010, D.C. Official Code § 2-574(b), the meeting will be closed from 3:00 PM to 5:30 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

Due to the COVID-19 public health emergency, the meeting will be conducted via videoconference. The public may attend the open session in the following ways:

By videoconference:

Meeting number: 473 220 621

Password: 2Xdir6Z36Ud

<https://dcnet.webex.com/dcnet/j.php?MTID=m932fe6e3781980eb2c70dd15bed4e894>

By phone:

1-650-479-3208 Call-in toll number (US/Canada)

Access code: 473 220 621

The agenda is available at

<https://dchealth.dc.gov/page/board-psychology-meeting-agenda>. For additional information, contact the Health Licensing Specialist at fatima.abby@dc.gov.

The next meeting will be held on July 14, 2020.

**DEPARTMENT OF HEALTH (DC HEALTH)
HIV/AIDS, HEPATITIS, STD, and TB ADMINISTRATION (HAHSTA)
NOTICE OF FUNDING AVAILABILITY (NOFA)
RFA# HAHSTA_HRP 07.24.20
HARM REDUCTION PROGRAMS**

The District of Columbia, Department of Health (DC Health) is soliciting applications from qualified applicants to services in the program and service areas described in this Notice of Funding Availability (NOFA). This announcement is to provide public notice of the Department of Health's intent to make funds available for the purpose described herein. The applicable Request for Applications (RFA) will be released under a separate announcement with guidelines for submitting the application, review criteria and DC Health terms and conditions for applying for and receiving funding.

General Information:

Funding Opportunity Title:	Harm Reduction Programs
Funding Opportunity Number:	FO-HAHSTA-PG-00007-000
Program RFA ID#:	RFA HAHSTA_HRP 07.24.20
Opportunity Category:	Competitive
DC Health Administrative Unit:	HIV/AIDS, Hepatitis, STD and TB Administration
DC Health Program Bureau	Prevention and Intervention Services Bureau
Program Contact:	HIV/AIDS, Hepatitis, STD and TB Administration
Program Description:	DC Health will support harm reduction and health equity as principles that support positive health outcomes. HAHSTA is applying the philosophy of harm reduction and the Health Equity framework to promote health, wellness and individual success. DC Health will fund three areas: Category A: Syringe Services Programs Category B: Medication Assisted Therapy Category C: Transgender Health Initiatives
Eligible Applicants	501(c)(3) Not- for profit organizations located and licensed to conduct business in the District of Columbia. Applicants may be individual organizations or a partnership/collaboration of multiple organizations, one of which must serve as the fiscal agent or the organization that will take overall responsibility of the fiscal and grant-related requirements.
Anticipated # of Awards:	1
Anticipated Amount Available:	Up to \$225,000
Floor Award Amount:	\$100,000
Ceiling Award Amount:	\$225,000

Funding Authorization

Legislative Authorization	DC Appropriated
Associated CFDA#	N/A
Associated Federal Award ID#	N/A
Cost Sharing / Match Required?	No
RFA Release Date:	Friday, July 24, 2020
Pre-Application Meeting (Date)	Tuesday, July 28, 2020
Pre-Application Meeting (Time)	1:00pm-2:30pm
Pre-Application Meeting (Location/Conference Call Access)	Zoom
Letter of Intent Due date:	Not applicable
Application Deadline Date:	Friday, August 21, 2020
Application Deadline Time:	6:00 PM
Links to Additional Information about this Funding Opportunity	DC Grants Clearinghouse http://opgs.dc.gov/page/opgs-district-grants-clearinghouse . DC Health EGMS https://dcdoh.force.com/GO__ApplicantLogin2

D.C. HOMELAND SECURITY AND EMERGENCY MANAGEMENT AGENCY

NOTICE OF PUBLIC MEETING

Homeland Security Commission

July 10, 2020

3:00 p.m. to 5:00 p.m.

Virtual Meeting via WebEx: 1-650-479-3208; access code: 160 000 7950

On July 10, 2020 at 3:00 p.m., the Homeland Security Commission (HSC) will hold a meeting that may proceed into closed session 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 remotely via WebEx. For additional information, please contact Dion Black, General Counsel, by phone at 202-481-3011 or by email at dion.black1@dc.gov.

**IDEA INTEGRATED DESIGN AND ELECTRONIC ACADEMY
PUBLIC CHARTER SCHOOL**

NOTICE OF INTENT TO ENTER A SOLE SOURCE CONTRACT

Stoiber & Associates - Architectural Services

IDEA Integrated Design and Electronic Academy PCS intends to enter into a sole source contract with Stoiber & Associates for architectural services for approximately \$45,000 for the upcoming school year. Stoiber & Associates has a unique capacity to perform renovations and reconfiguration of the building and site to better configure spaces to support current programmatic strategies for students, administrators, staff, visitors, and subtenants. For further information regarding this notice contact Nicole Seward at nseward@ideapcs.org no later than 7/21/20.

THE INSPIRED TEACHING PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****ABA SPECIAL EDUCATION SERVICES**

Bid Open Date: July 3, 2020
Bid Close Date: July 15, 2020
Award Date: July 20, 2020

The Inspired Teaching School

The Inspired Teaching Demonstration School is a public charter school that serves students age 3 through 8th grade. The school is based on the following beliefs:

- Children are inherently good and have an innate desire to learn
- Every child can be successful in school
- Children's energy, unique talents, and individuality are assets, not obstacles.
- Every student possesses the ability to think critically, learn and understand information, and solve complex problems
- Every student should spend their time in school engaged primarily in these kinds of activities.

Primary methods of instruction include inquiry-based methods and active learning approaches, where the teacher serves as facilitator and coach to support student learning. Instruction includes an emphasis on social-emotional learning, and classrooms are student-centered with students working in small collaborative groups, individually, and through child-initiated play.

Overview of Inspired Teaching School Special Education Services Providers

The Inspired Teaching Demonstration School requests proposals for ABA services.

Service providers are required to:

- Provide ABA therapy, supervised by a BCBA, as required by regulation for students age 3 – 8th grade as outlined in IEPs.
- Provide additional BCBA supervision and consultation offered at an hourly rate and as needed to school-based RBT
- Complete service trackers in the DC Special Education Data System (SEDS)
- Ensure that instructional approaches are coordinated with Inspired Teaching Demonstration School staff, complement the regular classroom instruction of our students, and align with the Inspired Teaching Demonstration School's philosophy.
- Support city and state compliance and documentation of services and student progress
- Engage in regular collaboration with school-based special education staff in order to ensure high-quality and appropriate services for students and excellent communication with families
- Maintain exemplary standards for professional conduct, thoughtful and progressive relationships with students, and a restorative approach to managing student discipline
- Collaborate with staff from the school for professional development and information exchanges about students

RFP Response details

1. Cover letter with the following elements:
 - Statement of interest
 - Point of contact for proposal
 - Name, address, telephone, email and website for provider
2. Detailed description of the special education services offered by the provider
3. Qualifications and prior experience with providing special education services in a charter school setting including:
 - Educational background and qualifications of staff to provide services
 - Experience with city and state compliance systems
4. Rates and pricing options
5. Availability and scheduling process
6. 2-3 References

Selection process

Proposals will be evaluated with the following qualifications in mind:

- Experience providing special education services in charter school settings
- Qualifications of staff
- Alignment with Inspired Teaching's philosophy
- Excellent communications standards among provider staff
- Cost effectiveness
- Availability of references from school staff and/or families where services are already in place

Proposals will be accepted until 5:00 pm, July 15, 2020. Proposals should be submitted as PDF or Microsoft Word documents to Kate Keplinger, at kate.keplinger@inspiredteachingschool.org with SPECIAL EDUCATION SERVICES RFP in the subject line.

**OFFICE OF THE DEPUTY MAYOR FOR
PLANNING AND ECONOMIC DEVELOPMENT**

**NOTICE OF PUBLIC MEETING OF THE
WALTER REED ARMY MEDICAL CENTER
COMMUNITY ADVISORY COMMITTEE**

The Office of the Deputy Mayor for Planning and Economic Development will conduct a public meeting of the Walter Reed Army Medical Center Community Advisory Committee, pursuant to Walter Reed Army Medical Center Community Advisory Committee Amendment Act of 2013 and the Open Meetings Act, (DC Official Code §2-574(1)).

The date, time and location of the Public Meeting shall be as follows:

Date: Monday, July 13th
Time: 6:30 PM – 8:00 PM
Location: - WebEx Call -
Join by phone 1-650-479-3208
Meeting Number (access code): 160 463 1476
Contact: Randall Clarke, DMPED

Walter Reed Community Advisory Committee Meeting Agenda

1. LRA Opening Remarks
 - Welcome & Intro
 - Meeting Facilitation & Order
2. The Parks at Walter Reed Development Team
 - CBE First Source Project Update/Upcoming Opportunities
 - Construction Updates
 - Project Events
 - Other Project Updates
3. Special Presentation
3. Adjourn - 8pm

Government of the District of Columbia
Public Employee Relations Board

In the Matter of:
Fraternal Order of Police/ Department of
Corrections Labor Committee
Petitioner
v.
District of Columbia Department of Corrections1
Respondent
PERB Case No. 20-U-24
Opinion No. 1744
Motion for Preliminary Relief

Decision and Order

I. Statement of the Case

On April 6, 2020, the Fraternal Order of Police/Department of Corrections Labor Committee (Union) filed an Unfair Labor Practice Complaint (Complaint) against the District of Columbia Department of Corrections (Agency). The Union alleges that the Agency violated the Comprehensive Merit Personnel Act (CMPA) through its actions in response to the coronavirus pandemic (COVID-19). The Union contemporaneously filed a Motion for Immediate Preliminary Relief (Motion).

On April 8, 2020, the Executive Director of the Public Employee Relations Board requested briefs from the parties on specific issues related to the pending Motion. The Union and the Agency each filed a brief on April 14, 2020. On April 20, 2020, the Board heard oral

1 Section 1-617.04 of the D.C. Official Code provides that the "District, its agents, and representatives" are prohibited from engaging in unfair labor practices. The Board has held that suits against District officials in their official capacity should be treated as suits against the District. Therefore, the Board will dismiss Muriel Bowser and Quincy Booth from these matters. See FOP/MPD Labor Comm. v. MPD, 59 D.C. Reg. 6579, Slip Op. No. 1118 at p. 4-5, PERB Case No. 08-U-19 (2011); see also Fraternal Order of Police/Metro. Police Dep't Labor Comm. v. D.C. Pub. Emp. Relations Bd., Civ. Case No. 2011 CA 007396 P(MPA) (D.C. Super. Ct. Jan 9, 2013).

Decision and Order
PERB Case No. 20-U-24
Page 2

arguments.² Considering the pleadings and arguments of the parties and for the reasons stated herein, preliminary relief is granted, in part, as described.

II. Background

On March 11, 2020, the Mayor of the District of Columbia issued an Executive Order declaring a state of emergency in response to the public health emergency caused by COVID-19.³ On March 17, 2020, the Council of the District of Columbia enacted the COVID-19 Response Emergency Amendment Act of 2020, (COVID-19 Emergency Act), which amended the District of Columbia Public Emergency Act and provided the Mayor with enumerated personnel powers to address COVID-19.⁴ The language of the new section states in pertinent part:

Notwithstanding any provision of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Law 2-139, D.C. Official Code § 1-601.01 *et seq.*) ("CMPA") or the rules issued pursuant to the CMPA, . . . or any other personnel law or rules, the Mayor may take the following personnel actions regarding executive branch subordinate agencies that the Mayor determines necessary and appropriate to address the emergency:

- (A) Redeploying employees within or between agencies;
- (B) Modifying employees' tours of duty;
- (C) Modifying employees' places of duty;
- (D) Mandating telework;
- (E) Extending shifts and assigning additional shifts;
- (F) Providing appropriate meals to employees required to work overtime or work without meal breaks;
- (G) Assigning additional duties to employees;
- (H) Extending existing terms of employees;
- (I) Hiring new employees into the Career, Education, and Management Supervisory Services without competition;
- (J) Eliminating any annuity offsets established by any law; or
- (K) Denying leave or rescinding approval of previously approved leave.⁵

On March 25, 2020, the Union sent a letter to the Director of the Agency that communicated concerns about the conditions inside the D.C. Jail⁶ and requested bargaining

² The Union was represented by Ann-Kathryn So, Hannon Law Group LLP. The Agency was represented by Michael Kentoff, District of Columbia Office of Labor Relations and Collective Bargaining.

³ Mayor's Order 2020-045 (March 11, 2020).

⁴ COVID-19 Response Emergency Amendment Act of 2020, D.C. Act 23-0247 (March 17, 2020).

⁵ COVID-19 Response Emergency Amendment Act of 2020, D.C. Act 23-0247 Sec. 301(b)(4) (2020) (codified as D.C. Code § 7-2304(b)(15)-(16) (West 2020)).

⁶ FOP ULP Compl. Ex. F. Examples of the conditions include a lack of screening of incoming inmates, insufficient PPE, insufficient ability to wash hands, insufficient social distancing, insufficient cleaning of facilities, lack of suitable quarantine, and potential exposure to COVID-19.

Decision and Order
PERB Case No. 20-U-24
Page 3

over the terms and conditions of employment for the Union members.⁷ The request for bargaining proposed several health and safety measures and requested bargaining over subjects that may arise as the pandemic changes.⁸ The Agency did not respond to the request for bargaining.

On April 3, 2020, the Department of Corrections changed its policies to transition bargaining unit members from an 8-hour to a 12-hour shift and to eliminate official time⁹ for Union representatives.¹⁰ In response to these actions, the Union filed the instant Complaint.¹¹

III. Discussion

Before the Board is the Union's motion for preliminary relief. Board Rule 520.15 states, "The Board may order preliminary relief. A request for such relief shall be accompanied by affidavits or other evidence supporting the request. Such relief may be granted where the Board finds that the conduct is clear-cut and flagrant; or the effect of the alleged unfair labor practice is widespread; or the public interest is seriously affected; or the Board's processes are being interfered with, and the Board's ultimate remedy may be inadequate." In order to grant a motion for preliminary relief, at least one of these conditions must be met. It is within this framework that the Board considers the Agency's arguments and actions in determining whether to grant the Union's motion for preliminary relief.

A. Positions of the Parties

The Union asserts that the Agency violated the CMPA by refusing to bargain over health and safety and working conditions, the elimination of official time, and the implementation of a 12-hour shift.¹² The Union acknowledges that the Council of the District of Columbia (Council) passed legislation that empowered the Mayor to take actions necessary to ensure the safe, effective, and efficient operation of the District Government.¹³ However, the Union argues that the Agency is not exercising its authority in a manner that is consistent with the COVID-19 Emergency Act.¹⁴ The Union argues that the state of emergency does not override the presumption of negotiability and that no provision of the Mayor's Orders or COVID-19 Emergency Act permits the Agency to refuse to bargain.¹⁵

⁷ FOP ULP Compl. Ex. F.

⁸ FOP ULP Compl. Ex. F.

⁹ Official time allows certain designated union officials to engage in representational activities on behalf of a union during their paid work hours. Official time is provided for in the collective bargaining agreement between these parties.

¹⁰ OLR CB Br. Ex. 3.

¹¹ On April 20, 2020, the FOP supplemented its oral argument brief to provide additional exhibits. These exhibits were accepted by the Board and discussed without objection. This material will be cited as FOP Am. Br.

¹² FOP Br. at 2-4.

¹³ FOP Br. at 8.

¹⁴ FOP Br. at 8.

¹⁵ FOP Br. at 12-15.

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The Agency asserts that, in response to the declared state of emergency, it deliberated on the measures needed to fulfill its mission, and then unilaterally implemented the transition to a 12-hour shift and the suspension of official time during the state of emergency.¹⁶ The Agency asserts that it is not required to bargain because of the pressing circumstances of the emergency.¹⁷ The Agency argues that its actions were consistent with the necessary functioning of the agency and that delayed implementation would have impeded the agency's mission.¹⁸ The Agency asserts that it has not violated the CMPA by refusing to bargain the impact and effects of its unilateral decisions. The Agency argues that the Union has not requested bargaining on either the 12-hour shift or the suspension of official time.¹⁹

B. The Duty to Bargain the Impact and Effects

D.C. Official Code § 1-617.08 affords certain rights to management, which are nonnegotiable.²⁰ However, even as to such nonnegotiable management rights, management must, upon request by the union, still bargain the impact and effects of its exercise of those rights.²¹ In general, it is an unfair labor practice to refuse to bargain in good faith.²²

Specifically, relevant to the current dispute, D.C. Official Code § 1-617.08(a)(6) states that management retains the right to “take whatever actions may be necessary to carry out the mission of the District government in emergency situations.”²³ That right must be read in conjunction with the COVID-19 Emergency Act, which contains language enumerating the personnel actions that the Mayor may take in section 301(a)(16), subsections (A)-(K).²⁴ The Council, by using the broad “notwithstanding clause,” evidenced its intent to have the newly enacted amendment narrow the scope of the statute's earlier iteration.²⁵ The Board holds that the Council limited the authority of the Mayor during the pandemic emergency with respect to personnel actions and thereby limited the potential for broader action and impermissible erosion of collective bargaining rights in the name of the emergency. Therefore, the Board will treat actions enumerated in subsection (A)-(K)

¹⁶ DOC Br. at 2.

¹⁷ DOC Br. at 6. See Exhibit 5 showing 166 DOC employees on administrative quarantine or self-quarantine as of April 9, 2020.

¹⁸ DOC Br. at 7 (citing *Department of Air Force v. National Association of Government Employees*, Local R7-23, 5 FLRA 9, 11(1981)).

¹⁹ DOC Br. at 9.

²⁰ D.C. Official Code § 1-617.08(b).

²¹ *E.g. AFSCME, District Council 20, Local 2921 v. DCPS*, 60 D.C. Reg. 2602, Slip Op. No.1363, PERB Case No. 10-U49(a) (2013) (holding that the duty to bargain “extends to matters addressing the impact and effect of management actions on bargaining unit employees as well as procedures concerning how these rights are exercised, including the adverse impact on the terms and conditions of employment”); *but cf. AFGE, Locals 1000 et al. v. DHS et al.*, 64 D.C. Reg. 4889, Slip Op. No.1612, PERB Case No. 16-I-02 (2017) (holding that unlike the bargaining of a collective bargaining agreement the parties are not obligated to reach agreement during impact and effects bargaining. Thus, impacts and effects bargaining can never reach impasse)).

²² D.C. Official Code §§ 1-617.04(a)(5) and (b)(3).

²³ D.C. Official Code § 1-617.08(a)(6).

²⁴ D.C. Code § 7-2304(b)(16) (West 2020)

²⁵ *UDC v. AFSCME, District Council 20, Local 2087*, 130 A. 3d 355, 359-360 (D.C. 2016).

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of the COVID-19 Emergency Act²⁶ taken during the pandemic as management rights, and those unilateral personnel actions are permitted in response to the current emergency. As stated above, management rights are nonnegotiable but are subject to impact and effects bargaining upon request.²⁷

C. The Duty to Bargain on Mandatory Subjects in the Context of an Emergency

The Board recognizes that some emergencies may call for immediate action resulting in the suspension of the duty to bargain. However, the Board, like the NLRB, adopts a narrow view in applying an emergency exception to the general duty to bargain. In *Port Printing*,²⁸ the NLRB explained a narrow exception to the duty to bargain during a financial emergency. The NLRB explained that the economic exigency exception is “limited to extraordinary events, which are an unforeseen occurrence, having major economic effect requiring that the company take immediate action.”²⁹ “Absent a dire financial emergency. . . economic events such as a loss of significant accounts or contracts, operation at a competitive disadvantage, or supply shortages do not justify unilateral action.”³⁰

The facts of *Port Printing* are as follows. On September 22, 2005, an impending hurricane caused the mayor to order an immediate and citywide evacuation.³¹ The company was compelled to take prompt action to respond to the hurricane and evacuation order.³² The company closed its facility, resulting in a “forced layoff.”³³ Seven days later, the owners of the company returned to the facility to survey the damage. On October 8, 2005, the company began the cleanup process and contacted customers to finish jobs. To complete these tasks, the company used several bargaining unit employees, nonbargaining unit employees, and at least one supervisor.³⁴

The NLRB held that the layoff without bargaining was not unlawful because the hurricane had created an economic exigency.³⁵ However, the NLRB found that the company committed an unfair labor practice by failing to bargain over the impact and effects of the layoff.³⁶ Additionally, the NLRB found that the company committed an unfair labor practice when it failed to bargain over the decision to use nonbargaining unit employees to finish work because the time for immediate decision-making had passed.³⁷

²⁶ D.C. Code § 7-2304(b)(16) (West 2020)

²⁷ *AFSCME District 20 and Local 2901 v. DPW*, 62 D.C. Reg. 5925, Slip Op. No. 1514 at 4, PERB Case No. 14-U-03 (2015) (citing *DCNA v. DMH*, 59 D.C. Reg. 9763, Slip Op. No. 1259, PERB Case No. 12-U-14 (2012)).

²⁸ *Port Printing & Specialties*, 351 NLRB 1269 (2007), enfd. 589 F.3d 812 (5th Cir. 2009).

²⁹ *Id.* at 1270 (quoting *RBE Electronics of S.D.*, 320 NLRB 80, 81 (1995); see *Bottom Line Enterprises*, 302 NLRB 373, 374 (1991), enfd. 15 F.3d 1087 (9th Cir. 1994)).

³⁰ *Port Printing & Specialties*, 351 NLRB 1269, 1270 (2007) (quoting *RBE Electronics of S.D.*, 320 NLRB 80, 81 (1995)).

³¹ *Port Printing & Specialties*, 351 NLRB 1269, 1270 (2007).

³² *Id.*

³³ *Id.* All employees were out of work and it was unclear if they would return.

³⁴ *Id.*

³⁵ *Id.* at 1270.

³⁶ *Id.*

³⁷ *Id.*

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The Board finds this reasoning persuasive. The Board holds that, in an instance of an extraordinary event which was an unforeseen occurrence requiring an agency to take immediate action, management has the right to take actions it deems necessary to carry out its mission. But it must bargain the impact and effects of its decisions. Moreover, if during the state of emergency, the need for immediate decision-making has passed, then management must engage in substantive bargaining over mandatory subjects of bargaining.

D. The Agency's Implementation of the 12-Hour Shift was a Nonnegotiable Management Right.

The COVID-19 Emergency Act and the law enacted by the D.C. Council authorized management to make the decision to transition to a 12-hour shift. That decision is a nonnegotiable management right. Notwithstanding the non-negotiability of a management right, a union has the right to impact and effects bargaining over a management right when it makes a timely request to bargain.³⁸ An unfair labor practice is not committed until there is a request to bargain and a "blanket" refusal to bargain.³⁹ Absent a request to bargain and a blanket refusal, management does not violate the CMPA by unilaterally implementing a management rights decision.⁴⁰ However, even a broad, general request for bargaining "implicitly encompasses all aspects of that matter, including the impact and effects of a management decision that is otherwise not bargainable."⁴¹ Here, the Union demanded bargaining on March 25, 2020, before the Agency began implementing changes unilaterally.⁴² After receiving notice of the change, the Union repeated its demand to bargain on April 6, 2020.⁴³

The Agency asserts in its brief and in its oral arguments that it does not have a duty to bargain. The Agency's blanket refusal to recognize its bargaining obligation constitutes clear-cut and flagrant conduct. Based on the record and arguments before the Board, the Union is likely to establish a violation of the CMPA. The Agency's refusal to bargain the impact and effects of the transition to a 12-hour shift interferes with the Board's processes because the Board would not be able to provide an adequate remedy if the Union had to wait until the pandemic.

E. The Subjects of Official Time and Health and Safety are Mandatory Subjects of Bargaining

In its Motion, the Union asserts that the Agency committed an unfair labor practice by failing to bargain over the elimination of official time and health and safety working conditions.⁴⁴

³⁸ *AFSCME District 20 and Local 2901 v. DPW*, 62 D.C. Reg. 5925, Slip Op. No. 1514 at 4, PERB Case No. 14-U-03 (2015) (citing *DCNA v. DMH*, 59 D.C. Reg. 9763, Slip Op. No. 1259, PERB Case No. 12-U-14 (2012)).

³⁹ *AFSCME District 20 and Local 2901 v. DPW*, 62 D.C. Reg. 5925, Slip Op. No. 1514 at 4, PERB Case No. 14-U-03 (2015) (citing *FOP v. DOC*, 49 D.C. Reg. 8937, Slip Op. No. 679, PERB Case Nos. 00-U-36 and 00-U-40 (2002)).

⁴⁰ *AFSCME District 20 and Local 2901 v. DPW*, 62 D.C. Reg. 5925, Slip Op. No. 1514 at 4, PERB Case No. 14-U-03 (2015).

⁴¹ *NAGE, Local R3-06 v. WASA*, 47 D.C. Reg 7551, Slip Op. No. 635 at 6, PERB Case No. 99-U-04 (2000).

⁴² FOP ULP Compl. Ex. F

⁴³ FOP Am. Br. Ex. A.

⁴⁴ FOP ULP Compl. at 15.

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The Agency asserted in its brief and during oral arguments that the Agency has no duty to bargain due to the pandemic emergency. The Board finds that the subjects of official time, as well as health and safety conditions of employment, are mandatory subjects of bargaining and the Agency is not relieved of its duty to bargain because of the pandemic.

The Agency's refusal to engage in bargaining over the unilateral elimination of official time for union representatives likely constitutes a repudiation of the collective bargaining agreement and a refusal to bargain in good faith.⁴⁵

Moreover, the elimination of official time seriously impedes the union from performing its representational work at precisely the time when representation is most critical.⁴⁶ It strikes at the heart of collective bargaining. The COVID-19 Emergency Act did not create a management right to eliminate official time. Thus, the Agency likely had a duty to bargain before implementing that change. The Agency's conduct is clear-cut and flagrant. Based on the record before the Board, the Union is likely to establish a violation of the CMPA. The Agency's conduct interferes with the Board's processes and the Board's ultimate remedy may be inadequate.

The Agency also refused to engage in bargaining⁴⁷ over health and safety conditions arising from the pandemic. In its brief, the Agency argued that the Union waived its right to bargain over health and safety working conditions under Article 2 of the parties' collective bargaining agreement. Article 2 incorporates, by reference, the statutory language of D.C. Official Code § 1-617.08 and all applicable laws, rules, and regulations. In light of the limitations in the COVID-19 Emergency Act, this does not constitute a "clear and unmistakable" waiver of the Union's right to bargain conditions related to the health and safety of its members.⁴⁸ The Agency asserts that it has "communicated" with the Union and has adopted some of the Union's proposals, but this does not satisfy the requirement of the CMPA to bargain with the employee's duly-elected exclusive representative over such a critical issue as health and safety conditions during a pandemic. Here, the Agency's conduct is clear-cut and flagrant, based on the Agency's own assertions in its brief and oral arguments. The Union is likely to establish a violation of the CMPA. The Agency's conduct interferes with the Board's processes and the Board's ultimate remedy may be inadequate.

F. Preliminary relief is warranted

As stated above, Board Rule 520.15 provides: "The Board may order preliminary relief. A request for such relief shall be accompanied by affidavits or other evidence supporting the request. Such relief may be granted where the Board finds that the conduct is clear-cut and flagrant; or the

⁴⁵ *AFSCME, District Council 20, Locals 1200 et al. v. Department of Finance Revenue et al.*, 46 D.C. Reg. 6513, Slip Op. No. 590 at 5, PERB Case 97-U-15A (1999).

⁴⁶ Tr. 80. Ann-Kathryn So explaining that "the Agency has not stopped engaging in activities that require representation" which include investigations, interviews, and disciplinary hearings.

⁴⁷ Tr. 108. Michael Kentoff states the agency has "no obligation" to bargain health and safety.

⁴⁸ *IBPO, Local 446 v. D.C. Gen. Hosp.*, 41 D.C. Reg. 2321, Slip Op. No. 312, 91-U-06 (1994) (holding that the "contractual reiteration of statutory rights cannot be interpreted as providing any more or any less with respect to [the] duty to bargain than what [the Board has] ruled is afforded under the CMPA").

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effect of the alleged unfair labor practice is widespread; or the public interest is seriously affected; or the Board's processes are being interfered with, and the Board's ultimate remedy may be inadequate." The Board looks to the evidence supporting the request for preliminary relief, which must "establish that there is reasonable cause to believe that the [CMPA] has been violated and that the remedial purpose of the law will be served by *pendente lite* relief."⁴⁹ In determining whether to exercise its discretion to order preliminary relief, the Board need not find irreparable harm.⁵⁰

The Agency argues that preliminary relief is unwarranted because it has been in regular contact with the Union to the extent possible under the circumstances.⁵¹ The Agency asserts that there is no reasonable cause to believe that its actions violate the CMPA.⁵² The Board disagrees. The CMPA states that "an effective collective bargaining process is in the general public interest and will improve the morale of public employees and the quality of service to the public."⁵³ The Agency has taken the declaration of an emergency as *carte blanche* to disregard collective bargaining and to implement unilateral changes. Although the very serious nature of the pandemic calls for swift and deliberate action, the declared state of emergency does not excuse the Agency's sweeping refusal to participate in collective bargaining. The Agency's actions seriously interfere with the Board's process. The Board notes that, had the Agency included the Union in its deliberations, they would likely not be hearing this case. Due to the rapidly changing situation concerning COVID-19, the declared state of emergency, and the conditions at the D.C. Jail, the Board's ultimate remedy may be inadequate.⁵⁴ Therefore, the Board finds that preliminary relief is warranted.

IV. Conclusion

Based on the foregoing, the Board grants the Fraternal Order of Police/ Department of Corrections Labor Committee's Request for Preliminary Relief, in part.

⁴⁹ *Id.*

⁵⁰ *Id.* *NAGE, Local R3-07 v. OUC*, 60 D.C. Reg. 9251, Slip Op. No. 1393 at 6, PERB Case No. 13-U-20 (2013).

⁵¹ DOC Br. at 3.

⁵² DOC Br. at 4.

⁵³ D.C. Official Code § 1-617.08(a)(1).

⁵⁴ Tr. 62-6. Ann-Kathryn So explaining that two bargaining unit employees died due to COVID-19. See U.S. District Court for the District of Columbia Memorandum Opinion ordering preliminary relief and describing the conditions of D.C. jail in *Banks et al. v. Booth et al.*, Civil Action 2020-0849(CKK) (April 19, 2020).

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Order

1. The Fraternal Order of Police/ Department of Corrections Labor Committee's Request for Preliminary Relief is Granted in part.
2. The Department of Corrections shall immediately return Official Time to the *status quo ante*.
3. The Department of Corrections shall bargain forthwith with the Fraternal Order of Police/ Department of Corrections Labor Committee regarding health and safety during the pandemic.
4. The Department of Corrections shall bargain the impact and effects of the transition to a 12-hour shift with the Fraternal Order of Police/ Department of Corrections Labor Committee.
5. The Department of Corrections shall advise the Board within 7 days of the issuance of this decision of the actions it has taken to implement this Order.
6. This Order will be final on issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By a unanimous vote of Board Chairperson Douglas Warshof, Ann Hoffman, Barbara Somson, Mary Anne Gibbons, and Peter Winkler.

April 24, 2020
Washington, D.C.

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order on the Motion for Preliminary Relief in PERB Case No. 20-U-24, Slip Op. No. 1744 was sent by File and ServeXpress to the following parties on this the 24th day of April 2020.

Ann-Kathryn So
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Michael Kentoff
Michael D. Levy
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Relations and Collective Bargaining
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/s/ Royale Simms
Public Employee Relations Board

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order on the Motion for Reconsideration in PERB Case No. 20-U-24 MFR, Slip Op. No.1748 was sent by File and ServeXpress to the following parties on this the 17th day of June 2020.

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/s/ Royale Simms
Attorney Advisor
Public Employee Relations Board

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order on the Motion for Reconsideration in PERB Case No. 18-U-01 MFR, Slip Op. No.1749 was sent by File and ServeXpress to the following parties on this the 17th day of June 2020.

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Attorney Advisor
Public Employee Relations Board

Government of the District of Columbia
Public Employee Relations Board

In the Matter of
Bernard Bryan FOP/DOC Executive Board Member
Darlene Bryant, Tasheanna Harris,
and Nora Thompson
Complainants
v.
Fraternal Order of Police/ Department of
Corrections Labor Committee1
Sean Rosa, President FOP Lodge #12
Respondents
PERB Case No. 19-S-02
Opinion No. 1750

DECISION AND ORDER

I. Statement of the Case

On April 30, 2019, a Standards of Conduct Complaint (Complaint) was filed against the Union’s Chairman alleging violations of the D.C. Official Code § 1-617.03. On June 3, 2019, an Amended Standards of Conduct Complaint (Amended Complaint) was filed and named the Vice-Chairman, Executive Secretary, and Recording Secretary as Respondents in their official capacities (Executive Committee or Respondents). The Amended Complaint alleged violations of D.C. Official Code § 1-617.03(a)(5).

1 See, Clarence E. Mack, et al. and Ellowese Barganier, et al v. FOP/DOC Labor Comm., Slip Op. No. 507, PERB Case Nos. 95-S-03 and 95-S-02 (1997)(holding that “the CMPA's prescribed standards of conduct for labor organizations, as codified under D.C. Code § 1-618.3, are standards that a labor organization must certify are mandated by its operation. A claimed failure to adopt, subscribe or comply with said standards constitutes a cause of action with respect to the labor organizations, not individual employees. D.C. Code § 1-605.2(9). To the extent individual union officers are named as respondents in a standards of conduct complaint, any statutory claims that accrue to them or their actions are not in their personal capacity but rather in their representative capacity as officers and/or agents of FOP.” As such, the FOP is the only required respondent listed in the caption)).

2 The Hearing Examiner recommended dismissing Sean Rosa and FOP Lodge #1 as a Respondent. The Hearing Examiner found that Sean Rosa resigned his position as President of FOP Lodge # 1 on June 12, 2019. The Hearing Examiner found that no factual allegations were made regarding the conduct of Sean Rosa. Finally, the Hearing Examiner found that Sean Rosa had no authority to involve himself in the affairs of the FOP/DOC Labor Committee. The findings are reasonable and supported by Board precedent. Therefore, Sean Rosa and FOP Lodge #1 are dismissed as Respondents to this action.

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The Amended Complaint alleged that the Respondents violated section 1-617.03(a)(5) of the D.C. Official Code by (1) failing to maintain the fiscal integrity of the Union, (2) failing to audit financial records after the alleged fraudulent withdrawals and expenditures of the Chairman,³ (3) operating without a budget,⁴ (4) failing to disclose financial information to the membership related to rent costs and other bills,⁵ (5) inflating per diem and travel expenses, and (6) paying the Executive Committee members a monthly salary in violation of the labor organization's by-laws.⁶

On June 18, 2019, the Respondents filed an Answer to the Amended Complaint. Hearings were held on November 18 and 19, 2019. On January 7, 2020, the Hearing Examiner issued a Report and Recommendation (Report). For the reasons stated herein, the Board adopts the Hearing Examiner's Report and Recommendation, finding that the Respondents violated D.C. Official Code § 1-617.03(a)(5) by failing to maintain the fiscal integrity of the labor organization.

II. Hearing Examiner's Report and Recommendation

A. Background

On or about June 1, 2018, following an election, the Union's Executive Committee began to serve its two-year term.⁷ The Executive Committee has five designated positions, which are Chairman, Vice-Chairman, Executive Secretary, Treasurer, and Recording Secretary.⁸ In or around early August 2018, the Treasurer resigned.⁹

On November 6, 2018, the Executive Committee voted to provide a monthly per diem of \$250 to each Executive Committee member. The per diem replaced the Union's prior practice of reimbursing members for their actual expenses incurred in carrying out their Union responsibilities.¹⁰

On December 28, 2018, the Union held a special election to fill the vacant Treasurer position. After assuming the office on March 5, 2019,¹¹ the Treasurer reviewed financial records and noticed a cash withdrawal slip dated for February 27, 2019, that was presented by the Chairman in the amount of \$8,351. The Treasurer reported that transaction to the Executive

³ Am. Compl. at 8.

⁴ Am. Compl. at 7.

⁵ Am. Compl. at 9.

⁶ Am. Compl. at 8.

⁷ Report at 2.

⁸ Report at 2. The election results were as follows: Chairman-Andra Parker, Vice-chairman-Benjamin Olubasusi, Executive Secretary-Jannease Johnson, Treasurer-Harriette Chester, and Recording Secretary-Laurrine Ellis.

⁹ Report at 2.

¹⁰ Report at 2. Costs included gas, personal vehicle wear and tear, Uber rides, and parking.

¹¹ Report at 2. Bernard Bryan, Complainant, was elected to the position of Treasurer on December 28, 2018, but did not assume office due to previously arranged vacation plans and a decision by the Chairman to set the start date in March 2019.

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Committee.¹² The Executive Committee removed the Chairman's authority to use the Union's credit/debit cards and checks, and scheduled a meeting for March 18, 2019, for the Chairman to discuss the transaction.¹³

The Chairman did not appear at the March 18, 2019, meeting. The Executive Committee voted unanimously to suspend the Chairman based on allegations of misuse of Union funds.¹⁴

On May 6, 2019, the Vice-Chairman called a special, general membership meeting.¹⁵ During the meeting, the Treasurer informed the body that contracts related to the union office, including for rent and utilities, were illegally obtained.¹⁶ The Treasurer refused to make payment on accumulated and current bills, including those rent and utility bills.¹⁷ The general membership passed a motion that directed the Treasurer to pay past due bills and bring them current.¹⁸ When the Treasurer refused to make payment on past due bills, the general membership agreed to place the Executive Secretary on the Union's bank account as an authorized signatory to facilitate payment of the bills.¹⁹

B. Hearing Examiner's Recommendation²⁰

At the hearing, the Respondents argued that the Union was not named as a respondent and, therefore, the Complaint was improperly filed against individuals.²¹ The Hearing Examiner rejected the Respondents' position, holding that the Complaint and Amended Complaint named individuals in their official capacities as elected members of the Union's Executive Committee.²²

Additionally, the Respondents argued that the Complainants' allegations were untimely. The Respondents contended that the Board could not consider allegations related to conduct occurring before December 31, 2019, which is 120 days before the filing of the April 30, 2019, Complaint.²³ The Hearing Examiner found that the 120-day window began on November 8, 2018,

¹² Report at 2.

¹³ Report at 2.

¹⁴ Report at 3. The allegations against the chairman were referred to the Federal Bureau of Investigation and the United States Attorney's Office. The executive committee agreed to cooperate with the FBI by providing bank statements and attending meetings with the FBI.

¹⁵ Report at 3.

¹⁶ Report at 3.

¹⁷ Report at 3.

¹⁸ Report at 3.

¹⁹ Report at 3. On May 16, 2019, the Treasurer continued to refuse to make payment on the bills authorized by the general membership. The Executive Committee moved to add the acting Chairman to the financial accounts and then moved to remove the Treasurer from all Union financial accounts.

²⁰ On October 23, 2019, the Hearing Examiner ordered discovery and the production of documents. On November 18 and 19, 2019, the Hearing Examiner conducted a hearing and received testimony and evidence from the parties. On December 16, 2019, prior to submitting post-hearing briefs to the Hearing Examiner, the Complainants filed a Motion for Sanctions due to the Respondents' refusal to provide certain checks written on the Union's bank, as previously ordered by the Hearing Examiner. On December 18, 2019, the Hearing Examiner denied the Motion for Sanctions.

²¹ Report at 7.

²² Report at 7.

²³ Report at 8.

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based on the date the Treasurer gained access to the Union's accounts.²⁴ The Hearing Examiner held that the allegations in the Amended Complaint from that date were ripe for consideration.²⁵

The Hearing Examiner reviewed the Union's constitution and by-laws and considered the allegations and the statutory requirements of D.C. Official Code § 1-617.03(a)(5).²⁶ The Hearing Examiner found that various provisions of the Union's by-laws²⁷ governed the fiscal integrity of the organization and found one provision of the constitution relevant.²⁸

The Respondents denied any violation of the Union's by-laws or constitution. The Respondents argued that the allegations did not warrant the Board's intervention because the alleged breach would not be enough to find a violation of the Standards of Conduct.²⁹ The Hearing Examiner rejected the Respondents' argument and found that the Board may grant relief if the Complainants provided evidence of actual injury that resulted from the breach of the Union's by-laws.³⁰

The Hearing Examiner found the following: (1) the record was replete with evidence of the Respondents' failure to comply with the Union's by-laws, which caused actual injury to its membership;³¹ (2) the Executive Committee failed to comply with the requirement that signatories on bank accounts be bonded and insured;³² (3) the organization failed to conduct audits;³³ (4) the Executive Committee failed to prepare and ratify an annual budget;³⁴ and (5) requests for reimbursement for travel expenditures were inflated above expenditures.³⁵ Accordingly, the Hearing Examiner held that the above conduct caused actual injury to the membership and that the Union violated D.C. Official Code § 1-617.03(a)(5) by failing to maintain the fiscal integrity of the organization.³⁶

Finally, the Respondents argued that the Complaint did not allege a particularized harm and was improperly filed as a class action. The Hearing Examiner, however, found actual harm, but found no evidence that the Complainants were pursuing a class action.³⁷

²⁴ Report at 8.

²⁵ Report at 8.

²⁶ Report at 4. D.C. Official Code § 1-617.03(a)(5) requires labor organization to mandate "[t]he maintenance of fiscal integrity in the conduct of the affairs of the organization, including provision for accounting and financial controls and regular financial reports or summaries to be made available to members."

²⁷ Report at 4-5 (citing FOP/DOC by-laws provisions 6.4, 7.3, 7.7, 10.1, 10.2, 10.3, 15.1, and 15.2).

²⁸ Report at 5 (citing FOP/DOC Constitution Art. 22 § 6).

²⁹ Report at 6.

³⁰ Report at 6 (citing *Dancy Simpson, Pamela Chase, Ernest Durant et al. v. FOP/DOC Labor Comm.*, Slip Op. No.1601, PERB Case No. 10-S-05, 10-S-07, 10-S-08, 10-S-09 (2016)).

³¹ Report at 6. The Hearing Examiner found that the Treasurer's refusal to pay bills after the approval of the membership violated the by-laws

³² Report at 6 (Provision 10.3).

³³ Report at 6 (Provision 15.2).

³⁴ Report at 6 (Provision 10.1).

³⁵ Report at 7 (Provision 10.2). Although the Hearing Examiner found that reimbursement costs were inflated between November 2018 and July 2019, the Board considers relevant only the violations prior to the filing of the Complaint.

³⁶ Report at 7.

³⁷ Report at 8.

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The Complainants requested a remedy which included removal of the Executive Committee and payment of costs. The Hearing Examiner denied the Complainants' requests and proposed an order which requires the Union to cease and desist from violating the Standards of Conduct and to post a notice to inform the bargaining unit employees.³⁸

III. Discussion

Under Board Rule 544.11, “[t]he party asserting a violation of the CMPA, shall have the burden of proving the allegations of the complaint by a preponderance of the evidence.” The Board has held that “issues of fact concerning the probative value of evidence and credibility resolutions are reserved to the Hearing Examiner.”³⁹ The Board will adopt a Hearing Examiner’s Report and Recommendation if it is reasonable, supported by the record, and consistent with Board precedent.⁴⁰

A. Timeliness

Standards of Conduct complaints shall be filed not later than one hundred twenty (120) days after the date on which the alleged violations occurred.⁴¹ The Board has held that this 120-day period begins when the complainant first knew or should have known about the acts giving rise to the alleged violation.⁴² The record shows that the Treasurer uncovered the evidence of financial misconduct on March 8, 2019.⁴³ Thus, the original Complaint was timely filed on April 30, 2019, fifty-three (53) days after the Complainants knew or should have known of the actions giving rise to the Standards of Conduct complaint. Moreover, the Amended Complaint was timely filed eighty-seven (87) days after the Complainants knew or should have known of the violation on June 3, 2019.

In this case, the Hearing Examiner’s mischaracterization of the period for filing a Complaint was harmless error.⁴⁴ The record supports a finding that the Complaint was timely.

B. The Hearing Examiner’s finding that the Union violated the by-laws was reasonable and supported by the record.

Under D.C. Official Code § 1-617.03(a)(5), labor organizations are required to maintain fiscal integrity while conducting the affairs of the organization, which includes implementing

³⁸ Report at 10.

³⁹ *WTU, Local 6 v. DCPS*, 65 D.C. Reg. 7474, Slip Op. No. 1668 at 5, PERB Case No. 15-U-28 (2018). See *Council of Sch. Officers, Local 4 v. DCPS*, 59 D.C. Reg. 6138, Slip Op. No. 1016 at 6, PERB Case No. 09-U-08 (2010).

⁴⁰ *WTU, Local 6 v. DCPS*, 65 D.C. Reg. 7474, Slip Op. 1668 at 6, PERB Case No. 15-U-28 (2018). See *AFGE, Local 1403 v. D.C. Office of the Attorney General*, 59 D.C. Reg. 3511, Slip Op. No. 873, PERB Case No. 05-U-32 and 05-UC-01 (2012).

⁴¹ Board Rule 544.4.

⁴² *Keith Ellison, Edwin Hull, Tyrone Jenkins, et al. v. FOP/DOC Labor Comm.*, 60 D.C. Reg. 16494, Slip Op. No. 1439 at 3, PERB Case No. 12-U-04 (2013).

⁴³ Report at 8.

⁴⁴ The Hearing Examiner counted backwards by 120 days to November 8, 2018, instead of counting 120 days forward from March 8, 2019.

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financial controls and making regular reports to the membership. The Board has held that a mere breach of a union's internal by-laws or constitution does not establish a violation of the Standards of Conduct.⁴⁵ The Complainants must establish that the labor organization's action or conduct had the proscribed effect set forth in the asserted standard.⁴⁶

In the Report, the Hearing Examiner determined that the Union violated its by-laws, causing injury to the membership and, thus, violating the Standards of Conduct.⁴⁷ The Hearing Examiner found that the Union failed to have signatories on bank accounts bonded and insured,⁴⁸ failed to conduct audits,⁴⁹ failed to prepare and ratify an annual budget,⁵⁰ and reimbursed inflated travel expenditures.⁵¹ Additionally, the Hearing Examiner found that the Treasurer, in his official capacity, violated the by-laws by failing to pay bills authorized by the membership.⁵²

In their Exceptions, the Complainants argue that the Hearing Examiner erred in finding that the Treasurer violated the by-laws.⁵³ The Complainants assert that the Treasurer's refusal to pay bills when there was no audit and no budget amounted to prudence rather than misconduct.⁵⁴

In the Complaint, the Complainants alleged that the Union violated the standards of conduct for labor organizations found in the CMPA, by failing to maintain fiscal integrity. The Hearing Examiner determined that the Union's by-laws required the Treasurer to "pay all bills when approved by the chairman or the membership."⁵⁵ The Hearing Examiner found that the general membership voted to direct the Treasurer to pay all bills to bring them current.⁵⁶ The Hearing Examiner found that, after the vote, the Treasurer refused to pay the bills.⁵⁷ The Hearing Examiner found that the express violation of the by-laws by the Treasurer caused injury to the membership.⁵⁸

The Board finds that the Hearing Examiner's determinations were reasonable, supported by the record, and consistent with Board precedent.

⁴⁵ *E.g., William Corboy, et al. v. FOP/MPD Labor Comm.*, 48 D.C. Reg. 8505, Slip Op. No. 391 at n. 3, PERB Case No. 93-S-01 (1994).

⁴⁶ *Id. See also, Ernest Durant v. FOP/DOC Labor Comm.*, 49 D.C. Reg. 782, Slip Op. No. 430 at n. 2, PERB Case No. 94-U-18 (1995); *Ellowese Barganier, et al. v. FOP/DOC Labor Comm.*, 43 D.C. Reg. 2949, Slip Op. No. 464, PERB Case No. 95-S-02 (1996); *Darcy Simpson et al. v. FOP/DOC Labor Comm.*, 64 D.C. Reg. 709, Slip Op. No. 1601 at 3, PERB Case Nos. 10-S-05, 10-S-07, 10-S-08, 10-S-09 (2016).

⁴⁷ Report at 6.

⁴⁸ Report at 6 (Provision 10.3).

⁴⁹ Report at 6 (Provision 15.2).

⁵⁰ Report at 6 (Provision 10.1).

⁵¹ Report at 7 (Provision 10.2). Although the Hearing Examiner found that reimbursement costs were inflated between November 2018 and July 2019, the Board only considers the violations to the date of the filing of the Complaint relevant.

⁵² Report at 6.

⁵³ Exceptions at 2.

⁵⁴ Exceptions at 3.

⁵⁵ Report at 4. (Provision 6.4).

⁵⁶ Report at 3.

⁵⁷ Report at 3.

⁵⁸ Report at 6.

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C. The Hearing Examiner's remedy was reasonable and supported by the record.

In the Report, the Hearing Examiner determined that the Complainants' demand to remove the Executive Committee would be more appropriately addressed by the general membership either under the internal union by-law procedures or in the union's next election.⁵⁹

In its Exceptions, the Complainants disagree with the remedy provided in the Report and appear to argue that the remedy requires the membership to wait for an Executive Committee election to address financial misconduct.⁶⁰

The record shows that the general membership had exercised its internal procedures and impeached an elected officer earlier in the same course of events. Considering this record, the Board finds that the Hearing Examiner's determination that removal is best addressed by the general membership is reasonable, supported by the record, and consistent with Board precedent.⁶¹

The Complainants also argue that the Hearing Examiner erred by not permitting an award of costs.⁶² The Complainants misconstrue the Hearing Examiner's finding on costs. The Hearing Examiner found that the Board has the authority to award costs but found that nothing in the record warranted providing this relief.⁶³ The Board awards costs when (1) the party requesting costs prevails in at least a significant part of litigation and costs are attributable to that portion of the litigation, (2) the costs are reasonable, and (3) the award is in the interest of justice.⁶⁴

Although the Complainants prevailed, the Hearing Examiner found neither oppressive conduct nor frivolous litigation that would warrant an award of costs.⁶⁵ The Hearing Examiner found that an award of costs would not be in the interest of justice.⁶⁶ The Board finds that the Hearing Examiner's determinations were reasonable, supported by the record, and consistent with Board precedent.

⁵⁹ Report at n.5.

⁶⁰ Exceptions at 3.

⁶¹ See generally, 29 CFR § 417.1 (implementing section 401(h) of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 481) providing a remedy for removal of local elected union officers found guilty of serious misconduct including notice, hearing, and secret ballot vote of membership in good standing, when constitution and by-laws do not provide an adequate procedure for removal).

⁶² Exceptions at 3.

⁶³ Report at n.5.

⁶⁴ *AFGE, Local 2725 ex rel. Sandra McNair and Gerald Roper v. DCRA*, Slip Op. No. 1436 at 2, PERB Case No. 09-U-24 and 12-U-30 (2013).

⁶⁵ Report at n.5.

⁶⁶ See, *Wendell Cunningham v. FOP/MPD Labor Comm.*, 50 D.C. Reg. 2403, Slip Op. No. 693 at 2, PERB Case No. 01-U-04 and 01-S-01 (2002) (quoting *AFSCME, D.C. Council 20, Local 2776 v. D.C. Dept. of Finance and Revenue*, 37 DCR 5658, Slip Op. No. 245, PERB Case No. 89-U-02 (1990) ("Just what characteristics of a case will warrant the finding that an award of costs will be in the interest of justice cannot be exhaustively catalogued. We do not believe it possible to elaborate in any one case a complete set of rules or earmarks to govern all cases, nor would it be wise to rule out such awards in circumstances that we cannot foresee. What we can say here is that among the situations in which such an award is appropriate are those in which the losing party's claim or position was wholly without merit, those in which the successfully challenged action was undertaken in bad faith, and those in which a reasonably foreseeable result of the successfully challenged conduct is the undermining of the union among the employees for whom it is the exclusive bargaining representative."))

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Concerning the posting of a notice, the Board adopts the Hearing Examiner's remedy requiring that the Union post a notice acknowledging that it violated the CMPA. The Board has added greater specificity to the notice to be posted. The Board has previously noted that the overriding purpose and policy of relief afforded under the CMPA is the protection of rights for all employees.⁶⁷ It is in furtherance of the protection of employee rights that the Board's remedy requires the posting of a notice to all employees concerning the violation found and the relief afforded.⁶⁸ A notice posting requirement serves as a strong warning against future violations.⁶⁹

D. The Hearing Examiner's refusal to impose sanctions against the Respondents was reasonable and supported by the record.

Prior to issuing the Report, the Hearing Examiner denied a Motion for Sanctions filed by the Complainants.⁷⁰ The Complainants requested sanctions against the Respondents for failing to comply with the discovery orders.⁷¹ The Hearing Examiner found that the Respondents complied with several requests and that the record contained ample evidence to make a final determination on the allegations of the Amended Complaint.⁷²

In its Exceptions, the Complainants argue that the Hearing Examiner erred in ignoring the Respondents' failure to produce some of the evidence ordered in discovery.⁷³ The Complainants assert that the additional evidence would likely reveal financial improprieties.⁷⁴ The Complainants contend that the proper remedy for the "Respondents' misconduct cannot be fashioned if the extent of the misconduct remains hidden or unknown."⁷⁵ The Complainants requests that the Board compel production and allow further evidence to be entered into the record.⁷⁶

Hearing examiners have broad powers in determining the admissibility of evidence.⁷⁷ The Hearing Examiner is empowered under Board Rule 550.13 to compel the discovery of relevant

⁶⁷ *Wendell Cunningham v. FOP/MPD Labor Comm.*, 49 D.C. Reg. 7773, Slip Op. No. 682 at 7, PERB Case No. 01-U-04 and 01-S-01 (2002) (citing *Charles Bagentose v. DCPS*, 41 DCR 1493, Slip Op. No. 283 at p.3, PERB Case No. 88-U-33 (1991)).

⁶⁸ *Wendell Cunningham v. FOP/MPD Labor Comm.*, Slip Op. No. 682 at 7.

⁶⁹ *Id.*

⁷⁰ Order denying Motion for Sanctions at 2.

⁷¹ Order denying Motion for Sanctions at 2.

⁷² Order denying Motion for Sanctions at 2.

⁷³ Exceptions at 1.

⁷⁴ Exceptions at 2.

⁷⁵ Exceptions at 2.

⁷⁶ Exceptions at 2.

⁷⁷ See PERB Rule 550.13(f), "Hearing Examiners shall have the duty to conduct fair and impartial hearings, to take all necessary action to avoid delay in the disposition of proceedings, and to maintain order. Hearing Examiners shall have all powers necessary to that end including, but not limited to, the power to: (f) Call and examine witnesses and introduce or exclude documentary or other evidence." See also, PERB Rule 550.16, "In hearings before Hearing Examiners, strict compliance with the rules of evidence applied by the courts shall not be required. The Hearing Examiner shall admit and consider proffered evidence that possesses probative value. Evidence that is cumulative or repetitious may be excluded."

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evidence⁷⁸ and rule upon motions.⁷⁹ The Hearing Examiner considered the evidence and determined that the Respondents violated the Standards of Conduct by failing to maintain the fiscal integrity of the labor organization.⁸⁰ The Board finds that Hearing Examiner's determination regarding the amount of evidence necessary to develop a full factual record and remedy the Respondents' misconduct was reasonable, supported by the record, and consistent with Board precedent.⁸¹

IV. Conclusion

The Board, in total, finds that the Hearing Examiner's Report and Recommendation is reasonable, supported by the record, and consistent with Board precedent. The Board concludes that Fraternal Order Police/Department of Corrections Labor Committee violated D.C. Official Code § 1-617.03(a)(5) of the Comprehensive Merit Personnel Act.

ORDER

1. The Fraternal Order of Police/ Department of Corrections Labor Committee and its officers and its agents shall cease and desist from violating its by-laws, constitution, and the CMPA by failing to have signatories on bank accounts be bonded and insured, failing to conduct audits, failing to prepare and ratify an annual budget, and failing to issue appropriate reimbursements.
2. The Fraternal Order of Police/ Department of Corrections Labor Committee shall cease and desist from failing to adopt, subscribe, or comply with the Standards of Conduct for labor organizations prescribed under the CMPA in any like or related manner.
3. The Fraternal Order of Police/ Department of Corrections Labor Committee shall conspicuously post, within fourteen (14) calendar days of the service of this decision and order, the attached Notice detailing its violations of the CMPA at all places where notices to bargaining unit employees are customarily posted. Said Notice shall be posted for thirty (30) consecutive days.
4. The Fraternal Order of Police/ Department of Corrections Labor Committee shall provide the attached notice via email, within fourteen (14) calendar days of the service of this decision and order, to all bargaining unit members for which the Union has an email address.
5. Within twenty-one (21) days of the service of this decision and order, the Fraternal Order of Police/ Department of Corrections Labor Committee shall notify the Board in writing that the Notice has been posted as ordered.

⁷⁸ PERB Rule 550.13(d).

⁷⁹ PERB Rule 550.13(c).

⁸⁰ Report at 10.

⁸¹ *E.g., WTU, Local 6 v. DCPS*, 65 D.C. Reg. 7474, Slip Op. 1668 at 6, PERB Case No. 15-U-28 (2018).

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BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of Board Chairperson Douglas Warshof, Ann Hoffman, Barbara Somson, Mary Anne Gibbons, and Peter Winkler

May 28, 2020
Washington, D.C

NOTICE

TO ALL EMPLOYEES REPRESENTED BY THE FRATERNAL ORDER OF POLICE /DEPARTMENT OF CORRECTIONS LABOR COMMITTEE, 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. 1750, PERB CASE NO. 19-S-02.

WE HEREBY NOTIFY the bargaining unit that the District of Columbia Public Employee Relations Board has found that we violated the law and has ordered us to post this notice.

WE WILL cease and desist from violating our by-laws, constitution, and the CMPA by failing to have signatories on bank accounts be bonded and insured, failing to conduct audits, failing to prepare and ratify an annual budget, and failing to issue appropriate reimbursements.

WE WILL NOT, in any like or related manner, fail to maintain the fiscal integrity of the labor organization.

WE WILL adopt, subscribe, or comply with the Standards of Conduct for labor organizations prescribed under the CMPA.

Fraternal Order of Police/ Department of Corrections Labor Committee

Date: _____

By: _____

(Chancellor)

This Notice must remain posted electronically for thirty (30) consecutive days from the date of posting and must not be altered.

If employees have any questions concerning the Notice or compliance with any of its provisions, they may communicate directly with the Public Employee Relations Board, by email at perb@dc.gov, by mail at 1100 4th Street SW, Suite 630E, Washington, D.C. 20024. Phone: 202-727-1822.

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 19-S-02, Slip Op. No.1750 was sent by File and ServeXpress to the following parties on this the 17th day of June 2020.

Eden Brown Gaines
Brown Gaines, LLC
10 G Street, NE, Suite 600
Washington, D.C. 20002

J. Michael Hannon
J. Scott Hagood
333 8th Street, NE,
Washington, D.C. 20002

/s/ Royale Simms
Attorney Advisor
Public Employee Relations Board

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL TARIFF

PEPPOR 2020-01, PURCHASE OF RECEIVABLES

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to Sections 34-802 and 2-505 of the District of Columbia Official Code,¹ and pursuant to Order No. 17052 directing the Potomac Electric Power Company (Pepco or the Company) to implement a Purchase of Receivables (POR) program in the District of Columbia,² of its final tariff action approving Pepco's tariff filing revising the POR tariff and Supplier Discount Rate.³ The Commission issued a Notice of Proposed Tariff (NOPT) published in the *D.C. Register* on May 8, 2020,⁴ inviting comments on Pepco's proposed tariff.

2. Pepco initially implemented the POR Supplier Discount on October 7, 2013. This Proposed Tariff represents Pepco's most current POR Supplier Discount Rate true-up and is derived based on POR activity from January through December 2019. Pepco's proposed tariff modifies the Company's Electric Supplier Coordination Tariff (Electric Supplier—P.S.C. of D.C. No. 1). Attachment A to the Proposed Tariff provides language of the Supplier Tariff, Schedule 3, which describes in detail the components and derivation of the POR Supplier Discount Rates, including the proposed Discount Factors.⁵ The Proposed Tariff revises the following tariff pages:

Electricity Supplier Coordination Tariff, P.S.C. of D.C. No.1**(Current) Sixth Revised Page No. i****(New) Seventh Revised Page No. i****(Current) Sixth Revised Page No. ii****(New) Seventh Revised Page No. ii****(Current) Sixth Revised Page No. iii****(New) Seventh Revised Page No. iii****(Current) Sixth Revised Page No. iv****(New) Seventh Revised Page No. iv****(Current) Third Revised Page No. 41****(New) Fourth Revised Page No. 41****and (Current) Third Revised Page No. 42****(New) Fourth Revised Page No. 42**

¹ D.C. Official Code §§ 34-802 (2019 Repl.) and 2-505 (2016 Repl.).

² *Formal Case No. 1085, In the Matter of the Investigation of a Purchase of Receivables Program in the District of Columbia (Formal Case. No. 1085)*, Order No. 17052, issued January 18, 2013.

³ *PEPPOR 2020-01, Purchase of Receivables Tariff Filing*, filed April 15, 2020 (Proposed Tariff).

⁴ 67 *D.C. Reg.* 004960-004962 (May 8, 2020).

⁵ Proposed Tariff Attachment A at 7-8.

3. Pepco proposes to apply a discount rate on the receivables associated with Residential customers of 0.0000% on Schedules R and MMA, 0.0000% on receivables associated with Small Commercial customers, schedules GS-LV ND, T, SL, TS, TN and OL-LED, 0.0000% on the receivables associated with Large Commercial customers, schedules GS-LV, GS-3A, MGT-LV, GT-LV, GT-3A, GT-3B and RT, and finally 0.0000% for Market Priced Service Customers, schedules GSLV-ND, GS-LV, GS-3A, MGT-LV, GT-LV, GT-3A, T, SL, AND TS.

4. Pepco explains in Attachment B through Attachment D of the Proposed Tariff how the Discount Rates are derived using the POR data for the period January through December 2019. Pepco states that Attachment B to this tariff filing is a summary showing the results of the Write-Offs, including Reinstatements, and Late Payment Revenues expressed as a percentage of Third-Party Supplier Revenues for Residential Customers served under Schedules R and MMA, Small Commercial customers served under Schedules GS-LV-ND, T, SL, TS, TN and OL-LED, Large Commercial customers served under Schedules GS-LV, GS-3A, MGT-LV, GT- LV, GT-3A, GT-3B and RT, and Market Priced Service customers served under Schedules GS-LV-ND, GS-LV, GS-3A, MGT-LV, GT-LV, GT-3A, T, SL and TS.

5. In Order No. 16916,⁶ the Commission approved a Risk Component to be included in the Discount Rate. In the same Order, the Commission allowed for a Cash Working Capital adjustment. Pepco states that the Commission directed in that Order that both the Risk Component and Cash Working Capital adjustment be set to zero and that they may not be changed without the Commission's written authorization.⁷ Pepco provides that the Risk Component and the Cash Working Capital adjustment are therefore set to zero. Pepco states that the Interest and Reconciliation Factors are added to arrive at the Discount Rates for each of the four rate classes described above.

6. Pepco states that Attachment C lists from January through December 2019, by month and by customer type Electric Revenues Billed, less POR Discounts, Net Electric Revenues Billed, Late Payment Revenues, and Write-Offs, net of Reinstatements. There is a timing difference of about six months between billing the customer and writing off the account as uncollectible. Pepco represents that its policy for uncollectibles is to write off delinquent accounts after 120 days. The interest, according to Pepco, is calculated based on the cumulative Over/(Under) Collection of POR Discounts less Write-Offs, plus Late Fee Revenues at 7.45% per Order No. 19433⁸ with an effective date of August 13, 2018.

⁶ *Formal Case No. 1085, In the Matter of the Investigation of a Purchase of Receivables Program in the District of Columbia*, Order No. 16916, rel. September 20, 2012 (Order No. 16916) at 32.

⁷ Order No. 16916 at 34.

⁸ *Formal Case No. 1150, In the Matter of the Application of Potomac Electric Power Company for Authority to Increase Existing Retail Rates and Charges for Electric Distribution Service*, and *Formal Case No. 1151, In the Matter of the Impact of the Tax Cuts and Jobs Act of 2017 on the Existing Distribution Service Rates and Charges for Potomac Electric Power Company and Washington Gas Light Company*, Order No. 19433, rel. August 9, 2018, at 24.

7. Pepco states that Attachment D provides the detailed calculation by customer type for the Reconciliation and Interest Factor. Pepco explains that the Reconciliation factor is derived by first adding the POR Discounts less Write-Offs, plus Late Fee Revenues and Interest Expense, less Amortization of Program Cost. Pepco explains further that the net Over/(Under) Collection is then divided by the Electric Revenues billed for January through December 2019 to arrive at the Reconciliation factor. Pepco states that the Interest Factor is derived by dividing the Interest listed on Attachment C by the Electric Revenues billed for January 1 through December 31, 2019.

8. Pepco states that because the Program Development and Operation Cost is fully amortized, Attachments E through G are omitted in this tariff filing. Pepco requests that the Commission accept these proposed POR Discount Rates with the effective date of June 1, 2020.

9. The Commission issued an NOPT published in the *D.C. Register* on May 8, 2020, giving notice of the Commission's intent to act upon Pepco's Proposed POR Tariff. The Retail Energy Supply Association (RESA) filed comments regarding Pepco's prospective request to exclude Late Payment Fees from the POR discount calculation effective June 1, 2021, an issue that was not reflected in the POR Tariff under consideration.⁹ The Commission at its regularly scheduled open meeting held on July 1, 2020, and in Order No. 2xxxx, took final action approving Pepco's Proposed POR Tariff. Pepco's Proposed POR Tariff shall become effective upon publication of this Notice of Final Tariff in the *D.C. Register*.

⁹ *PEPPOR 2020-01, Purchase of Receivables*, Comments of the Retail Energy Supply Association, filed June 5, 2020.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL TARIFF

PEPRADR 2020-01, THE POTOMAC ELECTRIC POWER COMPANY'S
RESIDENTIAL AID DISCOUNT COMPLIANCE REPORTS AND FILINGS;

AND

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,

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to Section 34-802 of the District of Columbia Code and in accordance with Section 2-505 of the District of Columbia Code,¹ of its final action approving the Potomac Electric Power Company's (Pepco or Company) Rider - Residential Aid Discount Surcharge (Rider RADS) filed on April 15, 2020.² The Commission issued a Notice of Proposed Tariff (NOPT), which was published in the *D.C. Register* on May 29, 2020, inviting comments on Pepco's Rider RADS Update.³

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

¹ D.C. Code § 2-505 (2019 Repl.) and D.C. Code § 34-802 (2012 Repl.).

² *PEPRADR 2020-01, In the Matter of Potomac Electric Power Company's Residential Aid Discount Compliance Reports and Filings (PEPRADR 2020-01) and 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)*, Potomac Electric Power Company's (Pepco) Rider - Residential Aid Discount Surcharge (Rider RADS), filed April 15, 2020.

³ 67 *D.C. Reg.* 005643-005645 (May 29, 2020).

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 (Formal Case No. 1053)*, 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 (2016).

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.

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), which is equal to the full Distribution Charge plus certain applicable surcharges.⁷ The new methodology for calculating the RAD subsidy became effective on June 1, 2016.⁸

4. On April 15, 2020, in compliance with the Act of 2010 and Order Nos. 15986 and 18059, Pepco filed its annual update to the Rider RADS. Pepco states that this is the third RAD Surcharge filing since the new program was established. Based upon our review of the Rider RADS, Pepco's filing is consistent with the approved 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

**One Hundred Ninth Revised Page No. R-1
Superseding One Hundred Eighth Revised Page No. R-1**

**One Hundred Ninth Revised Page No. 2
Superseding One Hundredth Eighth Revised Page No. 2**

**One Hundred Second Revised Page No. R-2.1
Superseding One Hundred First Revised Page No. R-2.1**

**One Hundred Second Revised Page No. R-2.2
Superseding One Hundred First Revised Page No. R-2.2**

**Eleventh Revised Page No. R-46
Superseding Tenth Revised Page No. R-46**

5. In its tariff filing, Pepco provides the RADS true-up calculation from June 2019 through February 2020 and the calculation of the new RAD Surcharge.⁹ Pepco asserts that the RAD Surcharge collections from this period resulted in an over-collection of \$1,210,738.¹⁰ Pepco's filing also forecasts an over-collection of \$335,597 from March through May 2020.¹¹

September 20, 2010.

⁷ *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 *PEPRADR 2020-01*, Rider RADS at 1; Attachment B.

¹⁰ *PEPRADR 2020-01*, Rider RADS at 1; Attachment B at 2.

¹¹ *PEPRADR 2020-01*, Rider RADS at 1; Attachment B at 1, 3.

6. Pepco asserts that the estimated cost of the RAC from June 2020 through May 2021 is \$5,335,708 and is also included in the calculation of the surcharge.¹² Pepco calculates that the estimated cost is below the level of \$5.75 million established in Order Nos. 15986 and 17545.¹³ Pepco speculates that future subsidy amounts may increase if more customers participate in the program, but the Company pledges its support of increasing future subsidy levels to accommodate participation growth.¹⁴

7. Pepco calculates that as a result of the over-collection from June 2016 through May 2020 and the cost of the RAC from June 2019 through May 2020, the RAD Surcharge will decrease from the current surcharge rate of \$0.000634 per kilowatt-hour, which became effective November 19, 2019, to the proposed \$0.000477 per kilowatt-hour.¹⁵

8. No comments were filed in response to the NOPT. The Commission at its regularly scheduled open meeting held on July 1, 2020, took final action approving Pepco's Rider RADS Update. Pepco's Rider RADS Update becomes effective upon publication of this Notice of Final Tariff in the *D.C. Register*.

¹² PEPRADR 2020-01, Rider RADS at 1; Attachment B at 1, 4.

¹³ PEPRADR 2020-01, Rider RADS at 1.

¹⁴ PEPRADR 2020-01, Rider RADS at 1-2.

¹⁵ PEPRADR 2020-01, Rider RADS at 2; Attachment A.

ROCKETSHIP DC PUBLIC CHARTER SCHOOLS

REQUEST FOR PROPOSALS

Food Services

Rocketship Education DC 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 2020-2021 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 Request for Proposal (RFP) such as; student data, days of service, meal quality, etc. may be obtained beginning on **June 26, 2020** from **Kelly Giampaoli at (408) 507-6052 or kgiampaoli@rsed.org**.

Proposals will be accepted at **kgiampaoli@rsed.org** until **July 16, 2020** no later than **6:00 PM EST**.

All bids not addressing all areas as outlined in the RFP will not be considered.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Audit Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Audit Committee will be holding a meeting on Thursday, July 23, 2020 at 9:30 a.m. The meeting will be held in the Board Room (2nd floor) at 1385 Canal Street, S.E. (use 125 O Street, S.E. for directions), Washington, D.C. 20003. Below is the draft agenda for this meeting. A final agenda will be posted to the Board of Directors Calendar on DC Water’s website at www.dewater.com. Due to COVID-19, the General Manager has suspended public access to DC Water facilities. Please see the website for remote access information for the meetings.

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

DRAFT AGENDA

- | | | |
|----|---|------------------|
| 1. | Call to Order | Chairperson |
| 2. | Summary of Internal Audit Activity -
Internal Audit Status | Internal Auditor |
| 2. | Executive Session | Chairperson |
| 3. | Adjournment | Chairperson |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**BOARD OF DIRECTORS****NOTICE OF PUBLIC MEETING****Finance and Budget Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Finance and Budget Committee will be holding a meeting on Thursday, July 23, 2020 at 11:00 a.m. The meeting will be held in the Board Room (2nd floor) at 1385 Canal Street, S.E. (use 125 O Street, S.E. for directions), Washington, D.C. 20003. Below is the draft agenda for this meeting. A final agenda will be posted to the Board of Directors Calendar on DC Water's website at www.dewater.com. Due to COVID-19, the General Manager has suspended public access to DC Water facilities. Please see the website for remote access information for the meetings.

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 | Committee Chairperson |
| 2. | June 2020 Financial Report | Committee Chairperson |
| 3. | Agenda for September 2020 Committee Meeting | Committee Chairperson |
| 4. | Adjournment | Committee Chairperson |

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

Application No. 19134-C of The Embassy of Zambia, pursuant to 11 DCMR Subtitle Y § 703, for a modification of consequence to the time limit condition of BZA Order No. 19134, as modified by BZA Order Nos. 19134-A and 19134-B, to allow the temporary location of a chancery in the in the R-3 Zone at premises 2200 R Street N.W. (Square 2512, Lot 808).

HEARING DATES (19134):	October 27 and November 10, 2015
DECISION DATE (19134):	November 10, 2015
ORDER ISSUANCE DATE (19134):	February 23, 2016
FIRST MODIFICATION DECISION (19134-A):	February 15, 2017
SECOND MODIFICATION DECISION (19134-B):	March 21 and April 18, 2018
THIRD MODIFICATION DECISION (19134-C):	May 6 and May 27, 2020

NOTICE OF FINAL RULEMAKING
and
DETERMINATION AND ORDER

The Board of Zoning Adjustment (the “Board”), pursuant to the authority set forth in § 4306 of the Foreign Missions Act, approved August 24, 1982 (96 Stat. 283; 22 U.S.C. § 4306; D.C. Official Code § 6-1306 (2018 Repl.)); pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797), as amended; D.C. Official Code § 6-641.01 (2018 Repl.); pursuant to § 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2016 Repl.)); and pursuant to Subtitle X of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all references herein are made unless otherwise specified) hereby gives notice that it took **FINAL ACTION NOT TO DISAPPROVE** the application of The Embassy of Zambia (the “Applicant”) for a modification of consequence (the “Application”) to the conditions of BZA Order No. 19134 (the “Original Order”), as previously modified by BZA Order Nos. 19134-A and 19134-B, to continue to allow the temporary location of a chancery in the D/R-3 District at premises 2200 R Street, N.W. (Square 2512, Lot 808) (the “Property”).

BACKGROUND
Original Order

Pursuant to the Original Order, the Board determined not to disapprove the Applicant’s request to temporarily locate its chancery operations at the Property for a period of one year while its permanent location at 2419 Massachusetts Avenue, N.W. (the “Permanent Chancery”) underwent renovations. The Original Order was issued on February 23, 2016, and contained one condition, as follows:

1. Approval of the temporary use is granted for a period to end on December 31, 2016.

First Modification

On November 9, 2016, the Applicant filed a request for a modification of consequence to modify the condition of the Original Order to allow the temporary use of the Property to continue for an additional year, as the renovations of the Permanent Chancery were not yet completed (the “First Modification”).

The Board determined not to disapprove the First Modification, and Order No. 19134-A was issued on May 8, 2017, with the following revised condition:

1. Approval of the temporary use is granted for a period to end on December 31, 2017.

Second Modification

On January 26, 2018, the Applicant filed a second request for modification of consequence to modify the condition limiting the term of approval to continue for an additional year because the renovations on the Permanent Chancery were not yet complete (the “Second Modification”).

The Board determined not to disapprove the Second Modification on April 18, 2018, and Order No. 19134-B was issued on May 2, 2018, with the following revised condition:

1. Approval of the temporary use is granted for a period to end on January 31, 2020.

THE APPLICATION

On February 4, 2020, the Applicant filed the Application (Exhibit 1-5) requesting a third modification of the condition limiting the term of approval to continue to May 31, 2021 because the Zambian government has provided the resources to renovate the Permanent Chancery, with construction anticipated to start in May 2020 and to be completed within one year. (Exhibit 7.) The Application proposed no other changes to the scope or intensity of the temporary use not disapproved by the Original Order, as modified by the First and Second Modifications.

RESPONSES TO THE APPLICATION

Pursuant to Subtitle Y §§ 703.8-703.9, the request for modification of consequence shall be served on all other parties to the original application and those parties shall be allowed at least ten days to submit a response to the request. Although there were no parties to BZA Case No. 19134 as it was a rulemaking proceeding,¹ the Applicant served the Application on Advisory Neighborhood Commission (“ANC”) 2D and the Office of Planning (“OP”) on February 6, 2020. (Exhibit 5)

The ANC submitted a report (Ex. 8, the “ANC Report”) indicating that at a regularly scheduled, properly noticed public meeting on February 10, 2020, at which a quorum was present, the ANC

¹ Pursuant to Subtitle X § 203.2, an application to locate, replace, or expand a chancery use not otherwise permitted as a matter-of-right, to implement the Foreign Missions Act, approved August 24, 1982 (96 Stat. 282, as amended; D.C. Official Code §§ 6-1301 to 6-1315 (2018 Repl.)) shall be considered a rulemaking proceeding. Under Subtitle Z § 506.2, there are no parties to a rulemaking proceeding.

voted to support the Application, based on the condition that the property lease is renewed for no longer than one year.

OP submitted an April 24, 2020, report (Ex. 10, the “OP Report”) recommending that the Board not disapprove the Application.

A notice of proposed rulemaking was published in the April 3, 2020, edition of the *D.C. Register* (67 DCR 3896). No comments were received in response.

FOREIGN MISSIONS ACT CRITERIA

In reviewing a modification of consequence, the Board applies the standards applicable to the original application. Pursuant to § 4306(d) of the Foreign Missions Act (96 Stat. 283; 22 U.S.C. § 4306(d), D.C. Official Code § 6-1306(d)), the Board must consider the six following enumerated criteria when reviewing a chancery application:

1. **The international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the Nation’s Capital.**

The Board concludes that the Application meets this criterion based on the U.S. Department of State (“DOS”)’s May 22, 2020, letter stating the determination that favorable action on the Application would fulfill the international obligation of the United States to facilitate the Embassy of Zambia in acquiring adequate and secure premises to carry out their diplomatic mission. (Ex. 8.)

2. **Historic preservation, as determined by the Board of Zoning Adjustment in carrying out this section; and in order to ensure compatibility with historic landmarks and districts, substantial compliance with District of Columbia and federal regulations governing historic preservation shall be required with respect to new construction and to demolition of or alteration to historic landmarks.**

The Board concludes that the Application meets this criterion because it only proposes to extend the temporary use of the Property allowed by the Original Order, which had been approved based partly on the OP Report in BZA Case No. 19134, that stated that although the Property is located within the Sheridan-Kalorama Historic District, staff of the Historic Preservation Office expressed no concerns about the proposed temporary location of the chancery, as no changes to the existing structure were proposed. (See OP Report, Ex. 26 in the record of BZA Application No. 19134 (the “Original OP Report”).)

3. **The adequacy of off-street or other parking and the extent to which the area will be served by public transportation to reduce parking requirements, subject to such special security requirements as may be determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services.**

The Board concludes that the Application meets this criterion because:

BZA APPLICATION NO. 19134-C
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- The Application only proposes to extend the temporary use of the Property allowed by the Original Order, which had been approved partly on the Original OP Report, which stated that the proposed temporary use made no alteration that would affect the adequacy of on-site parking for the Property and that the Property is adequately served by public transportation, including the Dupont Circle Metrorail station and various Metrobus routes; and
- DOS had determined, based on consultations with the Federal agencies authorized to perform protective services, that no special security requirements relating to parking apply to the Application. (Ex. 18.)

4. **The extent to which the area is capable of being adequately protected, as determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services.**

The Board concludes that the Application meets this criterion based on DOS's determination, based on consultation with Federal agencies authorized to perform protective services, that the Property is capable of being adequately protected. (Ex. 18.)

5. **The municipal interest, as determined by the Mayor.**

The Board concludes that the Application meets this criterion because:

- The Application only proposes to extend the temporary use of the Property allowed by the Original Order, which had been approved based partly on the Original OP Report, which had determined, on behalf of the Mayor of the District of Columbia, that approving the Original Application was in the municipal interest and generally consistent with the Comprehensive Plan for the Nation's Capital and the Zoning Regulations; and
- The OP Report determined that no changes are proposed to the scope or intensity of the temporary use beyond the extension of the approval deadline. (Ex. 10.)

6. **The federal interest, as determined by the Secretary of State.**

The Board concludes that the Application meets this criterion based on DOS's determination that the federal interest supports the Application based on the Embassy of Zambia's generous assistance in accommodating security requirements for the U.S. Embassy in Lusaka, an example of the cooperation essential for successfully achieving the Federal Government's mission for providing safe, secure, and functional facilities for the conduct of U.S. diplomacy and the promotion of U.S. interests worldwide. (Ex. 18.)

"GREAT WEIGHT" TO THE RECOMMENDATIONS OF OP

The Board must give "great weight" to the recommendation of OP pursuant to § 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 (2018 Repl.) and Subtitle Y § 405.8. *Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).

The Board credits the analysis of the OP Report and finds its recommendation that the Application should be not disapproved persuasive and concurs in that judgement. (Ex. 10.)

“GREAT WEIGHT” TO THE WRITTEN REPORT OF THE ANC

The Board must give “great weight” to the issues and concerns of the affected ANC expressed in a written report of an affected ANC that was approved by the full ANC at a properly noticed meeting that was open to the public pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.)) and Subtitle Y § 406.2. To satisfy this great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” *Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978).

The Board finds the ANC Report’s concern that the proposed extension be limited to a one-year extension of the lease for the Property persuasive and concludes that the Application’s proposed termination on May 31, 2020, addresses this concern. The Board concurs with the ANC Report’s support for the Application.

DECISION

Based upon its consideration of the six criteria discussed above, and having given great weight to the ANC, the Board decides not to disapprove the request to modify the condition of Order No. 19134, as previously modified by Order Nos. 19134-A and 19134-B, to allow the temporary location of a chancery in the D/R-3 District at premises 2200 R Street, N.W. and therefore **ORDERS** that the application is **NOT DISAPPROVED**, subject to the following **CONDITION**:

1. Approval of the temporary use is granted for a period to end on May 31, 2021.

VOTE (May 27, 2020) **4-0-1** (Frederick L. Hill, Peter G. May, Lorna L. John, and Marcel C. Acosta to **NOT DISAPPROVE**; one Board seat vacant.)

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

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

FINAL DATE OF ORDER: June 29, 2020

PURSUANT TO 11 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. 19134-C
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**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 20059 of 5804 Field LLC, as amended,¹ pursuant to 11 DCMR Subtitle X, Chapter 10, for area variances from the minimum lot dimension requirements of Subtitle D § 302.1 and from the minimum side yard setback requirements of Subtitle D § 206.2 to construct a new three-story detached principal dwelling unit in the R-2 zone at premises 5804 Field Place, N.E. (Square 5255, Lot 821).

HEARING DATES: July 10, 2019; September 18, 2019
DECISION DATE: September 18, 2019

DECISION AND ORDER

5804 Field LLC (the “**Applicant**”) filed an application (the “**Application**”) with the Board of Zoning Adjustment (the “**Board**”) on April 28, 2019, which was subsequently amended to request the following relief from the requirements of Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016, the “**Zoning Regulations**,” to which all references are made unless otherwise specified):

- An area variance from the minimum lot dimension requirements of Subtitle D § 302; and
- An area variance from the minimum side yard setback requirements of Subtitle D § 206.2,

to construct a new three-story detached principal dwelling unit in the R-2 Zone at premises 5804 Field Place, N.E. (Square 5255, Lot 821) (the “**Property**”). For the reasons explained below, the Board voted to **APPROVE** the Application.

FINDINGS OF FACT
I. BACKGROUND

NOTICE

1. Pursuant to Subtitle Y §§ 400.4 and 402.1, the Office of Zoning (“**OZ**”) sent notice of the Application and the July 10, 2019 hearing by a May 31, 2019 letter to:
 - the Applicant;
 - Advisory Neighborhood Commission (“**ANC**”) 7C, the “affected ANC” pursuant to Subtitle Y § 101.8;
 - the Single Member District (“**SMD**”) Commissioner for 7C06;
 - the Office of ANCs;
 - the Office of Planning (“**OP**”);
 - the District Department of Transportation (“**DDOT**”);

¹ The Applicant amended the application by submitting a revised memorandum from the Zoning Administrator clarifying that the relief must be sought as area variances, rather than special exceptions. (Ex. 26.)

- the Councilmember for Ward 7, the Chairman of the Council, and the At-Large Councilmembers; and
 - the owners of all property within 200 feet of the Property. (Ex. 12-24.)
2. OZ also published notice of the July 10, 2019 public hearing in the *D.C. Register* on May 24, 2019 (66 DCR 6380), as well as through the calendar on OZ's website.

PARTIES

3. The Applicant and ANC 7C were automatically parties in this proceeding per Subtitle Y § 403.5. No requests for party status were filed.

THE PROPERTY

4. The Property is a tax lot that was created by condemnation in 1957, prior to the adoption of the 1958 Zoning Regulations. (Ex. 25; Transcript of the September 18, 2019, BZA Public Hearing (“Sept. 18 Tr.”) at 102.)
5. The Property is rectangular and fronts on both Field Place, N.E. to the south and Nannie Helen Burroughs Avenue, N.E. to the north. (Ex. 28.)
6. The Property has a lot area of 2,214 square feet and a lot width of 25 feet. (Ex. 26.)
7. The Property is currently vacant and unimproved. (Ex. 25.)
8. The Property can be accessed by a curb cut from Nannie Helen Burroughs Avenue. (Ex. 28.)
9. The lot to the west of the Property (5802 Field Place, N.E) is improved with an existing two-story semi-detached principal dwelling unit, which has a 15-foot side yard on its east side abutting the Property's west lot line. (Ex. 30.)
10. The lot to the east of the Property (5806 Field Place, N.E) is improved with an existing two-story detached principal dwelling unit, which has been recently renovated with a new fence installed abutting the Property's east lot line (Ex. 30.)
11. The surrounding neighborhood is primarily developed with mix of detached and semi-detached dwellings and three-story apartment buildings. (Ex. 30.)
12. The Property is located in the R-2 zone.
13. Pursuant to Subtitle D § 300.5, the purpose and intent of the R-2 zone is to provide for areas predominantly developed with semi-detached houses on moderately sized lots that also contain some detached dwellings.

II. THE APPLICATION

14. The Application proposes to construct a new three-story detached principal dwelling unit (the “**Building**”) on the Property as follows:
- A height of 37.31 feet, within the 40 foot maximum permitted (Subtitle D § 303.1);
 - A lot occupancy of 39.30%, within the 40% maximum permitted (Subtitle D § 304.1);
 - A rear yard of 28.5 feet, which exceeds the minimum 20-foot rear yard required (Subtitle D § 306.1); and
 - A four-foot side yard on each side of the Building, less than the eight-foot minimum required (Subtitle D § 206.2).
- (Ex. 5, 26, 28.)

ZONING RELIEF REQUESTED

Lot Dimensions (Subtitle D § 302.1)

15. The Application requests an area variance from the 40 foot minimum lot width and 4,000 square foot minimum lot area required by Subtitle D § 302.1 for a detached dwelling to permit construction of the Building on the Property, which has a lot width of 25 feet and a lot area of 2,214 square feet.

Side Yards (Subtitle D § 206.2)

16. The Application requests an area variance from the requirements of Subtitle D § 206.2 to provide eight-foot minimum side yards to permit four-foot side yards on the east and west sides of the Building.

APPLICANT’S JUSTIFICATION OF RELIEF

17. The Application asserts that the Building meets the standard for the requested variances because:
- Exceptional Condition - The substandard size of the unimproved lot is an exceptional condition that could not be mitigated because the Property does not adjoin another unimproved lot under the same ownership, which would allow the Applicant to expand the lot to a conforming size. Further, the substandard lot size prevents the Applicant from developing the property with a building of usable size that also complies with the side yard requirements;
 - Practical Difficulties - As a result, if the Property did not receive zoning relief, the Applicant would encounter practical difficulties as the Property would be incapable of being developed with a usable structure;
 - Public Good - Approval of the variances could be granted without substantial detriment to the public good because the Applicant has incorporated design features to minimize impacts of the Building on neighboring properties including staggering windows to protect the privacy of adjacent structures. The Applicant also noted the presence of fences on the lot lines with both adjacent properties;

- Zone Plan - Approval of the variances would also not result in substantial impairment of the Zoning Regulations because detached dwellings are permitted in the R-2 zone and the Building would be of a similar scale to the other detached dwelling structures in the surrounding neighborhood. (Ex. 25.)
18. In response to concerns raised by the ANC concerning stormwater runoff from the Property, the Applicant submitted for the record a letter from Batisseur Construction, Inc., indicating that it inspected the Property and performed engineering tests, but found no issue with the rainwater runoff that would cause damage to neighboring properties. (Ex. 42; Sept. 18 Tr. at 106-108.) The Applicant also submitted a drainage layout plan. (Ex. 41; with Ex. 42, the “**Drainage Report**”.)

Applicant’s Public Hearing Testimony

19. At the September 18, 2019 public hearing, the Applicant testified as to the communications with the ANC regarding the drainage issue. The Applicant reiterated that the Drainage Report had not found any evidence of a drainage issue on the site and that the Property could direct stormwater runoff to either of the adjacent streets. (Sept. 18 Tr. at 106-108.)
20. The Applicant responded to the Board’s question why the Applicant did not choose to build on the lot line in order to provide at least one compliant side yard by stating that because the adjacent properties also had non-compliant side yards, providing two, four-foot yards would best maximize air and privacy between properties. (Sept. 18 Tr. at 109.)

III. RESPONSES TO THE APPLICATION

OP REPORT AND TESTIMONY

21. OP submitted a June 29, 2019, report (Ex. 30, the “**OP Report**”) stating that OP had determined that the Application met the variance standard for both requested variances and recommended approval of the Application based on the following:
- Exceptional Condition - The Property is one of several substandard tax lots that have existed since at least 1965 in the 5800 block of Field Place, N.E. but the Property, unlike the adjacent lots, is undeveloped;
 - Practical Difficulty (Lot Dimension Relief) - The Applicant would face practical difficulties developing the Property if the minimum lot dimension requirements were applied because of the unlikelihood of being able to expand the existing tax lot into a conforming record lot, meaning that the Property would likely remain undeveloped;
 - Practical Difficulty (Side Yard Relief) - The substandard lot size would create practical difficulties for the Applicant to provide the required eight-foot side yards on each side of a new structure because compliance would result in a narrow, nine-foot-wide structure that would severely limit the available living space;

- Public Good - The OP Report concluded that granting the Application would result in no harm to public good because the Application would allow for development on an infill lot within a fully developed neighborhood. OP noted that the proposed Building would not cause undue shadowing on adjacent properties or greatly impact airflow and that placement of windows on the Building has been staggered so that privacy would be maintained. OP also noted that the fence between the Property and the adjacent property to the east and the side yard exceeding 15 feet on the adjacent property to the west serve to minimize the potential impacts of side yard relief; and
 - Zone Plan - The OP Report concluded that granting the Application would not result in any substantial harm to the Zoning Regulations. OP noted that Application would allow a principal dwelling unit infill development, which is a use anticipated and permitted as a matter of right within the R-2 zone, and the new Building would be similar to existing residences within the Square and neighborhood.
22. At the public hearing, OP further clarified that there is no scenario in which the Property could be developed as a matter of right, even if the Applicant proposed to construct a semi-detached dwelling with the incentives for participating voluntarily in Inclusionary Zoning. (Sept. 18 Tr. at 110.)
23. In response to the ANC's concerns regarding drainage, OP testified that drainage concerns are governed by the Building Code and not the Zoning Regulations. (Sept. 18 Tr. at 110.)

DDOT REPORT

24. DDOT submitted a June 28, 2019, report (the "**DDOT Report**") stating that it had no objection to the Application because DDOT concluded that the proposed development would not result in any adverse impacts to the District transportation network. (Ex. 31.)
25. The DDOT Report also identified two potential parking issues that would be addressed through DDOT permitting:
- Since the Property is vacant, the Applicant would need to apply for a public space permit for a curb cut that must meet current requirements, even though the Property has an existing curb cut on Nannie Helen Burroughs Avenue, N.E.; and
 - The plans submitted with the Application need to be clarified to confirm that the proposed vehicle parking pad is not located in the public parking area.

ANC REPORT

26. ANC 7C submitted a written report (Ex. 44, the "**ANC Report**") stating that at a duly noticed and scheduled public meeting on September 12, 2019, at which a quorum was present, the ANC voted to oppose the Application and raising the following issues and concerns:
- The neighbors beside the development site do not support the current development plans based on the dimensions of the lot; and

- The development site was reported to have flooding issues and the Applicant did not present a remediation plan.

PERSONS IN SUPPORT

27. The Board received letters in support from the Property's eastern abutting neighbor at 5806 Field Place, N.E. and from a resident at 5715 Clay Street, N.E. (Ex. 27.)

CONCLUSIONS OF LAW

VARIANCE RELIEF

1. Section 8 of the Zoning Act of 1938 (D.C. Official Code § 6-641.07(g)(3) (2018 Repl); *see also* Subtitle X § 1000.1) authorizes the Board to grant variances, as provided in the Zoning Regulations, where:
 - (i) *“by reason of exceptional narrowness, shallowness, or shape of a specific piece of property ... or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property,”*
 - (ii) *the strict application of any zoning regulation “would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property,” and granting the requested variance would not cause*
 - (iii) *“substantial detriment to the public good” or*
 - (iv) *“substantial impairment to the intent, purpose, and integrity of the Zone Plan as embodied in the Zoning Regulations and Map.”*
2. The Application's requests for relief from the minimum lot dimensions (minimum lot width and lot area) and side yard requirements of Subtitle D §§ 206.2 and 302.1 qualify as area variances because these requirements “affect the size, location, and placement of buildings and other structures ...”. (Subtitle X § 1001.3(a).)
3. An applicant for an area variance must prove that an extraordinary condition of the property would result in “peculiar and exceptional practical difficulties” by demonstrating first that compliance with the area restriction would be unnecessarily burdensome; and, second, that the practical difficulties are unique to the particular property. (*Gilmartin v. D.C. Bd. of Zoning Adjustment*, 579 A.2d 1164, 1170 (D.C. 1990); Subtitle X § 1002.1(a).)
4. “The ‘exceptional condition’ requirement may be satisfied by a characteristic of the land, *see Fleischman v. District of Columbia Bd. of Zoning Adjustment*, 27 A.3d 554, 561 (D.C. 2011); ‘[a] condition inherent in the structures built upon the land,’ *Capitol Hill Restoration Soc’y, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 534 A.2d 939, 942 (D.C. 1987); or prior zoning actions regarding the property.” *Monaco v. District of Columbia Bd. of Zoning Adjustment*, 407 A.2d 1091, 1097–98, 1100 (D.C. 1979). “The extraordinary or exceptional conditions affecting a property can arise from a confluence of factors; however, the critical requirement is that the extraordinary or exceptional

condition must affect a single property. *Metropole Condo. Ass'n v. District of Columbia Bd. of Zoning Adjustment*, 141 A.3d 1079, 1082–83 (D.C. 2016).” *Ait-Ghezala v. District of Columbia Bd. of Zoning Adjustment*, 148 A.3d 1211, 1217 (D.C. 2016).

Exceptional Condition

5. The Board concurs with OP’s analysis and concludes that the Property is constrained by an exceptional condition because it was created as a tax lot prior to the adoption of the Zoning Regulations of 1958 and is a vacant lot that has never been improved, unlike the adjacent substandard tax lot, on which dwellings have existed at least since 1965. The Board determined that the confluence of these factors create an exceptional circumstance in this case. (Findings of Fact [“FF”] 6, 17, 21-22.)

Practical Difficulty

6. The Board concludes that the exceptional condition of the undeveloped substandard tax lot creates practical difficulties because the Applicant would be unable to convert the tax lot into a buildable record lot absent relief from the lot dimension requirements and therefore the Property would be unable to be developed. As confirmed by OP, the Board concludes that there is no scenario in which the Property could be developed as a matter of right. (FF 17, 21-22.)
7. The Board concludes that the substandard lot size also creates an exceptional condition with regard to the side yards because providing the required side yards within the restraints of the overall lot would result in a building that would be unreasonably narrow. (FF 6, 17, 21-22.)
8. The Board also concludes that if the Applicant were granted relief from the lot dimensions in order to convert the tax lot into a buildable record lot, the Applicant would still experience a practical difficulty in complying with the side yard requirements, as the Applicant would be required to construct a narrow, nine-foot-wide structure on the Property. (FF 17, 21-22.)

No Substantial Detriment to the Public Good

9. The Board concludes that granting variance relief would cause no substantial detriment to the public good, as the Building would allow for the vacant lot to be put to a productive use that is in keeping with the scale and pattern of the existing neighborhood. The Board concludes that the Building would not cause undue impacts on light, air, or privacy of the adjacent properties because the side yards, though substandard, are sufficient when considered with the fence on the adjacent property to the east and the side yard exceeding 15 feet on the adjacent property to the west, as well as the Property’s large rear yard, which allows light and airflow to adjacent properties. The Board also concludes that the staggered placement of the windows on the side of the Building also serve to minimize the potential privacy impacts of granting relief from the side yard requirements. (FF 14, 17, 21-22, 27.)

No Substantial Impairment of the Zoning Plan

10. The Board concludes that the Application would not substantially impair the Zoning Regulations and Map but in fact further them because the Building would fill in an undeveloped lot with a detached residential structure as contemplated in the R-2 zone. The Application is consistent with the purpose and intent of the R-2 zone, which is to provide for areas predominantly developed with semi-detached houses on moderately sized lots that also contain some detached dwellings. (FF 13, 17, 21; Subtitle D § 300.5.)

“GREAT WEIGHT” TO THE RECOMMENDATIONS OF OP

11. The Board is required to give “great weight” to the recommendation of OP pursuant to § 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 (2018 Repl)) and Subtitle Y § 405.8. *Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).
12. The Board concludes that the OP Report, which provided an in-depth analysis of how the Application met the standard for area variance relief, is persuasive and concurs with OP’s recommendation that the Application be approved.

“GREAT WEIGHT” TO THE WRITTEN REPORT OF THE ANC

13. The Board must give “great weight” to the issues and concerns raised in the written report of the affected ANC pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.) and Subtitle Y § 406.2. To satisfy the great weight requirement, the Board must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. *Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016). The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” *Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).”
14. The Board is not persuaded by the ANC Report’s concern that some neighbors do not support the Application due to the substandard dimensions of the Property because the Building will be of a similar scale and orientation as other houses in the neighborhood and it is unlikely to cause an adverse impact on adjacent neighbors considering factors such as light, air, and privacy. The Board also notes that the eastern abutting neighbor did submit a letter in support. (FF 27.)
15. The Board acknowledges the ANC Report’s concern with the existing flooding issues on the Property but concludes that the Applicant addressed the issue sufficiently by having the Property tested to determine that water runoff would not cause damage to neighboring properties and providing a drainage layout plan for the record. In addition, the Board notes that potential drainage impacts are governed by the Building Code and handled

during the building permit process at the Department of Consumer and Regulatory Affairs. For these reasons, the Board was not persuaded to deny the Application on the basis of this concern of the ANC Report. (FF 18-19, 23.)

DECISION

Based on the case record, the testimony at the hearing, and the Findings of Fact and Conclusions of Law, the Board concludes that the Applicant has satisfied the burden of proof with respect to the requests for:

- An area variance from the minimum lot dimension requirements of Subtitle D § 302; and
- An area variance from the minimum side yard setback requirements of Subtitle D § 206.2,

and therefore orders that the Application for this relief be **GRANTED**, subject to the following **CONDITION**:

1. Development of the Property pursuant to this Order shall comply with the approved plans at Exhibit 5² as required by Subtitle Y §§ 604.9 and 604.10.

VOTE (Sept. 18, 2019): 5-0-0 (Frederick L. Hill, Lesylleé M. White, Lorna L. John, Carlton E. Hart, 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 26, 2020

PURSUANT TO 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 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.

² Determination of the Zoning Administrator. The zoning relief requested in this case was determined by the Zoning Administrator of DCRA pursuant to Subtitle Y § 300.6(a). (Exhibit 26.)

PURSUANT TO 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. 20178 of Murat Kayali, as amended, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under the penthouse requirements of Subtitles C § 1504.1 from the setback requirements of Subtitle C §§ 1502.1(a), (b), and (c)(1)(A), and under Subtitle F § 5201 from the maximum lot occupancy requirements of Subtitle F § 604.1, to construct a rear deck addition and an accessory structure in the RA-8 zone at premises 1738 Church Street, N.W. (Square 156, Lot 313).

HEARING DATES: January 29 and June 17, 2020¹
DECISION DATE: June 24, 2020

SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 72 (Final Revised); Exhibit 58 (Revised))².)

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 2B.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on January 8, 2020, at which a quorum was present, the ANC voted to support the application. (Exhibit 29.)

OP Report. The Office of Planning ("OP") submitted a report recommending approval of the special exception relief requested but recommending denial of the originally requested variance for lot occupancy. (Exhibit 34.) OP submitted a supplemental report indicating that it supported a revised plan that would reduce the project's lot occupancy to 72.46%. (Exhibit 61.) The Board

¹ This application was originally heard on January 29, 2020 and, at that time, the hearing was continued to February 26, 2020. The continued hearing was postponed at the Applicant's request to April 1, 2020 and then rescheduled for a virtual public hearing on June 17, 2020 based on the closures and postponements related to the public health emergency declared on March 11, 2020. Notice of the virtual public hearing was provided to the parties and to the property owners within 200 feet of the subject property.

² The application originally requested area variance relief from the lot occupancy requirements of Subtitle F § 604.1 but was amended to reduce the lot occupancy to what is allowable by special exception.

ultimately considered a further revised proposal that reduced the lot occupancy proposed to 70%, though OP did not provide a report analyzing this proposal.

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 33.)

Persons in Support. The Board received two letters in support of the application. (Exhibits 8 and 9.)

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for special exceptions under the penthouse requirements of Subtitles C § 1504.1 from the setback requirements of Subtitle C §§ 1502.1(a), (b), and (c)(1)(A), and under Subtitle F § 5201 from the maximum lot occupancy requirements of Subtitle F § 604.1, to construct a rear deck addition and an accessory structure in the RA-8 zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED** and, pursuant to Subtitle Y § 604.10, subject to the **APPROVED PLANS**³ at **EXHIBIT 71**.

VOTE: 4-0-1 (Frederick L. Hill, Carlton E. Hart, Lorna L. John, and Robert E. Miller to APPROVE; one Board seat vacant.)

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

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

FINAL DATE OF ORDER: June 30, 2020

³ Self-certification: In granting the certified relief, the Board made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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. 20198 of Mehmet Ogden, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the RF use requirements of Subtitle U § 320.2, to convert a one-family dwelling into a three-unit apartment house in the RF-1 Zone at premises 612 Randolph Street, N.W. (Square 3233, Lot 102).

HEARING DATE: February 12, 2020; March 25, 2020; and June 17, 2020¹
DECISION DATE: June 24, 2020

SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 10.)

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 4C.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on March 11, 2020, at which a quorum was present, the ANC voted to support the application. (Exhibit 45.) The ANC's recommendation was conditioned on the Applicant's agreement on a number of matters involving contact with the Applicant, various assessments, inspections, certifications, and limits on construction, as well as matters related to the environment, safety, and affordable housing contributions. The Board did not adopt the proposed conditions, finding that they are outside of the Board's scope of review. The Board notes that the Applicant has nonetheless agreed to abide by these conditions.

OP Report. The Office of Planning submitted a report recommending approval of the application. (Exhibit 43.)

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 38.)

¹ This application was originally scheduled for public hearing on February 12, 2020. On January 30, 2020, the Board granted a request to postpone the hearing to March 25, 2020, but the hearing was rescheduled for a virtual public hearing on June 17, 2020 based on the closures and postponements related to the public health emergency declared on March 11, 2020. Notice of the virtual public hearing was provided to the parties and to the property owners within 200 feet of the subject property.

Persons in Opposition. The Board received one letter from a neighbor in opposition to the application. (Exhibit 41.)

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for a special exception under the RF use requirements of Subtitle U § 320.2, to convert a one-family dwelling into a three-unit apartment house in the RF-1 Zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED** and, pursuant to Subtitle Y § 604.10, subject to the **APPROVED PLANS²** at **EXHIBIT 39 – REVISED ARCHITECTURAL PLANS AND ELEVATIONS.**

VOTE: 4-0-1 (Frederick L. Hill, Lorna L. John, Carlton E. Hart, and Robert E. Miller to APPROVE; one Board seat vacant.)

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

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

FINAL DATE OF ORDER: June 29, 2020

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.

² Self-certification: In granting the certified relief, the Board made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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. 20230 of 3232 13th ST NW LLC¹, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 205.5 from the rear addition requirements of Subtitle E § 205.4, and under Subtitle E § 303.3 from the height requirements of Subtitle E § 303.1, to construct a new attached three-story flat in the RF-1 Zone at premises 3230 13th Street N.W. (Square 2843, Lot 84).

HEARING DATE: June 17, 2020²
DECISION DATE: July 1, 2020

SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 4.)

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 1A.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on February 12, 2020, at which a quorum was present, the ANC voted to support the application, provided that "the design and material used on the third story addition façade give the appearance of a mansard roof." (Exhibit 28.) The ANC report also notes that it prefers the diamond pattern shown in the plans in Exhibit 6. The plans approved by the Board are consistent with the issues and requests raised in the ANC report.

OP Report. The Office of Planning ("OP") submitted a report recommending approval of the application. (Exhibit 35.) OP also requested that the Applicant provide a rear elevation and specify the proposed building materials. The Applicant submitted this information for the record. (Exhibits 37A-37C.)

¹ The applicant was originally listed as Abdool Shaeed Akhran Revocable Trust, the owner at the time of filing, but was subsequently updated based on a change of ownership.

² This application was originally scheduled for public hearing on March 25, 2020 but was rescheduled for a virtual public hearing on June 17, 2020 based on the closures and postponements related to the public health emergency declared on March 11, 2020. Notice of the virtual public hearing was provided to the parties and to the property owners within 200 feet of the subject property.

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 31.)

Persons in Opposition. The Board received a letter in opposition from the adjacent neighbors to the rear of the property. (Exhibit 38.)

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for special exceptions under Subtitle E § 205.5 from the rear addition requirements of Subtitle E § 205.4, and under Subtitle E § 303.3 from the height requirements of Subtitle E § 303.1, to construct a new attached three-story flat in the RF-1 Zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED** and, pursuant to Subtitle Y § 604.10, subject to the **APPROVED PLANS**³ at **EXHIBITS 6, 37A and 37C**.

VOTE: 4-0-1 (Frederick L. Hill, Lorna L. John, Carlton E. Hart, and Robert E. Miller to APPROVE; one Board seat vacant.)

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

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

FINAL DATE OF ORDER: July 2, 2020

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.

³ Self-certification: In granting the certified relief, the Board made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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 UBTITLE 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. 20231 of 5022 Cathedral LLC¹, pursuant to 11 DCMR Subtitle X, Chapter 10, for a variance from the side yard requirements of Subtitle D § 206.2, to replace the existing building with a two-story detached principal dwelling unit in the R-1-B Zone at premises 5022 Cathedral Avenue N.W. (Square 1439E, Lot 6).

HEARING DATE: June 17, 2020²

DECISION DATE: June 24, 2020

SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 29 (Final Updated); Exhibit 11 (Updated); Exhibit 8 (Original).)

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 3D.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on March 4, 2020, at which a quorum was present, the ANC voted to support the application. (Exhibit 33.)

OP Report. The Office of Planning submitted a report recommending approval of the application. (Exhibit 35.)

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 26.)

¹ The applicant was originally listed as Bernard Veuthey and Cora M. Shaw, the owners at the time of filing, but was subsequently updated based on a change of ownership.

² This application was originally scheduled for public hearing on March 25, 2020 but was rescheduled for a virtual public hearing on June 24, 2020 based on the closures and postponements related to the public health emergency declared on March 11, 2020. Notice of the virtual public hearing was provided to the parties and to the property owners within 200 feet of the subject property.

Persons in Opposition. The Board received a letter in opposition from a nearby property owner (Exhibit 36) and heard testimony in opposition at the public hearing from adjacent neighbor, Andrew O'Neill.

Variance Relief

The Applicant seeks relief under Subtitle X § 1002.1 for variance from the side yard requirements of Subtitle D § 206.2, to replace the existing building with a two-story detached principal dwelling unit in the R-1-B Zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that 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, in the case of an area variance, or an undue hardship, in the case of a use variance, in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED** and, pursuant to Subtitle Y § 604.10, subject to the **APPROVED PLANS**³ at **EXHIBIT 28**.

VOTE: 3-1-1 (Frederick L. Hill, Carlton E. Hart, and Robert E. Miller to APPROVE; Lorna L. John opposed; one Board seat vacant.)

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

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

FINAL DATE OF ORDER: June 26, 2020

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

³ Self-certification: In granting the certified relief, the Board made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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. 20240 of Schmidt Development LLC, as amended, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under the residential conversion regulations of Subtitle U § 320.2 with waivers from the rear addition requirements of Subtitle U § 320.2(e) and the rooftop architectural requirements of Subtitle U § 320.2(h), under Subtitle U § 301.1(g) from the requirements of Subtitle U § 301.1(c)(2), and under Subtitle E § 5201 from the accessory building lot occupancy provisions of Subtitle E § 5003.1, and pursuant to Subtitle X, Chapter 10, for an area variance from the accessory building access requirements of Subtitle U § 301.1(c)(4) to construct a third story and a rear addition to convert a single-family dwelling unit into two dwelling units and to expand an accessory building for a third residential unit in the RF-1 Zone at premises 1330 K Street, S.E. (Square 1046, Lot 145).

HEARING DATES: April 1, 2020¹ and June 17, 2020
DECISION DATES: April 29, 2020 and June 24, 2020

SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 33C (Revised)²; Exhibit 12 (Original).)

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 6B.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on March 10, 2019 [sic], at which a quorum was present, the ANC voted to support the application. (Exhibit 44.)

OP Report. The Office of Planning ("OP") submitted a report recommending approval of the application. (Exhibit 43.) OP's approval was conditioned upon the Fire and EMS Department ("FEMS") providing a letter stating that access to the accessory structure would not be problematic. The FEMS letter expressing no objection to the application was submitted into the record on June 4, 2020. (Exhibit 51.)

¹ This application was originally scheduled for public hearing on April 1, 2020 but was rescheduled for a virtual public hearing on June 17, 2020 based on the closures and postponements related to the public health emergency declared on March 11, 2020. Notice of the virtual public hearing was provided to the parties and to the property owners within 200 feet of the subject property.

² The application was amended to add variance relief from accessory building access requirements of Subtitle U § 301.1(c)(4).

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 39.)

Persons in Support. The Board received one letter from a neighbor in support of the application. (Exhibit 26.)

Persons in Opposition. The Board received one letter from a neighbor in opposition to the application. (Exhibit 37.)

Variance Relief

The Applicant seeks relief under Subtitle X § 1002.1 for an area variance from the accessory building access requirements of Subtitle U § 301.1(c)(4).

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that 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, in the case of an area variance, or an undue hardship, in the case of a use variance, in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for special exceptions under the residential conversion regulations of Subtitle U § 320.2 with waivers from the rear addition requirements of Subtitle U § 320.2(e) and the rooftop architectural requirements of Subtitle U § 320.2(h), under U § 301.1(g) from the requirements of U § 301.1(c)(2), and under Subtitle E § 5201 from the accessory building lot occupancy provisions of Subtitle E § 5003.1.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED** and, pursuant to Subtitle Y § 604.10, subject to the **APPROVED PLANS**³ at **EXHIBIT 5 – ARCHITECTURAL PLANS AND ELEVATIONS**.

VOTE: 4-0-1 (Frederick L. Hill, Lorna L. John, Carlton E. Hart, and Robert E. Miller to APPROVE; one Board seat vacant.)

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

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

FINAL DATE OF ORDER: June 29, 2020

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.

³ Self-certification: In granting the certified relief, the Board made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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.

**BOARD OF ZONING ADJUSTMENT FOR THE DISTRICT OF COLUMBIA
NOTICE OF CLOSED MEETINGS**

DATES AND TIMES: Monday, August 3, 2020 at 2:00 p.m.

Monday, September 14, 2020 at 2:00 p.m.
Monday, September 21, 2020 at 2:00 p.m.
Monday, September 28, 2020 at 2:00 p.m.

Monday, October 5, 2020 at 2:00 p.m.
Tuesday, October 13, 2020 at 2:00 p.m.
Monday, October 19, 2020 at 2:00 p.m.
Monday, October 26, 2020 at 2:00 p.m.

Monday, November 2, 2020 at 2:00 p.m.
Monday, November 16, 2020 at 2:00 p.m.
Monday, November 30, 2020 at 2:00 p.m.

Monday, December 7, 2020 at 2:00 p.m.
Monday, December 14, 2020 at 2:00 p.m.
Monday, December 21, 2020 at 2:00 p.m.

TELE-CONFERENCE NUMBER: (712) 770-4708
TELE-CONFERENCE ACCESS CODE: 344154

The Board of Zoning Adjustment (the “Board” or “BZA”) hereby provides notice to hold a public meeting via telephone conference on the dates and times listed above, for the purpose of considering whether to hold a closed meeting in order to seek legal advice from counsel on cases scheduled for hearing and decision on its upcoming agenda, as permitted by § 405(b)(4) of the Open Meetings Act (D.C. Official Code § 2-575(b)(4)) or in order to deliberate upon, but not vote upon, cases scheduled for hearing and decision on its upcoming agenda, as permitted by § 405(b)(13) of the Open Meetings Act (D.C. Official Code § 2-575(b)(13)).

Members of the public wishing to listen to the Board’s deliberation and decision as to whether to convene a closed meeting for these stated purposes may call **(712) 770-4708** and enter access code **344154**. No public testimony will be taken on the tele-conference. If the Board determines to hold a closed meeting, under the provisions of the Open Meetings Act cited above, the Board will close the public meeting and convene its closed meeting on a separate tele-conference line.

It is recommended that members of the public check the BZA hearing and meeting calendar at the Office of Zoning website to confirm that the date and time of the public meeting tele-conference have not been modified: <https://app.dcoz.dc.gov/Calendar/Calendar.aspx>

Do you need assistance to participate?

Amharic

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

Chinese

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

French

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

Korean

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

Spanish

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

Vietnamese

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

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

**FREDERICK L. HILL, CHAIRPERSON
LORNA L. JOHN, MEMBER
VACANT, MEMBER**

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

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF CLOSED MEETINGS

DATE & TIME FOR CLOSED MEETING:

Each Monday, Tuesday, and Thursday @ 3:30 p.m. that is scheduled to hold a Public Meeting or Hearing for the remainder of calendar year 2020

LOCATION:

Office of Zoning – via WebEx

REASON(S) FOR HOLDING CLOSED MEETING (PER § 406 OF THE DISTRICT OF COLUMBIA ADMINISTRATIVE PROCEDURE ACT) (D.C. OFFICIAL CODE § 2-576): (CHECK ALL WHICH APPLY)

 X To receive legal advice from counsel on all cases noted on the Commission’s agendas for meetings or hearings to be held for the remainder of calendar year 2020 – D.C. Official Code § 2-575(b)(4).

 X To deliberate upon the contested cases noted on the Commission’s agendas for meetings or hearings to be held for the remainder of calendar year 2020, for the reasons cited at D.C. Official Code § 2-575(b)(13).

BY THE ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA (Roll call vote taken)

ANTHONY J. HOOD (CHAIR)	<u> X </u>	YES	<u> </u>	NO
ROBERT E. MILLER (VICE CHAIR)	<u> X </u>	YES	<u> </u>	NO
PETER A. SHAPIRO	<u> X </u>	YES	<u> </u>	NO
PETER G. MAY	<u> X </u>	YES	<u> </u>	NO
MICHAEL G. TURNBULL	<u> X </u>	YES	<u> </u>	NO

SHARON SCHELLIN, SECRETARY TO THE ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA.

District of Columbia REGISTER – July 10, 2020 – Vol. 67 - No. 29 008419 – 008601