

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council schedules a public oversight roundtable on the D.C. Housing Authority’s 20-year Transformation Plan to overhaul its portfolio through repairs
- D.C. Council schedules a public oversight roundtable on the Implementation of Law 21-264, The Universal Paid Leave Amendment Act of 2016
- D.C. Council schedules a public oversight roundtable to review why contracts are presented to the Council for approval after the beginning of the contract period
- Office of the Chief Financial Officer notifies the public of the District of Columbia Motor Fuel Tax for the period effective October 1, 2019 through March 31, 2020
- Department of Energy and Environment schedules a public hearing on air quality issues
- Department of Health announces open period for receiving applications for new Medical Marijuana Testing laboratory registrations
- D.C. Public Charter School Board schedules a public hearing on The Sojourner Truth Public Charter School’s request to locate its facility in Ward 5

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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COUNCIL OF THE DISTRICT OF COLUMBIA

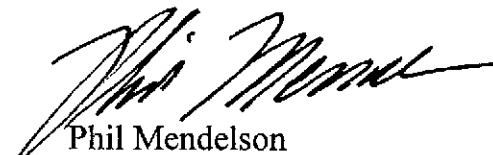
NOTICE

D.C. LAW 23-34

"School Sunscreen Safety Temporary Amendment Act of 2019"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 23-423 on first and second readings September 17, 2019, and October 8, 2019, respectively. Following the signature of the Mayor on October 23, 2019, pursuant to Section 404(e) of the Charter, the bill became Act 23-132 and was published in the November 1, 2019 edition of the D.C. Register (Vol. 66, page 14300). Act 23-132 was transmitted to Congress on November 8, 2019 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 23-132 is now D.C. Law 23-34, effective December 24, 2019.


Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

November 8, 12, 13, 14, 15, 18, 19, 20, 21, 22, 25, 26, 27, 29
December 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 23-35

"Student Medical Marijuana Patient Fairness Temporary Amendment Act of 2019"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 23-426 on first and second readings September 17, 2019, and October 8, 2019, respectively. Following the signature of the Mayor on October 23, 2019, pursuant to Section 404(e) of the Charter, the bill became Act 23-133 and was published in the November 1, 2019 edition of the D.C. Register (Vol. 66, page 14302). Act 23-133 was transmitted to Congress on November 8, 2019 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 23-133 is now D.C. Law 23-35, effective December 24, 2019.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

November	8, 12, 13, 14, 15, 18, 19, 20, 21, 22, 25, 26, 27, 29
December	2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23

COUNCIL OF THE DISTRICT OF COLUMBIA

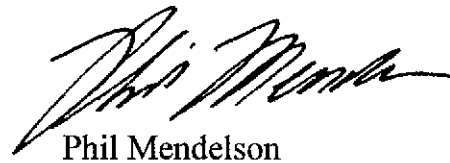
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D.C. LAW 23-36

"Primary Date Alteration Amendment Act of 2019"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 23-212 on first and second readings September 17, 2019, and October 8, 2019, respectively. Following the signature of the Mayor on October 23, 2019, pursuant to Section 404(e) of the Charter, the bill became Act 23-134 and was published in the November 1, 2019 edition of the D.C. Register (Vol. 66, page 14304). Act 23-134 was transmitted to Congress on November 8, 2019 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 23-134 is now D.C. Law 23-36, effective December 24, 2019.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

November	8, 12, 13, 14, 15, 18, 19, 20, 21, 22, 25, 26, 27, 29
December	2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 23-37

"Al and Mary Arrighi Way Designation Act of 2019"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 23-303 on first and second readings September 17, 2019, and October 8, 2019, respectively. Following the signature of the Mayor on November 4, 2019, pursuant to Section 404(e) of the Charter, the bill became Act 23-155 and was published in the November 8, 2019 edition of the D.C. Register (Vol. 66, page 14812). Act 23-155 was transmitted to Congress on November 8, 2019 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 23-155 is now D.C. Law 23-37, effective December 24, 2019.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

November	8, 12, 13, 14, 15, 18, 19, 20, 21, 22, 25, 26, 27, 29
December	2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 23-38

"Education Research Practice Partnership Technical Temporary Amendment Act of 2019"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 23-419 on first and second readings September 17, 2019, and October 8, 2019, respectively. Pursuant to Section 404(e) of the Charter, the bill became Act 23-156 and was published in the November 8, 2019 edition of the D.C. Register (Vol. 66, page 14814). Act 23-156 was transmitted to Congress on November 8, 2019 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 23-156 is now D.C. Law 23-38, effective December 24, 2019.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

November	8, 12, 13, 14, 15, 18, 19, 20, 21, 22, 25, 26, 27, 29
December	2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23

COUNCIL OF THE DISTRICT OF COLUMBIA

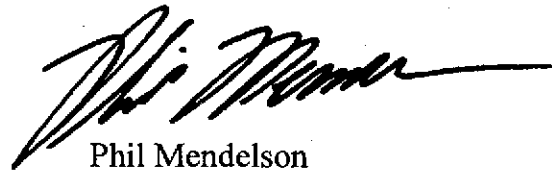
NOTICE

D.C. LAW 23-39

"Commission on the Arts and Humanities Budget Subtitle Technical Temporary Amendment Act of 2019"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 23-428 on first and second readings September 17, 2019, and October 8, 2019, respectively. Pursuant to Section 404(e) of the Charter, the bill became Act 23-157 and was published in the November 8, 2019 edition of the D.C. Register (Vol. 66, page 14816). Act 23-157 was transmitted to Congress on November 8, 2019 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 23-157 is now D.C. Law 23-39, effective December 24, 2019.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

November	8, 12, 13, 14, 15, 18, 19, 20, 21, 22, 25, 26, 27, 29
December	2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 23-40

"Joy Evans Therapeutic Recreation Center Designation Act of 2019"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 23-63 on first and second readings September 17, 2019, and October 8, 2019, respectively. Following the signature of the Mayor on October 29, 2019, pursuant to Section 404(e) of the Charter, the bill became Act 23-152 and was published in the November 1, 2019 edition of the D.C. Register (Vol. 66, page 14360). Act 23-152 was transmitted to Congress on November 8, 2019 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 23-152 is now D.C. Law 23-40, effective December 24, 2019.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

November	8, 12, 13, 14, 15, 18, 19, 20, 21, 22, 25, 26, 27, 29
December	2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23

ENROLLED ORIGINAL

A RESOLUTION

23-298

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2020

To declare the existence of an emergency, due to congressional review, with respect to the need to amend An Act To create a Department of Corrections in the District of Columbia to limit the District's cooperation with federal immigration agencies, including by complying with detainer requests, absent a judicial warrant or order.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Sanctuary Values Congressional Review Emergency Declaration Resolution of 2020".

Sec. 2. (a) On October 8, 2019, the Council passed the Sanctuary Values Emergency Amendment Act of 2019, effective October 23, 2019 (D.C. Act 23-131; 66 DCR 14298), which expires on January 21, 2020. The emergency legislation limits the District's cooperation with federal immigration agencies, including by complying with detainer requests, absent a judicial warrant or order.

(b) On October 22, 2019, the Council passed the Sanctuary Values Temporary Amendment Act of 2019, enacted on November 18, 2019 (D.C. Act 23-162; 66 DCR 15343), which is projected to become law on February 26, 2020.

(c) In order to prevent a gap in the law between the expiration of the emergency legislation and the effective date of the temporary legislation, it is necessary to approve congressional review emergency legislation.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Sanctuary Values Congressional Review Emergency Amendment Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-299

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2020

To declare the existence of an emergency with respect to the need to approve Contract No. NFPHCRSK-20-C-0002 between the Not-for-Profit Hospital Corporation and Ascot Underwriting Bermuda, LTD, for the provision of physicians, healthcare general, employee benefits, and entity excess liability hospital insurance coverage for the Not-for-Profit Hospital Corporation, and to authorize payment for the services received and to be received under the contract.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Contract No. NFPHCRSK-20-C-0002 between the Not-for-Profit Hospital Corporation and Ascot Underwriting Bermuda, LTD, Approval and Payment Authorization Emergency Declaration Resolution of 2020”.

Sec. 2. (a) There exists an immediate need to approve Contract No. NFPHCRSK-20-C-0002 (“Contract”) between the Not-for-Profit Hospital Corporation (“Hospital”) and Ascot Underwriting Bermuda, LTD, to provide physicians liability, healthcare general liability, employee benefits liability, and entity excess liability hospital insurance coverage (excluding for physicians) to the Hospital and to authorize payment for the services received and to be received under the Contract.

(b) The proposed Contract addresses Fiscal Year (“FY”) 2020 and a portion of FY 2021 (November 24, 2019 to November 23, 2020) in the amount of \$2,184,000.

(c) The Hospital was prepared to submit the policy for passive approval, but due to new Office of Tax and Revenue filing requirements for foreign companies, transmittal to Council was delayed until the Clean Hand Certification was issued.

(d) Emergency approval of the Contract for \$2,184,000 is necessary to prevent any impact to the Hospital’s physicians, healthcare general, employee benefits, and entity excess liability hospital insurance coverage.

(e) Without Council approval, Ascot cannot be paid in excess of \$1 million for these critical services provided and to be provided.

ENROLLED ORIGINAL

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that Contract No. NFPHCRSK-20-C-0002 between the Not-for-Profit Hospital Corporation and Ascot Underwriting Bermuda, LTD, Approval and Payment Authorization Emergency Amendment Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-300

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2020

To declare the existence of an emergency with respect to the need to approve Modification Nos. 9 and 12 to Human Care Agreement No. RM-17-HCA-MHRS-MBI-BY4-RDS with MBI Health Services, LLC, for mental health rehabilitative services, and to authorize payment in the not-to-exceed amount of \$2.5 million for the goods and services received and to be received under the human care agreement.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Modifications to Human Care Agreement No. RM-17-HCA-MHRS-MBI-BY4-RDS Approval and Payment Authorization Emergency Declaration Resolution of 2020”.

Sec. 2. (a) There exists a need to approve Modification Nos. 9 and 12 to Human Care Agreement No. RM-17-HCA-MHRS-MBI-BY4-RDS with MBI Health Services, LLC, for mental health rehabilitative services and to authorize payment in the not-to-exceed amount of \$2.5 million for the goods and services received and to be received under the modifications.

(b) By Modification No. 9, dated September 4, 2019, the Office of Contracting and Procurement, on behalf of the Department of Behavioral Health, exercised partial Option Year 2 of Human Care Agreement No. RM-17-HCA-MHRS-MBI-BY4-RDS with MBI Health Services, LLC, for the period from September 6, 2019, through December 31, 2019, in the not-to-exceed amount of \$750,000.

(c) Modification Nos. 10 and 11 were administrative modifications that did not add any value to Option Year 2 of Human Care Agreement No. RM-17-HCA-MHRS-MBI-BY4-RDS.

(d) Modification No. 12 is now necessary to exercise the remainder of Option Year 2 of Human Care Agreement No. RM-17-HCA-MHRS-MBI-BY4-RDS for the period from January 1, 2020, through September 5, 2020, in the not-to-exceed amount of \$1.75 million, bringing the total not-to-exceed amount for Option Year 2 to \$2.5 million.

(e) Because the modifications increase the value of Human Care Agreement No. RM-17-HCA-MHRS-MBI-BY4-RDS by more than \$1 million during a 12-month period, Council approval is required pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51).

ENROLLED ORIGINAL

(f) Approval is necessary to allow the continuation of these vital services. Without Council approval, MBI Health Services, LLC, cannot be paid for goods and services provided in excess of \$1 million for the contract period from September 6, 2019, through September 5, 2020.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modifications to Human Care Agreement No. RM-17-HCA-MHRS-MBI-BY4-RDS Approval and Payment Authorization Emergency Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-301

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2020

To declare the existence of an emergency with respect to the need to approve Modification Nos. 7, 9, and 10 to Contract No. RM-17-C-032-BY4-JM with MBI Health Services, LLC, to provide community wraparound services for up to 94 youths, and to authorize payment for the goods and services received and to be received under that contract.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Modifications to Contract No. RM-17-C-032-BY4-JM with MBI Health Services, LLC, Approval and Payment Authorization Emergency Declaration Resolution of 2020”.

Sec. 2. (a) There exists a need to approve Modification Nos. 7, 9, and 10 to Contract No. RM-17-C-032-BY4-JM (“modifications”) with MBI Health Services, LLC, to provide community wraparound services and to authorize payment in the not-to-exceed amount of \$1,091,597 for the goods and services received and to be received under the modifications.

(b) On June 18, 2019, by Modification No. 7, the Office of Contracting and Procurement (“OCP”), on behalf of the Department of Behavioral Health, exercised a partial option of option year 2 from July 10, 2019, through November 30, 2019, in the not-to-exceed amount of \$545,798.50.

(c) Modification No. 8 was an administrative modification.

(d) On October 21, 2019, by Modification No. 9, OCP extended the partial option of option year 2 from December 1, 2019, through December 31, 2019, at no additional cost.

(e) OCP now desires to exercise the remainder of option year 2 and increase the total not-to-exceed amount for Contract No. RM-17-C-032-BY4-JM to \$1,091,597 for the period July 10, 2019, through July 9, 2020.

(f) Council approval is necessary as this will increase the contract by more than \$1 million during a 12-month period.

(g) Approval is necessary to allow the continuation of these vital services. Without Council approval, MBI Health Services, LLC, cannot be paid for goods and services provided in excess of \$1 million for the period July 10, 2019, through July 9, 2020.

ENROLLED ORIGINAL

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modifications to Contract No. RM-17-C-032-BY4-JM with MBI Health Services, LLC, Approval and Payment Authorization Emergency Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-302

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2020

To declare the existence of an emergency with respect to the need to approve Modification Nos. M023, M023A, and M023B, and proposed Modification No. M024 to Contract No. DCRL-2016-C-0004 with Far Southeast Family Strengthening Collaborative to provide community-based child welfare services during option year 4, and to authorize payment for the services received and to be received under these modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Modifications to Contract No. DCRL-2016-C-0004 with Far Southeast Family Strengthening Collaborative Approval and Payment Authorization Emergency Declaration Resolution of 2020”.

Sec. 2. (a) There exists a need to approve Modification Nos. M023, M023A, and M023B, and proposed Modification No. M024 to Contract No. DCRL-2016-C-0004 with Far Southeast Family Strengthening Collaborative to provide community-based child welfare services and to authorize payment for the services received and to be received under these modifications.

(b) By Modification No. M023, issued on September 27, 2019, the Child and Family Services Agency (“CFSA”) exercised a partial option of option year 4 of Contract No. DCRL-2016-C-0004 in the not-to-exceed amount of \$943,882.96 for the period October 1, 2019, through January 31, 2020.

(c) By Modification No. M023A, issued on October 21, 2019, CFSA corrected the not-to-exceed amount from \$943,882.96 to \$956,291.76 in Item No.1 and deleted Item No. 2, revised the Contract Recap, and replaced § B.3 with § B.3R.

(d) By Modification No. M023B, issued on November 27, 2019, CFSA corrected Clin 4003 the not-to-exceed amount of \$226,377.56 to \$239,647.88, and replaced § B.3R with § B.3R1.

(e) By Modification No. M024, CFSA proposes to exercise the remainder of option year 4 for the period from February 1, 2020, through September 30, 2020, in the not-to-exceed amount of \$1,912,583.48, making the total not-to-exceed amount for option year 4 \$2,868,875.24, for the period from October 1, 2019, through September 30, 2020.

ENROLLED ORIGINAL

(f) Council approval is necessary because these modifications increase the total contract amount to more than \$1 million during a 12-month period.

(g) Approval is necessary to allow the continuation of these vital services. Without Council approval, Far Southeast Family Strengthening Collaborative cannot be paid for services provided in excess of \$1 million.

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modifications to Contract No. DCRL-2016-C-0004 with Far Southeast Family Strengthening Collaborative Approval and Payment Authorization Emergency Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-303

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2020

To declare the existence of an emergency with respect to the need to approve Modification No. M027 and proposed Modification No. M028 to Contract No. DCRL-2016-C-0001 with Collaborative Solutions for Communities to provide community-based child welfare services during option year 4, and to authorize payment for the services received and to be received under these modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Modifications to Contract No. DCRL-2016-C-0001 with Collaborative Solutions for Communities Approval and Payment Authorization Emergency Declaration Resolution of 2020”.

Sec. 2. (a) There exists a need to approve Modification No. M027 and proposed Modification No. M028 to Contract No. DCRL-2016-C-0001 with Collaborative Solutions for Communities to provide community-based child welfare services and to authorize payment for the services received and to be received under these modifications.

(b) By Modification No. M027, issued on September 26, 2019, the Child and Family Services Agency (“CFSA”) exercised a partial option of option year 4 of Contract No. DCRL-2016-C-0001 in the not-to-exceed amount of \$876,803.20 for the period October 1, 2019, through February 29, 2020.

(c) By Modification No. M028, CFSA proposes to exercise the remainder of option year 4 for the period March 1, 2020, through September 30, 2020 in the not-to-exceed amount of \$1,227,524.48, making the total not-to-exceed amount for option year 4 \$2,104,327.68 for the period October 1, 2019, through September 30, 2020.

(d) Council approval is necessary because these modifications increase the total contract amount to more than \$1 million during a 12-month period.

(e) Approval is necessary to allow the continuation of these vital services. Without Council approval, Collaborative Solutions for Communities cannot be paid for services provided in excess of \$1 million.

ENROLLED ORIGINAL

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that Modifications to Contract No. DCRL-2016-C-0001 with Collaborative Solutions for Communities Approval and Payment Authorization Emergency Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-304

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2020

To confirm the appointment of Ms. Karyn Greenfield to the District of Columbia Board of Elections.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “District of Columbia Board of Elections Karyn Greenfield Confirmation Resolution of 2020”.

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Ms. Karyn Greenfield
Sheridan Street, N.W.
Washington, D.C. 20011
(Ward 4)

as a member of the District of Columbia Board of Elections, established by section 3 of the District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code § 1-1001.03), for a term to end July 7, 2022.

Sec. 3. The Council shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-305

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2020

To confirm the reappointment of Mr. Philip McNamara to the District of Columbia Homeland Security Commission.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "District of Columbia Homeland Security Commission Philip McNamara Confirmation Resolution of 2020".

Sec. 2. The Council of the District of Columbia confirms the reappointment of:

Mr. Philip McNamara
Illinois Avenue, N.W.
Washington, D.C. 20011
(Ward 4)

as a member of the District of Columbia Homeland Security Commission, established by section 202 of the Homeland Security, Risk Reduction, and Preparedness Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-262; D.C. Official Code § 7-2271.02), for a term to end February 22, 2022.

Sec. 3. The Council shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-306

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2020

To confirm the reappointment of Mr. Brad Belzak to the District of Columbia Homeland Security Commission.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "District of Columbia Homeland Security Commission Brad Belzak Confirmation Resolution of 2020".

Sec. 2. The Council of the District of Columbia confirms the reappointment of:

Mr. Brad Belzak
25th Street, N.W., #520
Washington, D.C. 20037
(Ward 2)

as a member of the District of Columbia Homeland Security Commission, established by section 202 of the Homeland Security, Risk Reduction, and Preparedness Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-262; D.C. Official Code § 7-2271.02), for a term to end February 22, 2022.

Sec. 3. The Council shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-307

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2020

To confirm the reappointment of Mr. Charles Thornton to the Corrections Information Council Governing Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Corrections Information Council Governing Board Charles Thornton Confirmation Resolution of 2020”.

Sec. 2. The Council of the District of Columbia confirms the reappointment of:

Mr. Charles Thornton
Carrollsborg Place, S.W.
Washington, D.C. 20004
(Ward 6)

as a member of the Corrections Information Council Governing Board, established by section 11201a of the National Capital Revitalization and Self-Government Improvement Act of 1997, effective October 2, 2010 (D.C. Law 18-233; D.C. Official Code § 24-101.01), for a term to end June 7, 2021.

Sec. 3. The Council shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-308

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2020

To confirm the reappointment of Mr. Calvin Woodland, Jr. to the Corrections Information Council Governing Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Corrections Information Council Governing Board Calvin Woodland, Jr. Confirmation Resolution of 2020".

Sec. 2. The Council of the District of Columbia confirms the reappointment of:

Mr. Calvin Woodland, Jr.
Newton Street, N.W.
Washington, D.C. 20010
(Ward 1)

as a member of the Corrections Information Council Governing Board, established by section 11201a of the National Capital Revitalization and Self-Government Improvement Act of 1997, effective October 2, 2010 (D.C. Law 18-233; D.C. Official Code § 24-101.01), for a term to end June 7, 2021.

Sec. 3. The Council shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-309

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2020

To confirm the reappointment of Mr. Neil Albert to the District of Columbia Housing Authority Board of Commissioners.

RESOLVED, BY COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “District of Columbia Housing Authority Board of Commissioners Neil Albert Confirmation Resolution of 2020”.

Sec. 2. The Council of the District of Columbia confirms the reappointment of:

Mr. Neil Albert
Locust Road, N.W.
Washington, D.C. 20012
(Ward 4)

as a public commissioner of the District of Columbia Housing Authority Board of Commissioners pursuant to section 12 of the District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-211), for a term ending July 12, 2022.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-310

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2020

To confirm the reappointment of Mr. Buwa Binitie to the District of Columbia Housing Finance Agency Board of Directors.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “District of Columbia Housing Finance Agency Board of Directors Buwa Binitie Confirmation Resolution of 2020”.

Sec. 2. The Council of the District of Columbia confirms the reappointment of:

Mr. Buwa Binitie
16th Street, N.W.
Washington, DC 20012
(Ward 4)

as a member, with experience in finance, of the District of Columbia Housing Finance Agency Board of Directors, established by section 202 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Official Code § 42-2702.02), for the remainder of a term to end June 28, 2020, and a new term to end June 28, 2022.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-311

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2020

To declare an emergency with respect to the need to remove from the plan for the extension of a permanent system of highways a portion of 39th Street, N.W., located within Lot 801 in Square 1823, as shown on the Surveyor's Plat filed under S.O. 18-41885.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Abandonment of the Highway Plan for a Portion of 39th Street, N.W., S.O. 18-41885, Emergency Declaration Resolution of 2020".

Sec. 2. (a) There exists an immediate need to remove from the plan for the extension of a permanent system of highways ("Highway Plan") a portion of 39th Street, N.W., located within Lot 801 in Square 1823, as shown on the Surveyor's Plat filed under S.O. 18-41885.

(b) The portion of 39th Street, N.W. to be removed is the terminus, located adjacent to the existing 39th Street, N.W., cul-de-sac north of Rodman Street in Ward 3. The 90-foot right-of-way called for in the Highway Plan for this segment of 39th Street, N.W., has never been dedicated or constructed.

(c) The purpose of this Highway Plan amendment is to facilitate the redevelopment and renovation of the historic Fannie Mae headquarters site at 3900 Wisconsin Avenue, N.W. The development of the 10-acre site will include 687 residential units, approximately 60 of which will be affordable, and 313,000 square feet of commercial uses, including office, retail, service, and related uses.

(d) The Committee of the Whole approved the permanent version of this legislation on December 17, 2019, which will be considered for first reading on January 7, 2020. Making the closing effective sooner than the congressional review period would otherwise allow will enable the project to proceed without risk of further delay.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in Section 2 constitute emergency circumstances making it necessary that the Abandonment of the Highway Plan for a Portion of 39th Street, N.W., S.O. 18-41885 Emergency Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-312

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2020

To declare an emergency with respect to the need to order the closing of a portion of 4th Street N.E., between Kennedy Street N.E., and Ingraham Street, N.E., and a portion of the public alley system in Square 3765, S.O. 18-41561, in Ward 5.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Closing of a Portion of 4th Street, N.E., and a Public Alley in Square 3765, S.O. 18-41561, Emergency Declaration Resolution of 2020”.

Sec. 2. (a) There exists an immediate need to close a portion of 4th Street, N.E., between Kennedy Street N.E., and Ingraham Street, N.E., and to close a portion of the public alley system in Square 3765, S.O. 18-41561.

(b) The purpose of this street and alley closing is to allow for the development of the second phase of the Art Place at Fort Totten Project, bounded by South Dakota Ave, N.E., and Galloway Street, N.E., in Ward 5. The second phase of the Art Place at Fort Totten Project development will include a mixed-use building known as the Family Entertainment Zone, containing retail space, event space, cultural space, and residential uses. The project will provide approximately 750 parking spaces and a total gross floor area of 549,996 square feet. The residential towers will include approximately 270 units, 30 of which will be reserved as affordable for a period of 20 years at 60% area median family income.

(c) The Committee of the Whole approved the permanent version of this legislation on December 17, 2019, which will be considered for first reading on January 7, 2020. Making the closing effective sooner than the congressional review period would otherwise allow will enable the project to proceed without risk of further delay.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Closing of a Portion of 4th Street, N.E., and a Public Alley in Square 3765, S.O. 18-41561, Emergency Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-313

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2020

To declare the existence of an emergency with respect to the need to designate the park located in Lots 16 and 809 in Square 3581 as Alethia Tanner Park.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Alethia Tanner Park Designation Emergency Declaration Resolution of 2020”.

Sec. 2. (a) There exists an immediate need to designate the park located in Lots 16 and 809 in Square 3581 as Alethia Tanner Park.

(b) The Alethia Tanner Park Designation Act of 2019, as approved by the Committee of the Whole on December 17, 2019 (Committee print of Bill 23-172), is currently under review by the Council. The measure was marked up by the Committee of the Whole on December 17, 2019 and is scheduled for first reading on January 7, 2020.

(c) Alethia Tanner Park is scheduled to open in January 2020.

(d) To ensure that the signage will be installed before the opening, it is necessary to enact the designation sooner than when the permanent measure will become effective.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Alethia Tanner Park Designation Emergency Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-314

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2020

To declare the existence of an emergency with respect to the need to designate portions of Tingey Street, S.E., and N Street, S.E, between New Jersey Avenue, S.E., and Canal Street, S.E., and 2nd Street, S.E., abutting Squares 743, 770, 771, and W-771, as Tingey Square.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Tingey Square Designation Emergency Declaration Resolution of 2020”.

Sec. 2. (a) There exists an immediate need to designate the portions of Tingey Street, S.E., and N Street, S.E, between New Jersey Avenue, S.E., and Canal Street, S.E., and 2nd Street, S.E., abutting Squares 770, 771, and W-771 as Tingey Square.

(b) The Tingey Square Designation Act of 2019, as approved by the Committee of the Whole on December 17, 2019 (Committee print of Bill 23-104), is currently under review by the Council. The measure was marked up by the Committee of the Whole on December 17, 2019 and is scheduled for first reading on January 7, 2020.

(c) Several new buildings fronting the already dedicated, but unnamed, square are scheduled to open in January 2020 and are planned to have Tingey Square addresses.

(d) To ensure that the buildings will receive the correct addresses and for signage to be installed before the opening, it is necessary to enact the designation sooner than the permanent measure will become effective.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Tingey Square Designation Emergency Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

23-315

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2020

To declare an emergency with respect to the need to exempt from certificate of need review a nonprofit that specializes in vision screening and provides free diagnostic services and eyewear to District of Columbia school children and youth.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Children and Youth Vision Screening Emergency Declaration Resolution of 2020”.

Sec. 2. (a) The measure would waive the certificate of need process for a nonprofit that specializes in vision screening and provides free diagnostic services and eyewear to District of Columbia school children and youth.

(b) The Certificate of Need Fee Reduction Act, passed on 2nd reading on December 17, 2019 (Enrolled version of Bill 23-183), permanent legislation containing an identical provision, was adopted on second reading by the Council on December 17, 2019.

(c) Immediate legislative action would allow a nonprofit to begin working with the District of Columbia public schools and public charter schools immediately and avoid any lag in the provision of services.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Children and Youth Vision Screening Emergency Amendment Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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

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

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

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

- | | |
|---------|--|
| B23-607 | Victims' Protection Amendment Act of 2020

Intro. 1-9-20 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety |
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| B23-608 | Spring Flats Mixed-Income Family Apartments Real Property Tax Abatement Act of 2020

Intro. 1-10-20 by Councilmember Todd and referred to the Committee on Business and Economic Development |
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| B23-609 | Gail Cobb Way Designation Act of 2020

Intro. 1-10-20 by Councilmember Allen and referred to the Committee of the Whole |
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PROPOSED RESOLUTIONS

PR23-647 Rulemaking for Paid Family Leave Benefits Approval Resolution of 2020
Intro. 1-6-20 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Labor and Workforce Development with comments from the Committee of the Whole

PR23-648 Assisted Living Residence Rulemaking Approval Resolution of 2020
Intro. 1-9-20 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health

**COUNCIL OF THE DISTRICT OF COLUMBIA
 ABBREVIATED NOTICE OF PUBLIC HEARINGS
 AGENCY PERFORMANCE OVERSIGHT HEARINGS
 FISCAL YEAR 2019-2020
 1/14/2020**

SUMMARY

January 6, 2020 to
March 6, 2020

Agency Performance Oversight Hearings on Fiscal Year 2019-2020

February 5, 2020

Committee of the Whole Public Briefing on the Fiscal Year 2019 Comprehensive Annual Financial Report (CAFR) at 1:30 p.m. in Room 500

The Council of the District of Columbia hereby gives notice of its intention to hold public oversight hearings on agency performances for FY 2019 and FY 2020. The hearings will begin Monday, January 6, 2020 and conclude on Friday, March 6, 2020 and will take place in the Council Chamber (Room 500), Room 412, Room 123, and Room 120 of the John A. Wilson Building; 1350 Pennsylvania Avenue, N.W.; Washington, DC 20004.

Persons wishing to testify are encouraged, but not required, to submit written testimony in advance of each hearing to the committee at which you are testifying. If a written statement cannot be provided prior to the day of the hearing, please have at least 15 copies of your written statement available on the day of the hearing for immediate distribution to the Council. Unless otherwise stated by the Committee, the hearing record will close two business days following the conclusion of each respective hearing. Persons submitting written statements for the record should observe this deadline. For more information about the Council's performance oversight hearing schedule, please contact the committee of interest.

Witnesses who anticipate needing language interpretation, or require sign language interpretation, are requested to inform the relevant Committee office 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.

ADDENDUM OF CHANGES TO THE PUBLIC HEARING SCHEDULE

<u>New Date</u>	<u>Original Date</u>	<u>Hearing</u>
1/22/2020	1/8/2020	Office of Nightlife and Culture (Gov Ops); Room 412 - 10:00 a.m.
1/29/2020	1/23/2020	Joint Hearing with Committee on Human Services and Committee on Housing and Neighborhood Revitalization; Room 412 - 10:00 a.m.
1/31/2020	N/A	Mayor's Commission on Healthcare Systems Transformation (Health); Room 500 - 10:00 a.m.
2/10/2020	2/6/2020	Housing Finance Agency (Housing); Room 500 - 11:00 a.m.
2/13/2020	1/9/2020	Office of the Attorney General (Judiciary & Public Safety); Room 412 - 9:30 a.m.
2/18/2020	N/A	Committee on Human Services - Hearing for Public Testimony on agencies under the purview of Human Services @ R.I.S.E Center - 2730 Martin Luther King Jr. Avenue, SE - 6:00 p.m.
2/25/2020	2/27/2020	Metropolitan Washington Airports Authority (COW); Room 412 - 11:00 a.m.

PUBLIC HEARING SCHEDULE

COMMITTEE ON GOVERNMENT OPERATIONS		Chairperson Brandon Todd
WEDNESDAY, JANUARY 8, 2020; COUNCIL CHAMBER (Room 500)		
Time	Agency	
10:00 a.m. - End	Office on Women's Policy and Initiatives	
	Office of Cable Television, Film, Music and Entertainment	

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

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY		Chairperson Charles Allen
THURSDAY, JANUARY 9, 2020; COUNCIL CHAMBER (Room 500)		
Time	Agency	
9:30 a.m. - 5:00 p.m.	Office of Neighborhood Safety and Engagement	
	Comprehensive Homicide Elimination Strategy Task Force	
	Deputy Mayor for Public Safety and Justice	

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

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT		Chairperson Mary Cheh
THURSDAY, JANUARY 9, 2020; Room 412		
Time	Agency	
11:00 a.m. - End	Department of Public Works	
	Food Policy Council	

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

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT		Chairperson Kenyan McDuffie
WEDNESDAY, JANUARY 15, 2020; COUNCIL CHAMBER (Room 500)		
Time	Agency	
10:00 a.m. - End	Department of Small and Local Business Development	
	Department of Insurance, Securities and Banking	
	Department of For-Hire Vehicles	

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Justin Roberts (jroberts@dccouncil.us) or by calling 202-724-8053.

COMMITTEE ON HEALTH		Chairperson Vincent Gray
WEDNESDAY, JANUARY 15, 2020; Room 412		
Time	Agency	
11:15 a.m. - End	District of Columbia Health Benefit Exchange Authority	

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

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT		Chairperson Mary Cheh
THURSDAY, JANUARY 16, 2020; COUNCIL CHAMBER (Room 500)		
Time	Agency	
11:00 a.m. - End	Department of Energy and the Environment	

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

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY		Chairperson Charles Allen
THURSDAY, JANUARY 16, 2020; Room 412		
Time	Agency	
9:30 a.m. - 5:00 p.m.	Office of Police Complaints	
	Metropolitan Police Department (Public Witnesses Only)	

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

COMMITTEE ON GOVERNMENT OPERATIONS **Chairperson Brandon Todd**

THURSDAY, JANUARY 16, 2020; Room 123	
Time	Agency
9:30 a.m. - 11:45 a.m.	Office of the Inspector General
	Office of Risk Management
	Office of the Chief Technology Officer

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

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

WEDNESDAY, JANUARY 22, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Alcoholic Beverage Regulation Administration
	Office of the People's Counsel
	Public Service Commission
	Public Access Corporation

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Justin Roberts (jroberts@dccouncil.us) or by calling 202-724-8053.

COMMITTEE ON GOVERNMENT OPERATIONS **Chairperson Brandon Todd**

WEDNESDAY, JANUARY 22, 2020; Room 412	
Time	Agency
10:00 a.m. - End	Office of Nightlife and Culture
	Office of Administrative Hearings
	Office of Human Rights

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

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

THURSDAY, JANUARY 23, 2020; Room 412	
Time	Agency
9:30 - 3:00 p.m. - End	Fire and Emergency Medical Services Department
	Office of Unified Communications

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

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

MONDAY, JANUARY 27, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
11:00 a.m. - End	Bicycle Advisory Council
	Pedestrian Advisory Council
	District Department of Transportation

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

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

TUESDAY, JANUARY 28, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Department of Housing and Community Development (Public Witnesses Only)
	Housing Production Trust Fund (Public Witnesses Only)

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

COMMITTEE ON EDUCATION **Chairperson David Grosso**

WEDNESDAY, JANUARY 29, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
11:00 a.m. - End	State Board of Education
	Office of the Ombudsman
	Office of the Student Advocate

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

JOINT HEARING WITH COMMITTEE ON HUMAN SERVICES & COMMITTEE ON HOUSING AND NEIGHBORHOOD REVITALIZATION **Chairperson Brianne Nadeau**
Chairperson Anita Bonds

WEDNESDAY, JANUARY 29, 2020; Room 412	
Time	Agency
10:00 a.m. - End	Department of Human Services Interagency Council on Homelessness

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

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

THURSDAY, JANUARY 30, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
9:30 a.m. - 5:00 p.m.	Metropolitan Police Department (Gov't Witnesses Only) Corrections Information Council Department of Corrections

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

COMMITTEE ON FACILITIES AND PROCUREMENT **Chairperson Robert C. White, Jr.**

THURSDAY, JANUARY 30, 2020; Room 412	
Time	Agency
10:00 a.m. - End	Office of Advisory Neighborhood Commission

Persons wishing to testify about the performance of any of the foregoing agencies may email: facilities@dcccouncil.us or by calling 202-741-8593.

COMMITTEE ON HEALTH **Chairperson Vincent Gray**

FRIDAY, JANUARY 31, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Mayor's Commission on Healthcare Systems Transformation Department of Behavioral Health

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

COMMITTEE ON RECREATION AND YOUTH AFFAIRS **Chairperson Trayon White, Jr.**

MONDAY, FEBRUARY 3, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Department of Youth Rehabilitation Services

Persons wishing to testify about the performance of any of the foregoing agencies may email: Nate Fleming (nfleming@dcccouncil.us) or by calling 202-727-7903.

COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**

WEDNESDAY, FEBRUARY 5, 2020; COUNCIL CHAMBER (Room 500)	
Time	Subject
1:30 p.m. - End	Committee of the Whole Public Briefing on the Fiscal Year 2019 Comprehensive Annual Financial Report (CAFR)

COMMITTEE ON FACILITIES AND PROCUREMENT **Chairperson Robert C. White, Jr.**

THURSDAY, FEBRUARY 6, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Office of Returning Citizen Affairs Commission on Re-Entry and Returning Citizen Affairs

Persons wishing to testify about the performance of any of the foregoing agencies may email: facilities@dcccouncil.us or by calling 202-741-8593.

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

THURSDAY, FEBRUARY 6, 2020; Room 412	
Time	Agency
11:00 a.m. - End	Department of Motor Vehicles Deputy Mayor for Operations and Infrastructure

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

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

THURSDAY, FEBRUARY 6, 2020; Room 123	
Time	Agency
10:00 a.m. - End	Rental Housing Commission Office of Tenant Advocate

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

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

THURSDAY, FEBRUARY 6, 2020; Room 120	
Time	Agency
9:30 a.m. - 5:00 p.m.	District of Columbia National Guard Department of Forensic Sciences Office of the Chief Medical Examiner/Fatality Review Committees Homeland Security and Emergency Management Agency

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

COMMITTEE ON HUMAN SERVICES **Chairperson Brianne Nadeau**

*FRIDAY, FEBRUARY 7, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Department of Disability Services Office of Disability Rights

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

***If needed, the continuation of this Committee on Human Services performance oversight hearing will be held on Tuesday, February 11 in Room 123.**

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

MONDAY, FEBRUARY 10, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
11:00 a.m. - End	Housing Finance Agency Department of Housing and Community Development (Gov't Witnesses Only) Housing Production Trust Fund (Gov't Witnesses Only)

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

COMMITTEE ON GOVERNMENT OPERATIONS **Chairperson Brandon Todd**

TUESDAY, FEBRUARY 11, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Office of Lesbian, Gay, Bisexual, Transgender, and Questioning Affairs Office of Veterans' Affairs

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

COMMITTEE ON HUMAN SERVICES **Chairperson Brianne Nadeau**

TUESDAY, FEBRUARY 11, 2020; Room 412	
Time	Agency
10:00 a.m. - End	Department of Disability Services Office of Disability Rights

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

COMMITTEE ON HUMAN SERVICES **Chairperson Brianne Nadeau**

WEDNESDAY, FEBRUARY 12, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
11:00 a.m. - End	Child and Family Services Agency

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

JOINT HEARING WITH COMMITTEE ON EDUCATION & COMMITTEE OF THE WHOLE

**Chairperson David Grosso
Chairman Phil Mendelson**

WEDNESDAY, FEBRUARY 12, 2020; Room 412	
Time	Agency
10:00 a.m. - End	Deputy Mayor for Education
	District of Columbia Public Charter School Board

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

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY

Chairperson Charles Allen

WEDNESDAY, FEBRUARY 12, 2020; Room 123	
Time	Agency
9:30 a.m. - 5:00 p.m.	Board of Elections
	Office of Campaign Finance
	Board of Ethics and Government Accountability

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

COMMITTEE ON FACILITIES AND PROCUREMENT

Chairperson Robert C. White, Jr.

THURSDAY, FEBRUARY 13, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Office of Contracting and Procurement
	Contract Appeals Board

Persons wishing to testify about the performance of any of the foregoing agencies may email: facilities@dccouncil.us or by calling 202-741-8593.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY

Chairperson Charles Allen

THURSDAY, FEBRUARY 13, 2020; Room 412	
Time	Agency
9:30 a.m. - 3:00 p.m.	Judicial Nomination Commission
	Commission on Judicial Disabilities and Tenure
	District of Columbia Sentencing Commission
	Criminal Code Reform Commission
	Office of the Attorney General

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

COMMITTEE ON GOVERNMENT OPERATIONS

Chairperson Brandon Todd

THURSDAY, FEBRUARY 13, 2020; Room 123	
Time	Agency
10:00 a.m. - End	Office of Latino Affairs
	Office on African Affairs
	Office on African American Affairs
	Office on Asian and Pacific Islander Affairs

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

COMMITTEE ON HUMAN SERVICES

Chairperson Brianne Nadeau

TUESDAY, FEBRUARY 18, 2020; R.I.S.E Center DC	
Time	Agency
6:00 p.m. - End	Hearing for Public Testimony on agencies under the purview of Human Services

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

COMMITTEE ON FACILITIES AND PROCUREMENT

Chairperson Robert C. White, Jr.

WEDNESDAY, FEBRUARY 19, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Washington Metropolitan Area Transit Authority

Persons wishing to testify about the performance of any of the foregoing agencies may email: facilities@dccouncil.us or by calling 202-741-8593.

JOINT HEARING WITH COMMITTEE ON EDUCATION & COMMITTEE OF THE WHOLE

**Chairperson David Grosso
Chairman Phil Mendelson**

WEDNESDAY, FEBRUARY 19, 2020; Room 412	
Time	Agency
11:00 a.m. - End	District of Columbia Public Schools (Public Witnesses Only)

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

COMMITTEE ON RECREATION AND YOUTH AFFAIRS **Chairperson Trayon White, Jr.**

WEDNESDAY, FEBRUARY 19, 2020; Room 123	
Time	Agency
10:00 a.m. - End	Commission on Fathers, Men, and Boys The Office for East of the River Services

Persons wishing to testify about the performance of any of the foregoing agencies may email: Nate Fleming (nfleming@dccouncil.us) or by calling 202-727-7903.

JOINT HEARING WITH COMMITTEE ON EDUCATION & COMMITTEE OF THE WHOLE **Chairperson David Grosso**
Chairman Phil Mendelson

THURSDAY, FEBRUARY 20, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	District of Columbia Public Schools (Gov't Witnesses Only)

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

COMMITTEE ON HEALTH **Chairperson Vincent Gray**

THURSDAY, FEBRUARY 20, 2020; Room 412	
Time	Agency
10:00 a.m. - End	Department of Health

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

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

FRIDAY, FEBRUARY 21, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Office of Human Resources Office of Labor Relations and Collective Bargaining

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

COMMITTEE ON RECREATION AND YOUTH AFFAIRS **Chairperson Trayon White, Jr.**

FRIDAY, FEBRUARY 21, 2020; Room 412	
Time	Agency
10:00 a.m. - End	Department of Parks and Recreation

Persons wishing to testify about the performance of any of the foregoing agencies may email: Nate Fleming (nfleming@dccouncil.us) or by calling 202-727-7903.

COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**

MONDAY, FEBRUARY 24, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Metropolitan Washington Council of Governments New Columbia Statehood Commission Events DC Commission on the Arts and Humanities

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

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

TUESDAY, FEBRUARY 25, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Real Property Tax Appeals Commission Department of Aging and Community Living Commission on Aging Aged-Friendly DC Task Force

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

COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**

TUESDAY, FEBRUARY 25, 2020; Room 412	
Time	Agency
11:00 a.m. - End	Metropolitan Washington Airports Authority Office of Zoning Office of Planning

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

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT **Chairperson Kenyan McDuffie**
WEDNESDAY, FEBRUARY 26, 2020; COUNCIL CHAMBER (Room 500)

Time	Agency
10:00 a.m. - End	Deputy Mayor for Planning and Economic Development Destination DC

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Justin Roberts (jroberts@dccouncil.us) or by calling 202-724-8053.

JOINT HEARING WITH COMMITTEE ON EDUCATION & COMMITTEE OF THE WHOLE **Chairperson David Grosso**
Chairman Phil Mendelson
WEDNESDAY, FEBRUARY 26, 2020; Room 412

Time	Agency
10:30 a.m. - End	Office of the State Superintendent

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

COMMITTEE ON GOVERNMENT OPERATIONS **Chairperson Brandon Todd**
WEDNESDAY, FEBRUARY 26, 2020; Room 123

Time	Agency
10:00 a.m. - End	Executive Office of the Mayor Office of the City Administrator Office of the Senior Advisor Secretary of the District of Columbia Mayor's Office of Legal Counsel

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

COMMITTEE ON FACILITIES & PROCUREMENT **Chairperson Robert C. White, Jr.**
THURSDAY, FEBRUARY 27, 2020; COUNCIL CHAMBER (Room 500)

Time	Agency
10:00 a.m. - End	Department of General Services

Persons wishing to testify about the performance of any of the foregoing agencies may email: facilities@dccouncil.us or by calling 202-741-8593.

COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**
THURSDAY, FEBRUARY 27, 2020; Room 412

Time	Agency
10:00 a.m. - End	District of Columbia Auditor Office of Budget and Planning District Retiree Health Contribution District of Columbia Retirement Board/Funds

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

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT **Chairperson Mary Cheh**
THURSDAY, FEBRUARY 27, 2020; Room 123

Time	Agency
11:00 a.m. - End	DC Water Washington Aqueduct

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

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY **Chairperson Charles Allen**
THURSDAY, FEBRUARY 27, 2020; Room 120

Time	Agency
9:30 a.m. - 5:00 p.m.	Clemency Board Criminal Justice Coordinating Council Office of Victim Services and Justice Grants

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

COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT **Chairperson Elissa Silverman**
WEDNESDAY, MARCH 4, 2020; COUNCIL CHAMBER (Room 500)

Time	Agency
10:00 a.m. - End	Department of Employment Services (Public Witnesses Only) Workforce Investment Council (Public Witnesses Only)

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

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

WEDNESDAY, MARCH 4, 2020; Room 412	
Time	Agency
10:00 a.m. - End	Real Estate Commission
	Board of Real Estate Appraisers
	District of Columbia Housing Authority

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

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

WEDNESDAY, MARCH 4, 2020; Room 123	
Time	Agency
10:00 a.m. - End	DC Lottery and Charitable Games
	Office of the Chief Financial Officer

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Justin Roberts (jroberts@dccouncil.us) or by calling 202-724-8053.

COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**

THURSDAY, MARCH 5, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	University of the District of Columbia
	Department of Consumer and Regulatory Affairs

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

COMMITTEE ON HEALTH **Chairperson Vincent Gray**

THURSDAY, MARCH 5, 2020; Room 412	
Time	Agency
10:00 a.m. - End	Deputy Mayor for Health and Human Services
	Department of Health Care Finance
	Not-For-Profit Hospital Corporation

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

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

FRIDAY, MARCH 6, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Department of Employment Services (Gov't Witnesses Only)
	Workforce Investment Council (Gov't Witnesses Only)

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

COMMITTEE ON EDUCATION **Chairperson David Grosso**

FRIDAY, MARCH 6, 2020; Room 412	
Time	Agency
10:00 a.m. - End	District of Columbia Public Library

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

**COUNCIL OF THE DISTRICT OF COLUMBIA
 NOTICE OF PUBLIC HEARINGS
 FISCAL YEAR 2021 PROPOSED BUDGET AND FINANCIAL PLAN,
 FISCAL YEAR 2021 BUDGET SUPPORT ACT OF 2020,
 FISCAL YEAR 2021 LOCAL BUDGET ACT OF 2020
 FISCAL YEAR 2021 FEDERAL BUDGET ACT OF 2020, AND
 COMMITTEE MARK-UP SCHEDULE
 1/14/2020**

SUMMARY

March 19, 2020	Mayor Transmits the Fiscal Year 2021 Proposed Budget and Financial Plan
March 20, 2020	Committee of the Whole Public Briefing on the Mayor's Fiscal Year 2021 Proposed Budget and Financial Plan
March 23, 2020 to April 9, 2020	Committee Public Hearings on the "Fiscal Year 2021 Local Budget Act of 2020." (The Committees may also simultaneously receive testimony on sections of the Fiscal Year 2021 Budget Support Act that affect the agencies under each Committee's purview)
April 20, 2020	Committee of the Whole Public Hearing on the "Fiscal Year 2021 Local Budget Act of 2020", "Fiscal Year 2021 Federal Budget Act of 2020" and the "Fiscal Year 2021 Budget Support Act of 2020."
April 21 - 23, 2020	Committee Mark-ups and Reporting on Agency Budgets for Fiscal Year 2021
April 29, 2020	Budget Work Session 10:00 a.m.
May 13, 2020	Committee of the Whole and Council consideration of the "Fiscal Year 2021 Local Budget Act of 2020", "Fiscal Year 2021 Federal Portion Budget Request Act of 2020" and the "Fiscal Year 2021 Budget Support Act of 2020"
May 27, 2020	Council Consideration of the "Fiscal Year 2021 Local Budget Act of 2020" and the "Fiscal Year 2021 Federal Portion Budget Request Act of 2020"

The Council of the District of Columbia hereby gives notice of its intention to hold public hearings on the FY 2020 Proposed Budget and Financial Plan, the "Fiscal Year 2021 Local Budget Act of 2020", "Fiscal Year 2021 Federal Portion Budget Request Act of 2020" and the "Fiscal Year 2021 Budget Support Act of 2020". The hearings will begin Monday, March 23, 2020 and conclude on Thursday, April 9, 2020 and will take place in the Council Chamber (Room 500), Room 412, Room 123 or Room 120 of the John A. Wilson Building; 1350 Pennsylvania Avenue, N.W.; Washington, D.C. 20004.

The Committee mark-ups will begin Tuesday, April 21, 2020 and conclude on Thursday, April 23, 2020 and will take place in the Council Chamber (Room 500) of the John A. Wilson Building; 1350 Pennsylvania Avenue, N.W.; Washington, D.C. 20004.

Persons wishing to testify are encouraged, but not required, to submit written testimony in advance of each hearing to the corresponding committee office. If a written statement cannot be provided prior to the day of the hearing, please have at least 15 copies of your written statement available on the day of the hearing for immediate distribution to the Council. The hearing record will close two business days following the conclusion of each respective hearing. Persons submitting written statements for the record should observe this deadline. For more information about the Council's budget oversight hearings and mark-up schedule please contact the committee of interest.

Witnesses who anticipate needing language interpretation, or require sign language interpretation, are requested to inform the relevant Committee office 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.

ADDENDUM OF CHANGES TO THE PUBLIC HEARING SCHEDULE

<u>New Date</u>	<u>Original Date</u>	<u>Hearing</u>
3/31/2020	3/26/2020	Deputy Mayor for Education - Public Witnesses Only (Education & COW); Room 500 - 9:30 a.m.
4/1/2020	N/A	Deputy Mayor for Education - Gov't Witnesses Only (Education & COW); Room 412 - 9:30 a.m.

PUBLIC HEARING SCHEDULE

COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**

FRIDAY, MARCH 20, 2020; COUNCIL CHAMBER (Room 500)	
Time	Subject
10:00 a.m. - End	Committee of the Whole Public Briefing on the Mayor's Fiscal Year 2020 Proposed Budget and Financial Plan

COMMITTEE ON HEALTH **Chairperson Vincent Gray**

MONDAY, MARCH 23, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	District of Columbia Health Benefit Exchange Authority

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

COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**

MONDAY, MARCH 23, 2020; Room 412	
Time	Agency
10:30 a.m. - End	Council of the District of Columbia
	District of Columbia Auditor
	Office of Budget and Planning
	District Retiree Health Contribution
	District of Columbia Retirement Board/Funds

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

COMMITTEE ON EDUCATION **Chairperson David Grosso**

MONDAY, MARCH 23, 2020; Room 123	
Time	Agency
11:00 a.m. - End	State Board of Education
	Office of the Ombudsman
	Office of the Student Advocate

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

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

TUESDAY, MARCH 24, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
9:30 a.m. - End	Office of Neighborhood Safety and Engagement
	Deputy Mayor for Public Safety and Justice
	Office of the Attorney General

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

COMMITTEE ON FACILITIES AND PROCUREMENT **Chairperson Robert C. White, Jr.**

TUESDAY, MARCH 24, 2020; Room 412	
Time	Agency
10:00 a.m. - End	Office of Advisory Neighborhood Commission

Persons wishing to testify about the performance of any of the foregoing agencies may email: facilities@dccouncil.us or by calling 202-741-8593.

JOINT HEARING WITH COMMITTEE ON EDUCATION & COMMITTEE OF THE WHOLE **Chairperson David Grosso**
Chairman Phil Mendelson

TUESDAY, MARCH 24, 2020; Room 123	
Time	Agency
10:30 a.m. - End	Office of the State Superintendent

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

COMMITTEE OF GOVERNMENT OPERATIONS **Chairperson Brandon Todd**

TUESDAY, MARCH 24, 2020; Room 120	
Time	Agency
10:00 a.m. - End	Office of the City Administrator
	Executive Office of the Mayor
	Office of the Senior Advisor
	Office of the Secretary

Persons wishing to testify about the performance of any of the foregoing agencies may email: governments@dccouncil.us or by calling 202-724-6663.

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

WEDNESDAY, MARCH 25, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Rental Housing Commission
	Housing Finance Agency
	Office of the Tenant Advocate

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

COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**

WEDNESDAY, MARCH 25, 2020; Room 412	
Time	Agency
9:30 a.m. - End	Office of Zoning
	Office of Planning

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

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

WEDNESDAY, MARCH 25, 2020; Room 123	
Time	Agency
9:30 a.m. - 3:00 p.m.	District of Columbia Sentencing Commission
	Criminal Code Reform Commission
	Department of Corrections

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

COMMITTEE ON EDUCATION **Chairperson David Grosso**

WEDNESDAY, MARCH 25, 2020; Room 120	
Time	Agency
11:00 a.m. - End	District of Columbia Public Library

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

COMMITTEE OF GOVERNMENT OPERATIONS **Chairperson Brandon Todd**

THURSDAY, MARCH 26, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Office of the Inspector General
	Office of Risk Management
	Office of Human Rights
	Office of Administrative Hearings

Persons wishing to testify about the performance of any of the foregoing agencies may email: governments@dccouncil.us or by calling 202-724-6663.

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

THURSDAY, MARCH 26, 2020; Room 412	
Time	Agency
9:30 a.m. - End	Department of Forensic Sciences
	Homeland Security and Emergency Management Agency
	Metropolitan Police Department (Public Witnesses Only)

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

JOINT HEARING WITH COMMITTEE ON EDUCATION & COMMITTEE OF THE WHOLE

**Chairperson David Grosso
Chairman Phil Mendelson**

THURSDAY, MARCH 26, 2020; Room 123	
Time	Agency
11:00 a.m. - End	District of Columbia Public Charter School Board

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

COMMITTEE ON FACILITIES AND PROCUREMENT

Chairperson Robert C. White, Jr.

THURSDAY, MARCH 26, 2020; Room 120	
Time	Agency
10:00 a.m. - End	Office of Returning Citizen Affairs Commission on Re-Entry and Returning Citizen Affairs

Persons wishing to testify about the performance of any of the foregoing agencies may email: facilities@dccouncil.us or by calling 202-741-8593.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT

Chairperson Mary Cheh

FRIDAY, MARCH 27, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
11:00 a.m. - End	Department of Motor Vehicles Deputy Mayor for Operations and Infrastructure

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

COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Chairperson Elissa Silverman

FRIDAY, MARCH 27, 2020; Room 412	
Time	Agency
10:00 a.m. - End	Office of Employee Appeals (Combined Performance Oversight & Budget Hearings) Public Employees Relations Board (Combined Performance Oversight & Budget Hearings)

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

COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Chairperson Elissa Silverman

MONDAY, MARCH 30, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Department of Employment Services (Public Witnesses Only) Workforce Investment Council (Public Witnesses Only)

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

COMMITTEE OF THE WHOLE

Chairman Phil Mendelson

MONDAY, MARCH 30, 2020; Room 412	
Time	Agency
10:30 a.m. - End	University of District of Columbia Department of Consumer and Regulatory Affairs

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

COMMITTEE ON HOUSING & NEIGHBORHOOD REVITALIZATION

Chairperson Anita Bonds

MONDAY, MARCH 30, 2020; Room 123	
Time	Agency
3:00 p.m. - End	District of Columbia Housing Authority

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

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

MONDAY, MARCH 30, 2020; Room 120	
Time	Agency
11:00 a.m. - End	Department of Energy and the Environment

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

JOINT HEARING WITH COMMITTEE ON EDUCATION & COMMITTEE OF THE WHOLE **Chairperson David Grosso**
Chairman Phil Mendelson

TUESDAY, MARCH 31, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
9:30 a.m. - End	District of Columbia Public Schools (Public Witnesses Only) Deputy Mayor for Education (Public Witnesses Only)

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

COMMITTEE ON HUMAN SERVICES **Chairperson Brianne Nadeau**

TUESDAY, MARCH 31, 2020; Room 412	
Time	Agency
10:00 a.m. - End	Department of Human Services

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

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

TUESDAY, MARCH 31, 2020; Room 123	
Time	Agency
9:30 a.m. - 5:00 p.m.	Metropolitan Police Department (Gov't Witnesses Only) Office of Police Complaints

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

COMMITTEE ON FACILITIES AND PROCUREMENT **Chairperson Robert C. White, Jr.**

TUESDAY, MARCH 31, 2020; Room 120	
Time	Agency
10:00 a.m. - End	Office of Contracting and Procurement Contract Appeals Board

Persons wishing to testify about the performance of any of the foregoing agencies may email: facilities@dccouncil.us or by calling 202-741-8593.

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

WEDNESDAY, APRIL 1, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Department of Small and Local Business Development Department of Insurance, Securities and Banking Department of For-Hire Vehicles

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Justin Roberts (jroberts@dccouncil.us) or by calling 202-724-8053.

JOINT HEARING WITH COMMITTEE ON EDUCATION & COMMITTEE OF THE WHOLE **Chairperson David Grosso**
Chairman Phil Mendelson

WEDNESDAY, APRIL 1, 2020; Room 412	
Time	Agency
9:30 a.m. - End	District of Columbia Public Schools (Gov't Witnesses Only) Deputy Mayor for Education (Gov't Witnesses Only)

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

COMMITTEE ON RECREATION AND YOUTH AFFAIRS **Chairperson Trayon White, Jr.**

WEDNESDAY, APRIL 1, 2020; Room 123	
Time	Agency
10:00 a.m. - End	The Office for East of the River Services Department of Youth Rehabilitation Services

Persons wishing to testify about the performance of any of the foregoing agencies may email: Nate Fleming (nfleming@dccouncil.us) or by calling 202-727-7903.

COMMITTEE OF GOVERNMENT OPERATIONS **Chairperson Brandon Todd**

WEDNESSAY, APRIL 1, 2020; Room 120	
Time	Agency
10:00 a.m. - End	Office of Latino Affairs
	Office of Lesbian, Gay, Bisexual, Transgender and Questioning Affairs

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

COMMITTEE ON FACILITIES AND PROCUREMENT **Chairperson Robert C. White, Jr.**

THURSDAY, APRIL 2, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Department of General Services

Persons wishing to testify about the performance of any of the foregoing agencies may email: facilities@dccouncil.us or by calling 202-741-8593.

COMMITTEE ON HUMAN SERVICES **Chairperson Brianne Nadeau**

THURSDAY, APRIL 2, 2020; Room 412	
Time	Agency
10:00 a.m. - End	Child and Family Services Agency

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

COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**

THURSDAY, APRIL 2, 2020; Room 123	
Time	Agency
10:30 a.m. - End	Metropolitan Washington Council of Governments
	New Columbia Statehood Commission
	Events DC
	Commission on the Arts & Humanities

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

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

THURSDAY, APRIL 2, 2020; Room 120	
Time	Agency
9:30 a.m. - 8:00 p.m.	Board of Elections
	Office of Campaign Finance
	Board of Ethics and Government Accountability

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

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

FRIDAY, APRIL 3, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Department of Aging and Community Living

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

COMMITTEE OF GOVERNMENT OPERATIONS **Chairperson Brandon Todd**

FRIDAY, APRIL 3, 2020; Room 412	
Time	Agency
10:00 a.m. - End	Office of Asian and Pacific Islander Affairs
	Office of African Affairs
	Office of African American Affairs

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

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

FRIDAY, APRIL 3, 2020; Room 123	
Time	Agency
10:00 a.m. - End	Department of Employment Services (Gov't Witnesses Only)
	Workforce Investment Council (Gov't Witnesses Only)

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

COMMITTEE ON HEALTH **Chairperson Vincent Gray**

FRIDAY, APRIL 3, 2020; Room 120	
Time	Agency
10:00 a.m. - End	Department of Behavioral Health

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

COMMITTEE ON HUMAN SERVICES **Chairperson Brianne Nadeau**

MONDAY, APRIL 6, 2019; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Department of Disability Services
	Office of Disability Rights

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

COMMITTEE ON HEALTH **Chairperson Vincent Gray**

MONDAY, APRIL 6, 2020; Room 412	
Time	Agency
10:00 a.m. - End	Deputy Mayor for Health and Human Services
	Department of Health Care Finance
	Not-for-Profit Hospital Corporation

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

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

MONDAY, APRIL 6, 2020; Room 123	
Time	Agency
11:00 a.m. - End	District Department of Transportation

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

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

MONDAY, APRIL 6, 2020; Room 120	
Time	Agency
10:00 a.m. - End	Deputy Mayor for Planning and Economic Development
	Destination DC

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Justin Roberts (jroberts@dccouncil.us) or by calling 202-724-8053.

COMMITTEE ON RECREATION AND YOUTH AFFAIRS **Chairperson Trayon White, Jr.**

TUESDAY, APRIL 7, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
1:30 p.m. - End	Commission on Fathers, Men and Boys
	Department of Parks and Recreation

Persons wishing to testify about the performance of any of the foregoing agencies may email: Nate Fleming (nfleming@dccouncil.us) or by calling 202-727-7903.

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

TUESDAY, APRIL 7, 2020; Room 412	
Time	Agency
1:30 p.m. - 5:30 p.m.	Fire and Emergency Medical Services Department
	Office of Unified Communications

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

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

WEDNESDAY, APRIL 8, 2020; COUNCIL CHAMBER (500)	
Time	Agency
10:00 a.m. - End	DC Lottery and Charitable Games
	Office of the Chief Financial Officer

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Justin Roberts (jroberts@dccouncil.us) or by calling 202-724-8053.

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

WEDNESDAY, APRIL 8, 2020; Room 412	
Time	Agency
10:00 a.m. - End	Department of Housing and Community Development
	Housing Production Trust Fund

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

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

WEDNESDAY, APRIL 8, 2020; Room 123	
Time	Agency
1:00 p.m. - End	Office of Labor Relations and Collective Bargaining
	Office of Human Resources

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

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

WEDNESDAY, APRIL 8, 2020; Room 120	
Time	Agency
9:30 a.m. - 5:00 p.m.	Office of the Chief Medical Examiner
	Criminal Justice Coordinating Council
	Office of Victim Services and Justice Grants

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

COMMITTEE ON HEALTH **Chairperson Vincent Gray**

THURSDAY, APRIL 9, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Department of Health

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

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

THURSDAY, APRIL 9, 2020; Room 412	
Time	Agency
11:00 a.m. - End	Department of Public Works

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

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

THURSDAY, APRIL 9, 2020; Room 123	
Time	Agency
1:00 p.m. - End	Alcoholic Beverage Regulation Administration
	Office of People's Counsel
	Public Service Commission

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Justin Roberts (jroberts@dccouncil.us) or by calling 202-724-8053.

COMMITTEE OF GOVERNMENT OPERATIONS

Chairperson Brandon Todd

THURSDAY, APRIL 9, 2020; Room 120	
Time	Agency
10:00 a.m. - End	Office of Cable Television, Film, Music and Entertainment Office of the Chief Technology Officer

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

COMMITTEE OF THE WHOLE

Chairman Phil Mendelson

MONDAY, APRIL 20, 2020; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Committee of the Whole Hearing on the "Fiscal Year 2021 Local Budget Act of 2020," "Fiscal Year 2021 Federal Portion Budget Request Act of 2020" and the "Fiscal Year 2021 Budget Support Act of 2020"

COMMITTEE MARK-UP SCHEDULE

TUESDAY, APRIL 21, 2020; COUNCIL CHAMBER (Room 500)

Time	Committee
1:00 p.m. - 2:30 p.m.	Committee on Health
2:30 p.m. - 4:00 p.m.	Committee on Recreation and Youth Affairs
4:00 p.m. - 5:30 p.m.	Committee on Facilities and Procurement

WEDNESDAY, APRIL 22, 2020; COUNCIL CHAMBER (Room 500)

Time	Committee
10:30 a.m. - Noon	Committee on Human Services
Noon - 1:30 p.m.	Committee on Housing and Neighborhood Revitalization
1:30 p.m. - 3:00 p.m.	Committee on Labor and Workforce Development
3:00 p.m. - 4:30 p.m.	Committee on Government Operations

THURSDAY, APRIL 23, 2020; COUNCIL CHAMBER (Room 500)

Time	Committee
10:00 a.m. - 11:30 a.m.	Committee on Business & Economic Development
11:30 a.m. - 1:00 p.m.	Committee on Transportation and the Environment
1:00 p.m. - 2:30 p.m.	Committee on the Judiciary
2:30 p.m. - 4:00 p.m.	Committee on the Education
4:00 p.m. - 5:30 p.m.	Committee of the Whole

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON HOUSING AND NEIGHBORHOOD REVITALIZATION
NOTICE OF PUBLIC OVERSIGHT ROUNDTABLE
1350 Pennsylvania Avenue, NW, Washington, DC 20004

REVISED

**COUNCILMEMBER ANITA BONDS, CHAIRPERSON
COMMITTEE ON HOUSING AND NEIGHBORHOOD REVITALIZATION**

ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE

on the matter of

The D.C. Housing Authority's Transformation Plan

on

Friday, January 31, 2020, at 3:00 PM
The John A. Wilson Building, Room 412
1350 Pennsylvania Ave. NW
Washington, DC 20004

On Friday, January 31, 2020, Councilmember Anita Bonds will hold a public oversight roundtable to discuss the D.C. Housing Authority's Transformation Plan. The Transformation Plan is the agency's 20-year plan to overhaul its portfolio through repairs and rehabilitation, starting with the properties in the most urgent need. The public oversight roundtable will take place in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Ave. NW, at 3:00 p.m. *This notice has been revised to reflect a change in the date, time, and location due to an unforeseen scheduling conflict.*

Those who wish to testify are requested to telephone the Committee on Housing and Neighborhood Revitalization, at (202) 724-8198 or email housing@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any), by close of business on January 30, 2020. Persons wishing to testify are encouraged to **submit 15 copies of written testimony**. Oral testimony will be limited to 3 minutes.

Witnesses who anticipate needing language interpretation, or require sign language interpretation, are requested to inform the Committee of the need as soon as possible but no later than 5 business days before the proceeding. We will make every effort to fulfill timely requests, however requests received in less than 5 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. Written statements should be submitted to the Committee on Housing and Neighborhood Revitalization, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite G6, Washington, D.C. 20004, or emailed to housing@dccouncil.us. The record will close at 5:00 p.m. on February 14, 2020.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON LABOR AND WORKFORCE DEVELOPMENT
NOTICE OF PUBLIC OVERSIGHT ROUNDTABLE
1350 Pennsylvania Avenue, NW, Washington, DC 20004

**CHAIRPERSON ELISSA SILVERMAN
COMMITTEE ON LABOR AND WORKFORCE DEVELOPMENT**

ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE ON

**PR23-0647, “Rulemaking for Paid Family Leave Benefits Approval Resolution of 2020”
and
Implementation of Law 21-264, The Universal Paid Leave Amendment Act of 2016**

**Thursday, January 30, 2020, 11:00 a.m.
Hearing Room 120, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Councilmember Elissa Silverman, Chairperson of the Committee on Labor and Workforce Development, announces a public oversight roundtable before the Committee on PR23-0647, “Rulemaking for Paid Family Leave Benefits Approval Resolution of 2020” as well as the implementation of the Universal Paid Leave Amendment Act of 2016 (L21-264). The law establishes a paid leave system to provide partial wage replacement for District residents in need of leave from work due to serious family illness, personal medical needs, or to care for a new child. The Committee has held roundtables or hearings to examine the status of implementation of UPLA in each quarter since Fall 2017.

At this roundtable, the committee will review the regulations implementing the benefits portion of the program which have been submitted to the Council for approval, as required under UPLA. PR23-647 will deem approved on March 26, 2020, unless the Council takes other action. Additionally, the committee will review the quarterly report submitted by DOES for FY2020 Quarter 1, pursuant to D.C. Official Code §32–541.04(h) and (i), in addition to other elements of implementation. Notably, the District entered into a contract with a vendor to build the information technology system for the provision of benefits, which is slated to begin July 1, 2020. The roundtable will be held at 11 a.m. on Thursday, January 30, 2020, in Room 120 of the John A. Wilson Building.

Those who wish to testify before the Committee are asked to contact Ms. Charnisa Royster at labor@dccouncil.us or (202) 724-7772 by 5:00 p.m. on Tuesday, January 28, 2020, to provide their name, address, telephone number, organizational affiliation and title (if any), as well as the language of oral interpretation, if any, they require. Witnesses who require language interpretation or sign language interpretation, are requested to inform the Labor Committee of the need as soon as possible, but no later than 5:00 p.m. on Wednesday, January 22, 2020. The Council’s Office of the Secretary will fulfill timely requests, however requests received later than January 22 may not be able to be fulfilled due to vendor availability.

Those wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. Those representing organizations will have five minutes to present their testimony,

and other individuals will have three minutes to present their testimony; less time will be allowed if there are a large number of witnesses.

If anyone is unable to testify at the roundtable, written statements will be made a part of the official record. Written statements should be submitted by email to labor@dccouncil.us or mailed to the Committee on Labor and Workforce Development, Council of the District of Columbia, Suite 115 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on Thursday, February 13, 2020.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
COMMITTEE ON FACILITIES AND PROCUREMENT
NOTICE OF JOINT PUBLIC OVERSIGHT ROUNDTABLE**
1350 Pennsylvania Avenue, NW, Washington, DC 20004

**CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE**

**CHAIRPERSON ROBERT C. WHITE, JR.
COMMITTEE ON FACILITIES AND PROCUREMENT**

ANNOUNCE A JOINT PUBLIC OVERSIGHT ROUNDTABLE

on

“Timeliness of Council Contract Submissions by the Executive and Retroactive Contracts”

on

**Wednesday, January 22, 2020, 8:00 a.m.
Room 500, Council Chambers, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson, Committee of the Whole, and Councilmember Robert C. White, Jr., Chair of the Committee on Facilities and Procurement, announce a joint public oversight roundtable on “Timeliness of Council Contract Submissions by the Executive and Retroactive Contracts.” The hearing will be held at 8:00 a.m. on Wednesday, January 22, 2020 in the Council Chambers of the John A. Wilson Building.

The purpose of this oversight roundtable is to receive testimony from government witnesses on why contracts – most notably option period contracts – are coming to the Council for approval after the beginning of the contract period. Under the Home Rule Act and the Procurement Practices Reform Act of 2010 (PPRA), an executive agency must transmit to the Council for its review and approval any contract valued at over \$1 million in a year. This requires the Executive to transmit to the Council the contract (including for renewal for an option period) for a period of 10 days of review. If the Council does not take action on the contract in that 10-day period, it is deemed approved without further Council action. Thus, Executive agencies must plan contract submittals to be timely, to ensure that the full 10 days can elapse before the period of performance begins under the contract.

In limited cases, the Executive has experienced unanticipated increases to the cost of a base or option period of a contract causing the contract value to rise above \$1 million, thus requiring retroactive approval by the Council of the aggregate contract period. Such retroactive approval is transmitted as an emergency act to retroactively approve the contract and authorize payment under the contract. Importantly, these contracts are still considered by the Council to be retroactive because the Council is approving the full contract period, not just the costs over the previous cost. These were deemed “tipping contracts” because while the initial contract was under \$1 million, subsequent changes caused the value to tip over \$1 million even though it was anticipated to be under \$1 million at the time of execution. When unforeseen, these tipping actions are a legitimate practice.

In 2009, there were 17 retroactive contracts submitted for Council approval. By 2015 the number peaked at 81 submissions, and in 2019 there were 63. Moreover, there has been a proliferation of retroactive contracts that the Executive still calls “tipping” but are not for unanticipated costs. For example, at the January 7, 2020 legislative meeting, there were five retroactive option-period approvals on the agenda for periods that were well known to be over \$1 million but were not sent to the Council in time to allow for the prospective 10-day passive approval. This must be for one of two reasons: the Executive wants to avoid Council review (which seems unlikely), or the Executive is planning poorly for future option periods. Either way, it is not an efficient procurement process and it hampers the Council.

Testimony at this hearing will be limited to the Office of Contracting and Procurement (OCP), the Department of Behavioral Health (DBH), and the Child and Family Services Agency (CFSA). Each of these agencies were responsible for one or more retroactive contract on the January 7th legislative meeting agenda. DBH is under OCP’s procurement authority while CFSA has independent procurement authority but must still follow the PPRA. Materials pertaining to this hearing, including a draft witness list, can be accessed 24 hours in advance of the hearing at <http://chairmanmendelson.com/circulation>.

While this hearing is *limited to testimony from specified government witnesses*, written statements from the public will be accepted and made a part of the official record. Copies of written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on Wednesday, February 5, 2020.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON FACILITIES AND PROCUREMENT

ROBERT C. WHITE, JR., CHAIR

REVISED**NOTICE OF PUBLIC ROUNDTABLE****on****PR23-0537, the “Director of the Office on Returning Citizens Affairs
Lamont Carey Confirmation Resolution of 2019”****PR23-0598, the “Commission on Re-Entry and Returning Citizen Affairs
Richard Jarvis Confirmation Resolution of 2019”**

Thursday, January 23rd, 2020, 10:00 AM
Room 123, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, DC 20004

On Thursday, January 23rd, 2020, Councilmember Robert C. White Jr., Chair of the Committee on Facilities and Procurement will hold a public roundtable on PR23-0537, the “Director of the Office on Returning Citizens Affairs Lamont Carey Confirmation Resolution of 2019” and PR23-0598, the “Commission on Re-Entry and Returning Citizen Affairs Richard Jarvis Confirmation Resolution of 2019”. The public roundtable will take place in Room 123 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., at 10:00 AM. **This public roundtable notice has been revised to correct the time of the roundtable.**

The stated purpose of the “Director of the Office on Returning Citizens Affairs Lamont Carey Confirmation Resolution of 2019” is to appoint Lamont Carey, a Ward 7 resident, as Director of the Office on Returning Citizen Affairs, to serve at the pleasure of the Mayor.

The stated purpose of the “Commission on Re-Entry and Returning Citizen Affairs Richard Jarvis Confirmation Resolution of 2019” is to appoint Richard Jarvis, a Ward 5 resident, as a public voting member of the Commission on Re-Entry and Returning Citizen Affairs, for a term to end on August 4, 2022.

The Committee invites the public to testify in person or to submit written testimony. Anyone wishing to testify should contact the Committee via e-mail at facilities@dccouncil.us or at (202) 741-8593, and provide their name, phone number or e-mail, organizational affiliation, and title (if any) by **close of business on Wednesday, January 22nd, 2020.**

All public witnesses will be allowed a maximum of four minutes for oral testimony, while Advisory Neighborhood Commissioners will have a maximum of five minutes to testify. At the discretion of the Chair, the length of time provided for oral testimony may be reduced if there are a large number of witnesses. Witnesses are encouraged, but not required, to bring **twenty single-**

sided copies of their testimony in writing and submit their written testimony electronically in advance to facilities@dccouncil.us.

Witnesses who anticipate needing language interpretation, or require sign language interpretation, are requested to inform the Committee on Facilities and Procurement 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.

Witnesses are advised that should the public roundtable extend beyond 6:00 p.m., the public roundtable will recess for a period of twenty minutes. Should more than one hundred witnesses request to testify in person, the public roundtable will recess after the first one hundred witnesses and any witnesses signed up after the first one hundred will, at the discretion of the chair, be given the opportunity to either provide oral testimony when the public roundtable reconvenes at a later date or submit written testimony for the record.

For witnesses who are unable to testify, written testimony will be made part of the official record. Copies of written testimony should be submitted to the Committee at facilities@dccouncil.us or to Nyasha Smith, Secretary of the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, DC 20004. **The record will close at the close of business on Monday, January 27th, 2020.**

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

**COUNCILMEMBER BRANDON T. TODD
COMMITTEE ON GOVERNMENT OPERATIONS**

ANNOUNCES A PUBLIC ROUNDTABLE ON:

PR23-0592 - Commission on Human Rights Timothy Thomas Confirmation Resolution of 2019

PR23-0591 - Commission on Human Rights Teri Janine Quinn Confirmation Resolution of 2019

PR23-0590 - Commission on Human Rights Karen Mulhauser Confirmation Resolution of 2019

PR23-0589 - Commission on Human Rights Ali Muhammad Confirmation Resolution of 2019

PR23-0588 - Commission on Human Rights Motoko Aizawa Confirmation Resolution of 2019

PR23-0587 - Commission on Human Rights Clifton Lewis Confirmation Resolution of 2019

Thursday, January 30, 2020

9:30 a.m.

**Room 123, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Councilmember Brandon T. Todd announces a Public Roundtable to be held on Thursday, January 30, 2020 at 9:30 a.m. in Room 123 of the John A. Wilson Building, 1350 Pennsylvania Ave., N.W., Washington, D.C. 20004.

PR23-0592, the “Commission on Human Rights Timothy Thomas Confirmation Resolution of 2019” would confirm the reappointment of Timothy Thomas as a member of the Commission on Human Rights, to serve a term ending December 31, 2022.

PR23-0591, the “Commission on Human Rights Teri Janine Quinn Confirmation Resolution of 2019” would confirm the appointment of Teri Janine Quinn as a member of the Commission on Human Rights, to serve a term ending December 31, 2022.

PR23-0590, the “Commission on Human Rights Karen Mulhauser Confirmation Resolution of 2019” would confirm the reappointment of Karen Mulhauser as a member of the Commission on Human Rights, to serve a term ending December 31, 2022.

PR23-0589, the “Commission on Human Rights Ali Muhammad Confirmation Resolution of 2019” would confirm the reappointment of Ali Muhammad as a member of the Commission on Human Rights, to serve a term ending December 31, 2022.

PR23-0588, the “Commission on Human Rights Motoko Aizawa Confirmation Resolution of 2019” would confirm the reappointment of Motoko Aizawa as a member of the Commission on Human Rights, to serve a term ending December 31, 2022.

PR23-0587, the “Commission on Human Rights Clifton Lewis Confirmation Resolution of 2019” would confirm the reappointment of Clifton Lewis as a member of the Commission on Human Rights, to serve a term ending December 31, 2022.

The Committee invites the public to testify at the roundtable. Those who wish to testify should contact Sam Stephens, Legislative Assistant at GovernmentOperations@dccouncil.us, and provide your name, organizational affiliation (if any), and title with the organization by **close of business January 28, 2020**. Witnesses should bring 10 copies of their written testimony to the roundtable. The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to GovernmentOperations@dccouncil.us or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 117, Washington D.C. 20004. **The record will close at the end of the business day on February 13, 2020.**

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

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

ANNOUNCES A PUBLIC ROUNDTABLE IN THE MATTER OF:

**PR23-0634, THE “GAMES OF SKILL CONSUMER PROTECTION EMERGENCY
DECLARATION RESOLUTION OF 2019”;**

**B23-0590, THE “GAMES OF SKILL CONSUMER PROTECTION EMERGENCY
AMENDMENT ACT OF 2019”; AND**

**B23-0591, THE “GAMES OF SKILL CONSUMER PROTECTION TEMPORARY
AMENDMENT ACT OF 2019”**

**Wednesday, January 22, 2020, 9:00 a.m.
Room 500, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

On Wednesday, January 22, 2020, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on Business and Economic Development, will hold a public roundtable in the matter of PR23-0634, the “Games of Skill Consumer Protection Emergency Declaration Resolution of 2019”, B23-0590, the “Games of Skill Consumer Protection Emergency Amendment Act of 2019”, and B23-0591, the “Games of Skill Consumer Protection Temporary Amendment Act of 2019”.

The stated purpose of the emergency and temporary legislations is to enable the District of Columbia government to regulate electronic games of skill devices for the first time in the District. Games of skill are different from games of chance, in that they require a player to employ a degree of skill in order to win a prize. Games of chance on the other hand are considered gambling and gambling is unlawful in the District.

The Committee invites the public to testify or to submit written testimony. Anyone wishing to testify at the roundtable should contact the Committee on Business and Economic Development via email at oagwai@dccouncil.us or at (202) 724-8078, and provide their name, telephone number, organizational affiliation, and title (if any), by **close of business Tuesday, January**

21st. Witnesses who anticipate needing language interpretation, or will require sign language interpretation, should inform the Committee as soon as possible but no later than five (5) business days before the proceeding. The Committee will make every effort to fulfill the timely request, however, in the event that the request is received in less than five (5) business days, the request may not be granted and an alternative maybe offered.

In addition, representatives of organizations will be allowed a maximum of five minutes for oral testimony, and individuals will be allowed a maximum of three minutes. Witnesses are encouraged to bring **five single-sided copies** of their written testimony and, if possible, also submit a copy of their testimony electronically in advance to oagwai@dccouncil.us. For witnesses who are unable to testify at the roundtable, written statements will be made part of the official record. Copies of written statements should be submitted to the Committee on Business and Economic Development at oagwai@dccouncil.us or to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, D.C. 20004. **The record will close at the end of the business day on January 31st, 2020.**

<p style="text-align: center;">COUNCIL OF THE DISTRICT OF COLUMBIA EXCEPTED SERVICE APPOINTMENTS AS OF DECEMBER 31, 2019</p>

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
Boland, John	Legislative Assistant	3	Excepted Service - Reg Appt

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION**

Placard Posting Date: December 20, 2019
Protest Petition Deadline: February 3, 2020
Roll Call Hearing Date: February 18, 2020

License No.: ABRA-000931
Licensee: Harco, Inc.
Trade Name: Archibald’s/ Fast Eddies Billiards Cafe
License Class: Retailer’s Class “C” Nightclub
Address: 1520 K Street, N.W.
Contact: Daniel Harris, President: (202) 638-6800

WARD 2

ANC 2B

SMD 2B05

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 February 18, 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**

Licensee is applying to add Sports Wagering to their operations. Establishment will have two sports wagering kiosks and multiple mobile applications on the premises by the entrance.

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

Sunday – Thursday 11am – 4am
Friday and Saturday 11am – 5am

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION

Sunday – Thursday 11am – 2am
Friday and Saturday 11am – 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Placard Posting Date: December 20, 2019
Protest Petition Deadline: February 3, 2020
Roll Call Hearing Date: February 18, 2020

License No.: ABRA-000931
Licensee: Harco, Inc.
Trade Name: Archibald’s/ Fast Eddies Billiards Cafe
License Class: Retailer’s Class “C” Nightclub
Address: 1520 K Street, N.W.
Contact: Daniel Harris, President: (202) 638-6800

WARD 2

ANC 2B

SMD 2B05

Notice is hereby given that this licensee has requested Substantial Changes 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 February 18, 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 CHANGES

Licensee is applying to add Sports Wagering to their operations. Establishment will have two sports wagering kiosks and multiple mobile applications on the premises by the entrance. ****Licensee is also applying for a Game of Skill Substantial Change. Licensee requests to offer the Dragon’s Ascent electronic game of skill. There will be one 8-player table model, and two 2-player consoles.**

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

Sunday – Thursday 11am – 4am
Friday and Saturday 11am – 5am

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION

Sunday – Thursday 11am – 2am
Friday and Saturday 11am – 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: January 17, 2020
Protest Petition Deadline: March 2, 2020
Roll Call Hearing Date: March 16, 2020
Protest Hearing Date: May 6, 2020

License No.: ABRA-116126
Licensee: Washington Capitol Hill Operations, LLC
Trade Name: citizenM
License Class: Retailer's Class "C" Hotel
Address: 550 School Street, S.W.
Contact: Stephen J. O'Brien, Esq.: (202) 625-7700

WARD 6

ANC 6D

SMD 6D01

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing date on March 16, 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 May 6, 2020 at 1:30 p.m.

NATURE OF OPERATION

New Retailer's Class "C" Hotel with 260 hotel rooms. Applicant is applying for an Entertainment Endorsement inside the premises only. Applicant is also applying for a Sidewalk Café with 15 seats and a Summer Garden with 40 seats.

HOURS OF OPERATION INSIDE PREMISES

Sunday through Saturday 12am - 12am (24-hour operations)

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

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

HOURS OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR THE SUMMER GARDEN AND SIDEWALK CAFÉ

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

HOURS OF LIVE ENTERTAINMENT INSIDE THE PREMISES ONLY

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: January 17, 2020
Protest Petition Deadline: March 2, 2020
Roll Call Hearing Date: March 16, 2020

License No.: ABRA-107078
Licensee: 713 Partners, LLC
Trade Name: Finn McCool's
License Class: Retailer's Class "C" Restaurant
Address: 713 8th Street, S.E.
Contact: William Sport: (202) 846-7728

WARD 6 ANC 6B SMD 6B03

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 March 16, 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 Class Change from a Retailer Class "C" Restaurant to a Retailer Class "C" Tavern.

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

Sunday 10am - 2am, Monday through Friday 8am - 2am, Saturday 8am - 3am

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

Sunday through Friday 11am - 2am, Saturday 11am - 3am

HOURS OF LIVE ENTERTAINMENT INSIDE PREMISES AND FOR THE SIDEWALK CAFE

Sunday through Thursday 6pm - 1am, Friday and Saturday 6pm - 2am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON

**1/17/2020

****READVERTISEMENT**

Notice is hereby given that:

License Number: ABRA-109491

License Class/Type: C Restaurant

Applicant: Sidamo Coffee & Tea, Inc.

Trade Name: Sidamo Coffee & Tea, Inc.

ANC: 6C04

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

417 H ST NE, WASHINGTON, DC 20002

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR

**3/2/2020

A HEARING WILL BE

**3/16/2020

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

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	8 am - 1 am	11 am - 1 am	-
Monday:	8 am - 1 am	11 am - 1 am	-
Tuesday:	8 am - 1 am	11 am - 1 am	-
Wednesday:	8 am - 1 am	11 am - 1 am	-
Thursday:	8 am - 1 am	11 am - 1 am	-
Friday:	8 am - 1 am	11 am - 1 am	-
Saturday:	8 am - 1 am	11 am - 1 am	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON

**1/3/2020

****RESCIND**

Notice is hereby given that:

License Number: ABRA-109491

License Class/Type: C Restaurant

Applicant: Sidamo Coffee & Tea, Inc.

Trade Name: Sidamo Coffee & Tea, Inc.

ANC: 6C04

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

417 H ST NE, WASHINGTON, DC 20002

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR

**2/18/2020

A HEARING WILL BE

**3/2/2020

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

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	8 am - 1 am	11 am - 1 am	-
Monday:	8 am - 1 am	11 am - 1 am	-
Tuesday:	8 am - 1 am	11 am - 1 am	-
Wednesday:	8 am - 1 am	11 am - 1 am	-
Thursday:	8 am - 1 am	11 am - 1 am	-
Friday:	8 am - 1 am	11 am - 1 am	-
Saturday:	8 am - 1 am	11 am - 1 am	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION**

Placard Posting Date: **January 10, 2020
Protest Petition Deadline: February 24, 2020
Roll Call Hearing Date: March 9, 2020
Protest Hearing Date: April 29, 2020

License No.: ABRA-115871
Licensee: Zemen M, LLC
Trade Name: Sparks Restaurant
License Class: Retailer’s Class “C” Tavern
Address: 1915 9th Street, N.W.
Contact: Richard J. Bianco, Esq.: (202) 461-2400

WARD 1

ANC 1B

SMD 1B02

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on March 9, 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 **April 29, 2020 at 1:30 p.m.**

NATURE OF OPERATION

New Retailer’s Class “C” Tavern offering American and Italian food. Applicant is applying for an Entertainment Endorsement with Cover Charge. Total seating inside is 77 with a Total Occupancy Load of 77.

HOURS OF OPERATION

Sunday through Saturday 10am – 5am

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION

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

HOURS OF LIVE ENTERTAINMENT

Sunday through Saturday 6pm – 2am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Placard Posting Date: **December 10, 2019
Protest Petition Deadline: February 24, 2020
Roll Call Hearing Date: March 9, 2020
Protest Hearing Date: April 29, 2020

License No.: ABRA-115871
Licensee: Zemen M, LLC
Trade Name: Sparks Restaurant
License Class: Retailer’s Class “C” Tavern
Address: 1915 9th Street, N.W.
Contact: Richard J. Bianco, Esq.: (202) 461-2400

WARD 1 ANC 1B SMD 1B02

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on March 9, 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 **April 29, 2020 at 1:30 p.m.**

NATURE OF OPERATION

New Retailer’s Class “C” Tavern offering American and Italian food. Applicant is applying for an Entertainment Endorsement with Cover Charge. Total seating inside is 77 with a Total Occupancy Load of 77.

HOURS OF OPERATION

Sunday through Saturday 10am – 5am

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION

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

HOURS OF LIVE ENTERTAINMENT

Sunday through Saturday 6pm – 2am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: January 17, 2020
Protest Petition Deadline: March 2, 2020
Roll Call Hearing Date: March 16, 2020
Protest Hearing Date: May 6, 2020

License No.: ABRA-116144
Licensee: Tonari, LLC
Trade Name: Tonari
License Class: Retailer's Class "C" Tavern
Address: 707 6th Street, N.W.
Contact: Jeff Jackson: (202) 251-1566

WARD 2

ANC 2C

SMD 2C03

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing date on March 16, 2020 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, D.C. 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 May 6, 2020 at 4:30 p.m.

NATURE OF OPERATION

A new class C Tavern with a seating capacity of 114 and a Total Occupancy Load of 187.

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

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: January 17, 2020
Protest Petition Deadline: March 2, 2020
Roll Call Hearing Date: March 16, 2020

License No.: ABRA-107131
Licensee: 514 Partners, LLC
Trade Name: Tortuga Caribbean Bar & Grille
License Class: Retailer's Class "C" Restaurant
Address: 514 8th Street, S.E.
Contact: William Sport: (202) 846-7728

WARD 6

ANC 6B

SMD 6B04

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 March 16, 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

Request to add an Entertainment Endorsement with Cover Charge inside the premises only.

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

Sunday 10 am – 1am, Monday through Thursday 8am – 1am, Friday and Saturday 8am – 2am

PROPOSED HOURS OF LIVE INDOOR ENTERTAINMENT

Sunday through Thursday 11am – 12am, Friday and Saturday 11am – 2am

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF PUBLIC HEARING AND PUBLIC COMMENT PERIOD
ON AIR QUALITY ISSUES

Notice is hereby given that a public hearing will be held on Tuesday, February 18, 2020, at 5:30 p.m. in Room 574 at 1200 First Street NE, 5th Floor, in Washington, D.C. 20002.

The United States Environmental Protection Agency (EPA) designated the District of Columbia (DC, D.C., or District) as a Nonattainment Area (NAA) for the 2015 8-hour Ozone National Ambient Air Quality Standards (NAAQS) after promulgation of the revised standards to 0.070 parts per million (ppm). This hearing provides interested parties an opportunity to comment on two different revisions to the District's State Implementation Plan (SIP), approved and submitted under the authority of D.C. Official Code §§ 8 101.05-101.06, and in accordance with the requirements of 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). These SIP revisions are required to comply with the final rule titled *Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements* (83 FR 62998, December 6, 2018).

The first revision includes the District's certification that the existing federally-approved Nonattainment New Source Review (NNSR) program, covering the Washington, DC-MD-VA nonattainment area for the 2015 ground level ozone NAAQS, is at least as stringent as the requirements at 40 CFR 51.165 for ozone and its precursors.

Once the Department of Energy and Environment (DOEE) has completed the certification, the documents will be submitted to EPA for approval as a revision to the District's SIP at 40 CFR Part 52 Subpart J, pursuant to the provisions of § 107 of the federal Clean Air Act (CAA).

EPA previously approved an NNSR SIP revision for the District for the 2008 ozone NAAQS nonattainment area on July 5, 2019 (84 FR 32072). DOEE has not subsequently amended the approved NNSR program. Upon review of the approved NNSR program, DOEE has found and certified that no changes are necessary to comply with the 2015 ozone NAAQS NNSR requirements. The District is requesting that EPA concurrently approve, as a SIP revision, the related NNSR Certification. The cited regulations can be reviewed at <https://www.dcregs.dc.gov/>.

The second revision consists of a certification that the District's existing Emission Statement program is at least as stringent as the requirements in § 182 (a)(3)(B) of the CAA in support of the 2015 ozone NAAQS. Once DOEE has completed the certification, the documents will be submitted to the EPA for approval as a revision to the District's SIP at 40 CFR Part 52 Subpart J, pursuant to the provisions of § 107 of the federal CAA.

As a NAA requirement under the § 182(a)(3)(B), the District must address its emission statement requirements. The District certifies that the existing emission statement program

covering the nonattainment area for the 2015 ozone NAAQS is at least as stringent as the requirements in § 182(a)(3)(B). The District is requesting that EPA concurrently approve, as a SIP revision, the related Emission Statement Certification.

Copies of the proposed certifications are available for public review during normal business hours at the offices of the DOEE, 1200 First Street NE, 5th Floor, Washington, DC 20002, and on-line at <https://doee.dc.gov/>.

All persons desiring to comment on the SIP amendment should file comments in writing not later than thirty (30) days after publication of this notice in the *D.C. Register*. Comments should be clearly marked “Public Comments: 2015 NAAQS NNSR & Emission Statement Certifications” and filed with DOEE, Air Quality Division, 1200 First Street, NE, 5th Floor, Washington, DC 20002, Attention: Joseph Jakuta, or e-mailed to joseph.jakuta@dc.gov. Copies of the above documents may be obtained from DOEE at the same address.

HISTORIC PRESERVATION REVIEW BOARD
NOTICE OF PUBLIC HEARINGS

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

Case No. 20-02: Slowe-Burrill House
1256 Kearny Street NW
Square 3930, Lot 3
Affected Advisory Neighborhood Commission: 5B

The hearing will take place at **9:00 a.m. on Thursday, March 26, 2020**, at 441 Fourth Street, NW (One Judiciary Square), in Room 220 South. It will be conducted in accordance with the Review Board's Rules of Procedure (10C DCMR 2). A copy of the rules can be obtained from the Historic Preservation Office at 1100 4th Street SW, Suite E650, Washington, DC 20024, or by phone at (202) 442-8800, and they are included in the preservation regulations which can be found on the Historic Preservation Office website.

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

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

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

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

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

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

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

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

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

**DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD
NOTIFICATION OF PUBLIC HEARING ON FACILITY**

The District of Columbia Public Charter School Board (DC PCSB) announces an opportunity for the public to submit comment on a request by The Sojourner Truth Public Charter School (Sojourner Truth PCS) to locate its facility at 1800 Perry St. NE in Ward 5.

Sojourner Truth PCS received conditional approval on May 20, 2019 to establish a new public charter school. This approval is contingent on the school satisfying all of the Board's conditions, which include securing a fully executed lease or title agreement for a facility. Pending its full charter approval, the school will begin operation in school year 2020-21, enrolling 90 students in grades 6 and 7. At capacity, it will serve a total of 450 students in grades 6-12.

DATES:

- Comments must be submitted on or before Monday, February 24.
- The public hearing will be held on Monday, February 24 at 6:30 p.m. For location, please check www.dcpsb.org.
- The vote for full charter approval, including facility, is tentatively scheduled for Monday, May 18 at 6:30 p.m. For location, please check www.dcpsb.org.

ADDRESSES: You may submit comments, identified by "Sojourner Truth PCS – Notice of Public Hearing," by any of the following methods:

1. Submit a written comment via:
 - a. E-mail*: public.comment@dcpsb.org
 - b. Postal mail*: Attn: Public Comment, DC Public Charter School Board, 3333 14th ST. NW., Suite 210, Washington, DC 20010
 - c. Hand Delivery/Courier*: Same as postal address above
2. Sign up to testify in-person at the public hearing on February 24 by emailing a request to public.comment@dcpsb.org by no later than 4 p.m. on Thursday, May 17.

Please select only one of the actions listed above.

FOR FURTHER INFORMATION CONTACT: Hannah Cousino; Senior Specialist, Equity, Audits, and Support; at (202) 328-2673 or hcousino@dcpsb.org.

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, MARCH 11, 2020
441 4TH STREET, N.W.
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH
WASHINGTON, D.C. 20001**

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

TIME: 9:30 A.M.

WARD TWO

20191
ANC 2D **Appeal of DC for Reasonable Development**, pursuant to 11 DCMR Subtitle Y § 302, from the decision made on August 16, 2019 by the Zoning Administrator, Department of Consumer and Regulatory Affairs, to issue demolition permit D1600814, to permit the demolition of several aspect of the McMillan Sand Filtration Site, and from the decision made on August 27, 2019 by the Zoning Administrator, Department of Consumer and Regulatory Affairs, to issue foundation permit FD1800040 to permit the foundation of a new community center in the RA-2 Zone at premises 2940 North Capitol Street N.W. (Square 3128, Lot 800).

WARD FOUR

20209
ANC 4B **Application of Uzoma Ogbuokiri**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle D § 5201 from the lot occupancy requirements of Subtitle D § 304.1, to construct a 3-story rear addition to an existing semi-detached principal dwelling unit in the R-2 Zone at premises 7521 9th Street, N.W. (Square 2961, Lot 18).

WARD SIX

20215
ANC 6B **Application of Matt Cutler**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 5201 from the rear yard requirements of Subtitle E § 306.1, and pursuant to Subtitle X, Chapter 10, for an area variance from the lot occupancy requirements of Subtitle E § 304.1, to construct a rear addition to an existing apartment house in the RF-1 Zone at premises 1249 South Carolina Avenue S.E. (Square 1017N, Lot 3).

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WARD THREE

20220
ANC 3F **Application of Paul and Marilyn Pearlstein**, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle D § 5201 from the minimum side yard requirements of Subtitle D § 507.1, and the accessory building side yard requirements of Subtitle D § 5005.1, to construct a rear addition on the existing, detached, principal dwelling unit in the R-8 Zone at premises 2928 Ellicott Street, N.W. (Square 2270, Lot 8).

WARD SEVEN

20222
ANC 7C **Application of Jack Spicer Properties LLC**, pursuant to 11 DCMR Subtitle X, Chapter 9, for an area variance from the lot dimension requirements of Subtitle D § 302.1, to subdivide the existing record lot into two separate lots of record and to internally divide the existing detached principal dwelling unit in two separate, semi-detached, principal dwelling units in the R-2 Zone at premises 5104-5106 Jay Street N.E. (Square 5176, Lot 369).

WARD TWO

20228
ANC 2D **Application of Vincent Hurteau**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle D § 5201 from the lot occupancy requirements of Subtitle D § 304.1, and under Subtitle C § 1504 from the penthouse setback requirements of Subtitle C § 1502.1(b) & (c), to construct a second-story rear deck addition and to use existing roof space on the third story as a roof deck on an existing, attached principal dwelling unit in the R-3 Zone at premises 2548 Massachusetts Avenue N.W. (Square 2500, Lot 57).

PLEASE NOTE:

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

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

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

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

Do you need assistance to participate?

Amharic

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.

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

DEPARTMENT OF ENERGY AND ENVIRONMENT**NOTICE OF FINAL RULEMAKING****Paint Stewardship Program Infractions**

The Director of the Department of Energy and Environment (DOEE or Department), in accordance with the authority set forth in the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.04 (2016 Repl.)); the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code §§ 8-151.01 *et seq.* (2013 Repl.)); the Paint Stewardship Act of 2014, effective March 11, 2015 (D.C. Law 20-205; D.C. Official Code §§ 8-233.01 *et seq.* (2019 Supp.)); Mayor's Order 2006-61, dated June 14, 2006; and Mayor's Order 2015-229, dated October 7, 2015; hereby gives notice of the intent to adopt the following amendment to Chapter 40 (Department of Environment (DDOE) Infractions) of Title 16 (Consumers, Commercial Practices, and Civil Infractions) of the District of Columbia Municipal Regulations (DCMR).

The rulemaking establishes a schedule of civil infractions for violations of the District's Paint Stewardship Program.

The Department published a Notice of Proposed Rulemaking on October 14, 2016, at 63 DCR 12809. The comment period closed on November 14, 2016.

Comments were submitted by American Coatings Association (ACA). The ACA incorporated PaintCare, Inc. (PaintCare), a representative organization that has a DOEE-approved paint stewardship plan. The comments centered on the substantive statute and rulemaking already in effect, not on the proposed rulemaking, which only established administrative fine amounts for the established statutory and regulatory requirements. The proposed rulemaking did not add any substantive requirements for paint producers, representative organizations, or retailers. While the comments would not have changed the proposed rulemaking, the Department is responding to these comments to promote transparency and to provide compliance assistance.

A comment sought clarification regarding DOEE's enforcement policy against paint retailers. DOEE considers a retail collection point operating under the guidelines of PaintCare's Revised Plan (dated July 22, 2016) and acting in good-faith, to be in compliance with 20 DCMR § 4003.1(c). If an entity that drops off paint at a retail location misrepresents itself as a household or a conditionally exempt small quantity generator, DOEE will look to take enforcement action against that entity under applicable hazardous waste rules.

Another comment believed the fine scheduled for D.C. Official Code § 8-233.02(e) (failure to provide consumers with the specified educational materials) created substantive requirements for regulated entities to provide additional educational materials. However, scheduling a fine for D.C. Official Code § 8-233.02(e) does not create new requirements for PaintCare. Regarding the substantive requirements of D.C. Official Code § 8-233.02(e), DOEE will consider PaintCare in compliance if it acts according to PaintCare's Revised Plan (dated July 22, 2016). Specifically,

PaintCare's downloadable brochures, flyers, and other educational material, as well as its online ordering form for free brochures for retailers, institutions, real estate agents, property managers, and painting contractors is considered meeting this requirement.

For further guidance on compliance assistance, please see the Department letter on DOEE's webpage, <https://doee.dc.gov/paint>.

These rules were adopted as final on January 9, 2020, and will become effective upon publication of this notice in the *D.C. Register*.

Chapter 40, DEPARTMENT OF ENVIRONMENT (DDOE) INFRACTIONS, of Title 16 DCMR, CONSUMERS, COMMERCIAL PRACTICES, AND CIVIL INFRACTIONS, is amended as follows:

A new Section 4012, PAINT STEWARDSHIP PROGRAM INFRACTIONS, is added to read as follows:

4012 PAINT STEWARDSHIP PROGRAM INFRACTIONS

4012.1 [RESERVED]

4012.2 [RESERVED]

4012.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) D.C. Official Code § 8-233.02(c) (failure to implement an approved paint stewardship program plan);
- (b) D.C. Official Code § 8-233.03(b) (participating as a paint collection point not pursuant to an approved paint stewardship program);
- (c) 20 DCMR § 4003.1(a) (failure to operate a collection location pursuant to a contract with a producer or representative organization);
- (d) 20 DCMR § 4003.1(c) (collecting oil-based paint from an entity that is not a household or a conditionally exempt small quantity generator); or
- (e) 20 DCMR § 4003.1(d) (collecting oil-based paint that is not in liquid form and in its original packaging or in a closed container that is properly labeled).

4012.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) D.C. Official Code § 8-233.02(b)(1) (failure to add the paint stewardship assessment to the purchase price of paint sold);

- (b) D.C. Official Code § 8-233.02(d) (selling or offering for sale paint not covered under a product stewardship plan);
- (c) D.C. Official Code § 8-233.02(f) or 20 DCMR § 4002.1 (failure to submit an annual paint stewardship program report with the required elements);
- (d) D.C. Official Code § 8-233.03(a) (selling or offering for sale unapproved paint not listed on DOEE's webpage);
- (e) D.C. Official Code § 8-233.04(c) (failure to comply with a modified plan);
or
- (f) 20 DCMR § 4001.2 (failure to submit a modified plan).

4012.5 Violation of the following provision shall be a Class 5 infraction:

- (a) D.C. Official Code § 8-233.02(e) (failure to provide consumers with the specified educational materials).

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in Section 302(14) of the District of Columbia Health Occupations Revision Act of 1985, effective March 15, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2016 Repl.)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of her intent to adopt the following amendments to Chapter 61 (Trained Medication Employee) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

The Practice of Nursing Amendment Act of 2009, effective July 7, 2009 (D.C. Law 18-18; 56 DCR 3624 (May 8, 2009)), amended the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl.)), by, in part, placing trained medication employees in the category of "nursing assistive personnel," which includes home health aides, patient care technicians, medication aides, certified nursing assistants and dialysis technicians. The last amendments of the regulations governing trained medication employees occurred in October 2003. This proposed rulemaking will align the language in the trained medication employee's regulations with the language in the home health aide regulations and update the current practice requirements for trained medical employees. Chapter 61 is being amended in its entirety.

Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

Chapter 61, TRAINED MEDICATION EMPLOYEE, is amended as follows:

Section 6100, GENERAL PROVISIONS, is amended as follows:

Subsection 6100.1 is amended to read as follows:

6100.1 This chapter shall apply to applicants for, and holders of, a certificate as a trained medication employee (TME), employed to work with persons serviced by the District of Columbia's Department on Disability Services Developmental Disabilities Administration, Community Residential Facilities and Assisted Living Residencies.

A new Subsection 6100.2 is added to read as follows:

6100.2 Chapters 40 (Health Occupations: General Rules) and 41 (Health Occupations: Administrative Procedures) of this title supplement this chapter.

Section 6101, OBTAINING AND FILING WRITTEN INSTRUCTIONS, is amended to read as follows:

6101 CERTIFICATION

6101.1 No person shall practice as a trained medication employee in the District of Columbia without being certified by the Board of Nursing (Board).

Section 6102, PERIODIC REVIEW OF WRITTEN INSTRUCTIONS, is amended to read as follows:

6102 TERM OF CERTIFICATION

6102.1 A certification issued pursuant to this chapter shall expire at 11:59 p.m. on October 31 of each odd-numbered year.

6102.2 The Director of the Department of Health (DOH) may modify the renewal system pursuant to § 4006.3 of Chapter 40 of this title and may modify the date on which certification expires. Notice will be provided on the DOH website if the renewal system changes.

Section 6104, STORAGE OF MEDICATION, is amended to read as follows:

6104 APPLICATION FOR CERTIFICATION

6104.1 An applicant for certification as a trained medication employee shall:

- (a) Be at least eighteen (18) years of age;
- (b) Provide evidence of having passed a trained medication employee examination;
- (c) Meet the criminal background check requirements of 17 DCMR Chapter 85;
- (d) Submit a completed application and application fee to the Board; and
- (e) Submit any other documents that may be required by the Board.

Section 6105, RECORD KEEPING, is amended to read as follows:

6105 REQUIREMENTS FOR TRAINED MEDICATION CERTIFICATION BY EXAMINATION

6105.1 To apply for authorization to take a trained medication employee examination, an applicant shall provide proof of:

- (a) Successful completion of the trained medication employee course approved by the Board or a medication administration course substantially equivalent to the trained medication employee course; and
- (b) At least one (1) year experience providing nursing related services in a program or health care facility.

6105.2 To request special accommodations for an examination due to a disability, an applicant shall submit the following:

- (a) Information from the appropriate health professional that confirms the applicant’s disability and describes the accommodations required; and
- (b) Information from the applicant’s previous education programs, indicating what accommodations the programs granted.

6105.3 If an applicant has failed the trained medication employee examination three (3) times or has not passed the trained medication employee examination more than one (1) year after the date the applicant became eligible to apply to take the examination, the applicant shall retake the trained medication employee training and submit application to retake the examination.

Section 6106, CERTIFICATION OF TRAINED MEDICATION EMPLOYEES, is repealed and reserved.

Section 6107, RECERTIFICATION, is amended to read as follows:

6107 RENEWAL OF TRAINED MEDICATION EMPLOYEE CERTIFICATION

6107.1 An applicant for renewal of a trained medication employee certification shall:

- (a) Provide evidence of completion of twelve (12) hours per year, twenty-four (24) in total, of in-service training or continuing education; provided that at least ten percent (10%) of the in-service or continuing education shall be in a public health subject as determined and published every five (5) years or as deemed appropriate by the Director;
- (b) Provide evidence of at least eight (8) hours in the performance of drug-administration for compensation during the prior twenty-four (24) months; and
- (c) Complete a criminal background check as required.

6107.2 A trained medication employee who has an active District of Columbia certification as a nursing assistive personnel may apply in-service training or continuing education hours from that certification to satisfy the requirements of § 6107.1(a).

6107.3 An applicant for certification renewal as a trained medication employee shall submit to the Board evidence of completion of two (2) hours of continuing education in cultural competency or specialized clinical training for clients who identify as lesbian, gay, bisexual, transgender, and questioning or queer.

Section 6108, GENERAL SUPERVISION BY REGISTERED NURSES OF TRAINED MEDICATION EMPLOYEES, is amended to read as follows:

6108 INACTIVE STATUS FOR A TRAINED MEDICATION EMPLOYEE; REACTIVATION OF TRAINED MEDICATION EMPLOYEE CERTIFICATION

6108.1 A trained medication employee with an active certification may request to be placed on inactive status by submitting an application and paying all necessary fees as published in 17 DCMR Chapter 35.

6108.2 While on inactive status, a trained medication employee shall not be subject to the renewal fee and shall not practice, attempt to practice, or offer to practice as a TME in the District of Columbia.

6108.3 To reactivate an inactive certification, an applicant shall meet the requirements of § 6107.

Section 6109, TRAINING PROGRAMS AND TRAINER, is amended to read as follows:

6109 REINSTATEMENT OF TRAINED MEDICATION EMPLOYEE EXPIRED CERTIFICATION

6109.1 If a trained medication employee fails to renew his or her certification, the Board shall reinstate the certification if the applicant:

(a) Applies to the Board for reinstatement of the certification within five (5) years after the certification expires; and

(b) Meets the requirements for renewal in § 6107.

6109.2 If a trained medication employee fails to apply for reinstatement within five (5) years after his or her certification expires, the trained medication employee shall meet the requirements for certification pursuant to § 6105.

Section 6110, PROGRAM RESPONSIBILITIES, is amended to read as follows:

6110 [RESERVED]

Section 6111, ADMINISTRATION OF MEDICATION IN EMERGENCY OR LIFE-THREATENING CIRCUMSTANCES, is amended to read as follows:

6111 [RESERVED]

Section 6112, ASSESSMENT TOOLS, is amended to read as follows:

6112 [RESERVED]

A new Section 6113, ASSIGNMENT OF NURSING CARE TASKS TO TRAINED MEDICATION EMPLOYEES, is added to read as follows:

6113 ASSIGNMENT OF NURSING CARE TASKS TO TRAINED MEDICATION EMPLOYEES

6113.1 A registered nurse may assign tasks to a trained medication employee if the trained medication employee has the appropriate level of knowledge and skill for the task and the task is within the scope of authorized tasks listed in § 6115.1.

6113.2 Trained medication employees shall work under the supervision of a registered nurse.

6113.3 The assignment of a task shall comply with the standards for delegation and assignment listed in 17 DCMR § 5415 (Registered Nurse).

6113.4 Nursing care tasks that may be assigned shall be determined by:

- (a) The knowledge and skills of the trained medication employee;
- (b) Verification of the clinical competence of the trained medication employee by the employing agency;
- (c) The stability of the client’s condition, including factors such as predictability, absence of risk of complication, and rate of change; and
- (d) The variables in each health care setting which include, but are not limited to:
 - (1) The accessible resources and established policies, procedures, practices, and channels of communication that lend support to the type of nursing tasks being assigned to the trained medication employee;

- (2) The complexity and frequency of care needed by a given client population; and
- (3) The accessibility of a registered nurse.

6113.5 A trained medication employee shall not perform a task involving the administration of a drug if:

- (a) The administration of the drug requires a calculation of the dosage of the drug or the conversion of the dosage;
- (b) The supervising nurse is unavailable either in person or by telephone to monitor the progress of the client and the effect of the drug on the client;
- (c) The client is not stable or has changing health care needs; or
- (d) The trained medication employee has not been prepared by training to perform the assigned task. Upon such assignment, the trained medication employee shall immediately inform the supervising nurse of his or her inability by lack of training to perform the assigned task.

6113.6 A trained medication employee shall not accept a telephone medication order for a new prescription or change in dosage or frequency.

A new Section 6114 is added to read as follows:

6114 [RESERVED]

A new Section 6115, TRAINED MEDICATION EMPLOYEE TASKS, is added to read as follows:

6115 TRAINED MEDICATION EMPLOYEE TASKS

6115.1 A trained medication employee may perform the following tasks under the supervision of a registered nurse:

- (a) Administer drugs and observe drug reaction and effects;
- (b) Administer epinephrine via an auto injector to treat severe allergic reactions;
- (c) Perform finger-stick blood glucose tests if ordered by a licensed independent practitioner. The blood glucose order shall indicate:
 - (1) The frequency for finger sticks;

- (2) The normal blood sugar range;
- (3) The acceptable range and when to notify the registered nurse when the patient’s value is outside the specified range; and
- (4) The parameters for when to contact emergency services;
- (d) Report any client complaints or observations of changes in the client, before or after drug administration;
- (e) Administer oral drugs;
- (f) Administer drugs via eye, ear, or nose;
- (g) Administer drugs via suppository;
- (h) Administer topical drugs and medicated shampoos;
- (i) Document drug administration or omissions, on medication administration records; and
- (j) Administer insulin via a prefilled insulin pen following training by a supervising nurse.

6115.2 A trained medication employee shall not:

- (a) Calculate a drug dose;
- (b) Administer the initial dose of a newly prescribed drug;
- (c) Administer Schedule I and II drugs; or
- (d) Administer drugs via gastrostomy tube.
- (e) Administer other drugs by injection than those included in § 6115.1.

A new Section 6116, TRAINED MEDICATION EMPLOYEE REPORTING REQUIREMENTS, is added to read as follows:

6116 TRAINED MEDICATION EMPLOYEE REPORTING REQUIREMENTS

6116.1 Based on agency or facility policies, the trained medication employee shall document which drugs have been administered or withheld and shall document whether drugs have been taken by the patient as ordered.

6116.2 The trained medication employee shall report the following to the supervising nurse:

- (a) Observations of changes in the client that appear life threatening;
- (b) Events that appear health threatening; and
- (c) Drugs that produced no results or undesirable effects as reported by the patient.

6116.3 The trained medication employee shall:

- (a) Notify a nurse prior to administration of a prescribed PRN (as needed) drug;
- (b) Be personally responsible and accountable for all actions taken when implementing assigned tasks;
- (c) Comply with laws, policies, and procedures applicable to the setting in which the trained medication employee is administering drugs;
- (d) Administer medications only in situations where registered nurse supervision is available; and
- (e) Utilize effective communication and interpersonal skills.

A new Section 6117, DISCIPLINE, is added to read as follows:

6117 DISCIPLINE

6117.1 The Board may discipline a trained medication employee for engaging in the following activities:

- (a) Substance abuse or other chemical dependency;
- (b) Client abandonment;
- (c) Fraud or deceit, which includes:
 - (1) Filing false credentials;
 - (2) Falsely representing facts on an application for initial certification, reinstatement, or renewal; or
 - (3) Giving or receiving assistance in taking the competency evaluation;

- (d) Client neglect, abuse, or misappropriation of funds;
- (e) Boundary violations;
- (f) Unsafe client care;
- (g) Performing acts beyond the trained medication employee range of functions;
- (h) Misappropriating or misusing property;
- (i) Failing to conform to acceptable standards of medication administration;
- (j) Putting clients at risk of harm; or
- (k) Violating the privacy or failing to maintain the confidentiality of client information.

6117.2 The Board shall maintain and make available all public disciplinary actions.

6117.3 A trained medication employee who is unable to perform his or her duties due to drug or alcohol dependency or mental illness may utilize the services offered under the Nurse’s Rehabilitation Program, established by the Nurse’s Rehabilitation Program Act of 2000, effective May 1, 2001 (D.C. Law 13-29; D.C. Official Code §§ 3-1251.01 *et seq.* (2016 Repl.)).

6117.4 The Board may refer for criminal prosecution any violation by a trained medication employee of the Health Occupations Revision Act, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.* (2016 Repl. & 2019 Supp.)), that it deems appropriate.

New Sections 6118 and 6119 are added to read as follows:

6118 [RESERVED]

6119 [RESERVED]

A new Section, 6120, STANDARDS FOR TRAINED MEDICATION EMPLOYEE MASTER TRAINERS AND INSTRUCTORS, is added to read as follows:

6120 STANDARDS FOR TRAINED MEDICATION EMPLOYEE MASTER TRAINERS AND INSTRUCTORS

- 6120.1 Only individuals who have been approved by the Board as a master trainer may provide training to registered nurses seeking to become trained medication employee instructors.
- 6120.2 Individuals applying to the Board for approval as a master trainer shall:
- (a) Possess a current unencumbered license in the District of Columbia as a registered nurse with a minimum of a bachelor's degree in nursing;
 - (b) Have completed a course in teaching adults or experience in teaching adults;
 - (c) Have a minimum of two (2) years of experience supervising trained medication employees; and
 - (d) Have completed the Board of Nursing's orientation for master trainers.
- 6120.3 Master trainers shall attend the Board of Nursing's meetings for master trainers as they are scheduled.
- 6120.4 Master trainers shall submit to the Board the names and contact information of nurses who have completed the trained medication employee instructor training.
- 6120.5 The Board shall maintain a list of no more than four (4) master trainers to ensure the proper training of trained medication employees and to periodically update the trained medication employee course.
- 6120.6 An individual shall not provide medication administration training to persons seeking to become trained medication employees if the individual is not listed as a Board-approved trained medication employee instructor.
- 6120.7 An individual seeking to be approved by the Board as a trained medication employee instructor shall:
- (a) Be currently licensed in the District as a registered nurse in good standing;
 - (b) Have a minimum of two (2) years of experience as a registered nurse providing direct patient care; and

- (c) Have a minimum of one (1) year of experience supervising trained medication employees.

6120.8 Trained medication employee instructors who have not provided trained medication employee training within one (1) year shall be removed from the Board's list of approved instructors.

6120.9 Trained medication employee instructors shall use the Board's approved training course to provide trained medication employee training. Trained medication employee instructors not complying with this requirement shall be removed from the list of Board-approved instructors.

6120.10 Trained medication employee instructors shall ensure that all trained medication employee trainees meet the qualifications specified in § 6128.

A new Section 6121, SUPERVISED PRACTICE OF TRAINED MEDICATION EMPLOYEE TRAINEES, is added to read as follows:

6121 SUPERVISED PRACTICE OF TRAINED MEDICATION EMPLOYEE TRAINEES

6121.1 Following completion of the lecture portion of training, all trained medication employee trainees shall:

- (a) Observe a supervisory registered nurse administering medication on at least two (2) occasions;
- (b) Be observed by a supervisory registered nurse on at least two (2) separate occasions while engaged in the process of administration, documentation, and observation for side effects, demonstrating one hundred percent (100%) proficiency;
- (c) Demonstrate his or her proficiency and knowledge of all medication procedures for the storage of medications, and all program policies pertaining to the administration of medication; and
- (d) Demonstrate knowledge of indication for usage of drug(s) to be administered.

6121.2 A trainee who is fulfilling educational requirements under this chapter may engage in supervised practice.

A new Section 6122, MINIMUM QUALIFICATIONS FOR TRAINED MEDICATION EMPLOYEE TRAINEES, is added to read as follows:

6122 MINIMUM QUALIFICATIONS FOR TRAINED MEDICATION EMPLOYEE TRAINEES

6122.1 Each individual seeking to be a trained medication employee trainee shall provide the trained medication employee instructor evidence of:

- (a) At least one (1) year of satisfactory performance of nursing-related services;
- (b) First aid certification; and
- (c) CPR certification.

Section 6199, DEFINITIONS, is amended to read as follows:

6199 DEFINITIONS

6199.1 As used in this chapter, the following terms shall have the meanings ascribed:

Abuse - the infliction of physical injury or mental harm to, or engaging in the financial exploitation of, a client.

Administer - (a) the direct application of drugs to the human body whether by ingestion, rectal insertion, sublingual, or topical means; or (b) application of insulin via a prefilled insulin pen; or (c) epinephrine auto injector device for emergency purposes only.

Applicant - a person applying for certification as a trained medication employee under this chapter.

Assisted Living Residence - an entity, whether public or private, for profit or not for profit, that is licensed by the Department of Health and that combines housing, health, and personalized assistance, in accordance to individually developed service plans, for the support of individuals who are unrelated to the owner or operator of the entity. "Assisted Living Residence" or "ALR" does not include a group home for persons with mental retardation as defined in D.C. Official Code § 44-501(5) or a mental health community residence facility as that term is used in 22-A DCMR Chapter 38.

Board - the Board of Nursing as established by section 204 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.04 (2016 Repl.)).

Boundary violation – an action or activity that is not supportive of the client or therapy and is harmful to the client or constitutes exploitation of the client.

Clinical - faculty planned and guided learning activities designed to assist preceptors in meeting course objectives and applying nursing knowledge and skills in the direct care of clients, including clinical conferences and planned learning activities in acute care facilities, and other community resources. Clinical shall not include skills lab activities.

Community residential facility – a licensed facility that provides a sheltered living environment for individuals who desire or need such an environment because of their physical, intellectual, familial, social, or other circumstances, and who are not in the custody of the Department of Corrections.

Continuing education - systematic learning experiences designed to augment the knowledge, skills, and attitudes of the trained medication employee.

Criminal background check – an investigation into a person’s history by the appropriate state and federal authorities or approved vendor to determine whether the person has been convicted of a crime in the District of Columbia or in any other state or territory of the United States.

Director - the Director of the Department of Health, or his or her designee.

Drug - means:

- (a) Any substance recognized as a drug, medicine, or medicinal chemical in the official United States Pharmacopoeia, official National Formulary, official Homeopathic Pharmacopoeia, or official Veterinary Medicine Compendium or other official drug compendium or any supplement to any of them;
- (b) Any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animal;
- (c) Any chemical substance (other than food) intended to affect the structure or any function of the body of man or animal; and
- (d) Any substance intended for use as a component of any items specified in subparagraph (a), (b), or (c) of this paragraph, but does not include medical devices or their components, parts, or accessories.

Endorsement - the process of issuing a certification to an applicant who is certified or authorized by a state Board and recognized by the Board as a qualified professional according to standards that were substantially equivalent at the time of the certification to the standards for that profession set forth in this chapter and who has continually remained in good standing with the Board from the date of certification until the date of certification in the District.

Finger stick - sticking of the finger to get a blood sample to use in a glucometer to measure the amount of glucose in blood.

General supervision – supervision in which the supervising nurse is available to the trained medication employee for consultation either in-person or by a communication device at the time the actions are performed.

Health care facility - District of Columbia's Department on Disability Services Developmental Disabilities Administration facilities, residential facilities, and assisted living residencies.

In-service - activities provided by the employer intended to assist the TME in acquiring, maintaining, or increasing competence in fulfilling the assigned responsibilities specific to the expectations of the employer.

Immediate supervision - supervision in which the supervisor is on the premises and within vocal communication, either directly or by communication device.

Licensed independent practitioner - any practitioner permitted by law and by the organization to provide care and services, without direction or supervision, within the scope of the practitioner's license and consistent with individually assigned clinical responsibilities.

Misappropriation – the application of another's property or money dishonestly to one's own use.

Neglect - any act or omission by a trained medication employee which causes or is likely to cause or contribute to, or which caused or is likely to have caused or contributed to the injury, death, or financial exploitation of a patient.

Nursing assistive personnel - an individual who has received appropriate training or instruction to function in a complementary or assistant role to a registered nurse in providing direct patient care or in carrying out assigned nursing tasks.

Program - the planned series of instruction, didactic and clinical, designed so that the student will acquire the requisite knowledge and skills.

Reinstatement - reissuance of an expired trained medication employee certification.

Supervising nurse – a District of Columbia licensed registered nurse who provides general supervision and review of a trained medication employee administering medications.

Trained medication employee – an individual who has successfully completed training and a certification examination to administer drugs and has been certified by the Board.

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 6th Floor, Washington, D.C., 20002. In addition, comments may be sent to Van.Brathwaite@dc.gov, (202) 442-4899. Copies of the proposed rules may be obtained from the Department of Health at the same address during the hours of 9 a.m. to 5 p.m., Monday through Friday, excluding holidays.

PUBLIC EMPLOYEE RELATIONS BOARD
NOTICE OF SECOND PROPOSED RULEMAKING

The Employee Relations Board (Board), pursuant to the authority set forth in the District of Columbia Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-605.02(11) (2016 Repl.)) (CMPA), hereby gives notice of the intent to adopt the following amendments to Chapter 5 (Rules of the Public Employee Relations Board) of Title 6 (Personnel), Subtitle B (Government Personnel), 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 current Chapter 5 of Title 6 DCMR will be repealed in its entirety and the following amendments and new rules will be adopted upon publication of the final version of these proposed rules in the *D.C. Register*. The current Chapter 5 will remain in effect until the publication of the final version of these proposed rules.

On May 3, 2019, the Board issued a Notice of Proposed Rulemaking in the *D.C. Register* at 66 DCR 5660, soliciting comments. Comments were accepted through September 30, 2019. The Board received comments from eleven (11) commenters during the public comment period and comments from four (4) commenters during a public hearing on November 18, 2019. This rulemaking contains revisions made as a result of the Board considering comments by revising the following subsections: 500.2, 500.7, 501.1, 501.2, 501.3, 502.1, 502.10, 502.12, 502.14, 503.3, 503.17, 504.7, 505.1, 507.2, 507.3, 507.5, 511.1, 515.1, 515.3, 515.4, 520.2, 520.7, 526.1, 526.5, 526.8, 532.6, 527.11, 532.6, 550.2, 550.13, 559.1, 560.2, 561.8, and 566.1. The Board has prepared responses to the comments received.

Unless otherwise specified, the sections cited in the comments and responses are those in the Notice of Proposed Rulemaking published on May 3, 2019.

GENERAL COMMENTS

Comment: Several commenters sought to ensure their comments were considered by the Board.

Response: The Board considered all written comments, as well as comments made at the November 18, 2019 hearing.

Comment: Several commenters stated that the Board did not provide notice of the proposed rulemaking. Several commenters stated that the proposed rules missed an opportunity to provide a timeframe for comments and a mechanism to have meaningful conversations on changes to PERB rules.

Response: The Board informed the public by the Notice of Proposed Rulemaking, published in the *D.C. Register* in May 2019, and the public was given approximately one hundred twenty (120) days to submit comments to the Board. The proposed rules were also announced at PERB's Second Tuesdays at PERB, including a June 2019 presentation on the proposed

rulemaking. Additionally, the Board published the proposed rules on its website, along with the timeframe to submit comments.

Comment: Several commenters requested a hearing before the Board.

Response: The Board held a public hearing on the proposed rules on November 18, 2019.

Comment: Several commenters requested a hearing before the Council of the District of Columbia.

Response: This request is beyond the authority of the Board.

Comment: One commenter suggested adding a rule clarifying when the imposition of reasonable costs is warranted, such as in cases where the losing party's claim was wholly without merit.

Response: PERB has the authority to award costs under D.C. Official Code § 1-617.13. However, listing circumstances under which costs might be warranted is not appropriate for rulemaking at this time. PERB case law provides the circumstances in which costs might be awarded. A rule listing the circumstances under which costs might be warranted may be interpreted as limiting.

Comment: One commenter requested that PERB take all steps available to expedite the enforcement process and that, at minimum, the Board should provide expedited consideration of unfair labor practice charges that are premised on a failure to comply with an arbitration award. The commenter proposed empowering the Executive Director to issue relief on such charges, or to have expedited consideration by the Board.

Response: This is a matter of PERB's internal case processing, which is subject to the individual circumstances of each case, and is not appropriate for rulemaking.

Comment: Several commenters requested a rule providing individuals thirty (30) days to comment on the proposed rules.

Response: The D.C. Administrative Procedure Act requires an agency to provide at least a thirty (30)-day comment period after the proposed rules are published.

Comment: Two (2) commenters stated that they appreciate PERB's efforts to improve and streamline its rules. They are generally in favor of changes that shorten the time period in which PERB matters will be resolved, so long as speed does not come at the expense of accuracy and fairness.

Response: No response.

500 GENERAL PROVISIONS

§ 500.2

Comment: Nearly all commenters submitted comments disapproving of the removal of current rule § 500.2, which states that the five Board members must be selected by the Mayor with the approval of the D.C. City Council.

Response: Board has redrafted the proposed rule to addresses the commenters' concerns. Current rule § 500.2 has been restored to the proposed rules as proposed rule § 500.3.

§ 500.5

Comment: Two (2) commenters expressed concern that the proposed rule shortens the amount of time needed to cure a deficiency in an initial pleading from ten (10) to seven (7) days.

Response: Seven (7) days provides the parties with enough time to cure a deficiency, which is typically a minor filing error. Further, the proposed rule is consistent with the use of seven (7)-day increments.

§ 500.5(f)

Comment: Several commenters objected to the proposed rule, which the comments describe as “a blanket provision to allow the Executive Director to dismiss a case on any grounds the Board places in her discretion.” The commenters state that the addition of this rule places too much authority in the Executive Director.

Response: The Board generally meets once a month, and the Board has authorized the Executive Director to perform certain duties on its behalf, subject to review. The proposed rule simply formalizes current PERB practice. Further, under proposed rule § 500.6, a party has the opportunity to file a motion for reconsideration of the Executive Director's decision to the Board.

§ 500.6

Comment: Two (2) commenters expressed concern that the proposed rule shortens the amount of time to file a motion for reconsideration of an Executive Director's dismissal (from thirty (30) to fourteen (14) days).

Response: The Board has redrafted the proposed rule to address the commenters' concerns.

501 COMPUTATION AND EXTENSIONS OF TIME

§ 501.3

Comment: Several commenters expressed concern that the proposed rule removes the parties' ability to expedite a pending case. One commenter asserted that this change may result in increased filings and impair the ability of the parties to work in good faith towards settlements.

Response: The Board has redrafted the proposed rule to address the commenters' concerns.

502 FILING AND SERVICE OF PLEADINGS

§ 502.1

Comment: Several commenters expressed concern that the proposed rule instructs the parties to file text-searchable documents, but does not account for the allowance for handwritten pleadings in proposed rule § 502.4. The commenters support the allowance of handwritten pleadings by *pro se* parties.

Response: The Board has redrafted the proposed rule to address the commenters' concerns.

§ 502.3(d)

Comment: One commenter requested clarification on the proposed rule as to whether the phrase "related proceedings" applies only to proceedings before the Board or also to proceedings in any administrative court.

Response: The Board will not make changes to the proposed rule. The Board is particularly concerned about related matters before the Board, but this rule was not intended to be limited to related matters before the Board. For example, if a party filed a related matter with another administrative body, the Board may need this information to determine whether it has jurisdiction over the matter.

§ 502.9

Comment: Several commenters were concerned that the proposed rule assumes that the respondent has entered an appearance through File & ServeXpress before the filing party has made a subsequent filing, which is not feasible if no labor organization has been designated or the party is not registered in the system.

Response: Under the current and proposed rules, a party must file and serve subsequent pleadings electronically through File & ServeXpress. If the responding agency has not entered an appearance through File & ServeXpress, the petitioner would serve the respondent by mail. In order to clarify this, the Board has revised the proposed rule to begin, "Once a party has entered a notice of appearance, all subsequent pleadings must be electronically served...."

§ 502.11

Comment: Several commenters stated that the proposed rule has been changed to address pleadings that do "not comply with the CMPA." The commenters stated that the current rule addresses pleadings that do not comply with the "procedural requirements" of the CMPA. The commenters stated, "The Executive Director should not be making deficiency notices based on legal arguments that a case does not comply with CMPA beyond any procedural, ministerial requirements."

Response: The proposed rule does not alter the current rule. However, the Board has redrafted the proposed rule to address the commenters' concerns.

§ 502.15

Comment: One commenter was concerned that the proposed rule is confusing, and that the paragraph form makes it easy to miss some criteria being applied. The commenter suggests that the proposed rule could be clearer if broken into subsections for particular responses.

Response: The Board has redrafted the proposed rule to address the commenters' concerns.

503 EXCLUSIVE RECOGNITION AND NONCOMPENSATION UNIT DETERMINATION

§ 503.3

Comment: One commenter agreed with decreasing the time an agency has to prepare an alphabetical list of employees in a proposed unit from twenty (20) to fourteen (14) days in the proposed rule.

Response: No response.

§ 503.8

Comment: One commenter was concerned that the proposed rule did not allow enough time to submit additional evidence. The commenter stated that seven (7) days is not sufficient time to submit additional evidence for a change of unit, as thirty (30) days may be needed.

Response: The Board will not redraft the proposed rule. The proposed rule does not alter current rule § 502.4(c)'s requirement that the petitioner has seven (7) days after the Hearing Examiner's report is issued to submit additional evidence of a showing of interest in the changed unit. This rule allows for efficient processing of the petition and does not preclude the petitioner from requesting additional time.

§ 503.18

Comment: Several commenters stated that the proposed rule creates confusion in instances where there is more than one union and a mixed professional/non-professional unit. The commenters asked if it would be sufficient for a majority of all bargaining unit members to vote to join a particular union.

Response: This rule only applies in elections where the employees' choice is limited to one labor organization, as described in proposed rule § 503.17. The Board believes that confusion was created when current rule § 503.17(a) was renumbered as § 503.18. The Board has renumbered

the proposed rule back to § 503.17(a) to clarify that it applies only when the employees' choice is limited to one labor organization.

504 COMPENSATION UNIT DETERMINATION

§ 504.7

Comment: Several commenters requested that the language in the current rule be reinstated, because the new language in the proposed rule suggests that the exclusive representative could be denied the right to intervene.

Response: The Board has redrafted the proposed rule to address the commenters' concerns.

§ 504.8

Comment: Several commenters opposed the proposed rule on the grounds that the Board, not the Executive Director, directs a preliminary investigation. Two (2) commenters suggested that "may" should be changed to "must."

Response: The Board declines to redraft the proposed rule. The Executive Director has the authority to conduct investigations under the current (and proposed) rule § 500.3. The proposed rule is consistent with PERB's rules and current PERB practice.

505 MODIFICATION OF UNITS

§ 505.1(e)

Comment: Nearly every commenter objected to the proposed rule. Several commenters objected to the proposed rule on the grounds that it is "illegal, as it is without any statutory authority," and acts as an "open invitation for inter-union raiding." Several commenters were concerned that the proposed rule creates an entirely new cause of action without any structure or process. Several commenters also noted that labor organizations belonging to the AFL-CIO have signed non-compete agreements with AFL-CIO affiliated unions, and that filing a petition under the proposed rule would run afoul of such agreements. Two (2) commenters stated that the proposed rule is a violation of D.C. Official Code §§ 1-617.09 (a) and (c), which requires the consolidated units to be from the same union and the proposal allows consolidation based on job qualification and any union can make a request.

Response: The Board has removed the proposed rule to address the commenters' concerns.

§ 505.2(e)

Comment: One commenter requested that the proposed rule be redrafted to restore "specific" to the rule because its deletion permits parties to state unrelated reasons for modification.

Response: The Board removed “specific” from the proposed rule to increase readability, and does not believe that the removal will lead parties to state unrelated reasons for unit modification.

506 CLARIFICATION OF UNITS

§ 506.1

Comment: One commenter requested that the proposed rule add “existing” into the first sentence so that it states: “A petition filed for clarification of an existing unit may be filed by the agency or by the exclusive representative of the existing unit.” The comment suggested that adding “existing” would avoid confusion about which union may seek representation.

Response: The Board finds that the comment’s suggested language is redundant.

507 DECERTIFICATION PETITIONS

§ 507.2

Comment: Nearly every commenter disagreed with proposed rule § 507.2. The commenters objected to this rule because it does not require the filing party to name the petitioner, which the commenters argued violates the unions’ right to know who is claiming the right to decertify the exclusive representative and to challenge the entity’s standing. One commenter contended that this proposed rule violates § 507.11(a) of proposed rules, which requires a name of the petitioner in the notice.

Response: The Board has redrafted the proposed rule to address the commenters’ concerns. The requirement that the petitioner’s name be included in the petition was moved to proposed rule § 502, and has been added to proposed rule § 507.2 for clarity.

§ 507.2

Comment: One commenter requested that “or employees” be returned to proposed rules §§ 507.2 and 507.3, so that it does not appear that only a single employee can file a petition.

Response: The Board has redrafted the proposed rule to address the commenter’s concerns.

§ 507.5

Comment: Nearly all commenters opposed the proposed rule. Two (2) stated that proposed rule § 507.5 could lead to decertification proceedings based on anti-union “animus and/or reprisal,” because it allows the District to petition for decertification of the exclusive representation for lack of activity, failure to meet with management upon request, absence of requests or the absence of designated stewards. Several commenters stated that the proposed rule is “deeply disturbing” because the supporting evidence listed in the rule is not “truly indicative that the union has lost interest in representing employees or that employees no longer wish to be

represented by the union.” The commenters stated that the rule appears to be designed to open the door for “union busting by management.”

Response: The Board has redrafted the proposed rule to address the commenters’ concerns.

§ 507.14

Comment: Several commenters objected to the proposed rule granting the Executive Director authority to direct an investigation.

Response: The Executive Director has the authority to conduct investigations under current (and proposed) rule § 500.3. Proposed rule § 507.14 is consistent with PERB’s rules and current practice. The proposed rule also makes PERB’s case processing more efficient by clarifying issues or requesting additional evidence at the beginning of the process.

510 ELECTION PROCEDURES: GENERAL

§ 510.1

Comment: One comment stated that the phrase “agent of the Board” is confusing in proposed rule 510.3 because proposed rule 510.1 refers to the “Board or other impartial body.”

Response: “The agent of the Board” accurately reflects agency proceedings outlined in this subsection because the actions of staff in conducting elections are reviewed by the Board.

§ 510.4

Comment: One comment stated that the phrase “mutually agreed upon by the parties and approved by the Board” in the proposed rule is confusing because it is unclear why the Board would have to approve poll watchers who are mutually agreed upon by the parties.

Response: The proposed rule does not change the language of the current rule.

511 ELECTION PROCEDURES: ELIGIBILITY

§ 511.1

Comment: One comment stated that the language in the proposed rule appears to require that an employee be employed for the full pay period to vote, which is inconsistent with the law. The words “employed during the pay period” should be returned.

Response: The Board has redrafted the proposed rule for clarification. (The Board has also made this change to proposed rule 503.3.)

513 ELECTION PROCEDURES: MAIL BALLOTS

§ 513.3

Comment: Several commenters disagreed with the proposed rule. The commenters stated that management should not unilaterally determine whether a position is considered “professional” and “non-professional” as suggested by the rule, allowing management to dominate the process by sorting and dividing employees based on criteria that is not articulated in a clear fashion in PERB’s rules.

Response: The Board had added to the proposed rule the requirement that the list distinguish between professional and nonprofessional employees so that the labor organization has the opportunity to present any challenges to the list before the election.

515 CERTIFICATION OF ELECTION RESULTS*§ 515.1*

Comment: One commenter contended that current rule 515.1 was missing from the proposed rules and should be restored. The commenter stated that the proposed rule is unclear when the time period would start for filing objections as there is no requirement to serve a report of elections.

Response: The Board has restored the language back to proposed rule § 515.1 to read, “The Executive Director must prepare a report of election results that includes a tally of the ballots. The Executive Director must serve the report on each party, attaching a certificate of service.”

§ 515.2

Comment: Several commenters requested that PERB restore the two (2)-week time limit of current rule § 515.2 because the proposed rule takes away any time limit for the investigation of election challenges, which could lead to delayed results in elections.

Response: The following language has been restored to read as follows: “If the Board has reason to believe that such allegations or challenges may be valid, the Board must hold a hearing on the matter within two (2) weeks after the date of receipt of the objection.”

§ 515.5(a)

Comment: Several commenters stated that the proposed rule should be clarified to provide that if an election is set aside, a new election will be conducted.

Response: The Board has redrafted the proposed rule to address the commenters’ concerns.

§ 515.5(c)

Comment: One commenter was concerned that the proposed rule violates subsections (d) and (e) of D.C. Official Code § 1-617.10, which provide specific criteria for certifying election results.

The comment contended that the law does not permit the Board to issue a certification that no union was selected.

Response: The Board has redrafted the proposed rule to address the commenters' concerns.

§ 515.6

Comment: One commenter contended that the proposed rule would violate D.C. Official Code §§ 1-617.10(a)-(e) because the Board is required to hold a hearing under subsection (e) and cannot make their own choices about labor organization on the ballot.

Response: The proposed rule would not violate the CMPA. Further, there are no statutory provisions governing runoff elections.

520 UNFAIR LABOR PRACTICE COMPLAINTS

§ 520.3

Comment: Two (2) commenters approved of the clarification in the proposed rule, which provides that the time for filing an unfair labor practice complaint begins when the alleged violation occurs or when the complainant becomes aware of the violation.

Response: No response.

§ 520.6

Comment: Two (2) commenters were concerned that the proposed rules eliminated the requirement in current rule 520.6 that a respondent provide an answer to a complaint.

Response: The Board has redrafted the proposed rule to address the commenters' concerns.

§ 520.6

Comment: Nearly all commenters were concerned that the proposed rule gives the Executive Director sole discretion over whether to investigate unfair labor practice complaints or to hold investigatory conferences. One commenter proposed that the current rule be maintained, which requires the Board to investigate each unfair labor practice complaint and hold a hearing, which would provide an opportunity for employees to present evidence and cross examination. Another commenter objected to the rule on the grounds that evidence should not be submitted to or evaluated by the Executive Director. Two (2) commenters were concerned that an unfair labor practice claim could be dismissed without a hearing and suggested adding: “. . . burden of proof, and the complainant is unable to show that it may obtain such evidence through the hearing process, the Board may dismiss the case.”

Response: The proposed rule has been revised to read: “The Executive Director must investigate each complaint.” With this revision, the proposed rule is consistent with a similar provision in proposed rule § 544.7.

§ 520.8

Comment: One commenter noted that the proposed rules provide for preliminary relief by the Board, but by the time cases reach the Board the relief cannot be granted. One commenter requested that the proposed rule be modified so that the Executive Director may grant preliminary relief in appropriate cases.

Response: The Executive Director is authorized under proposed rule § 500.3 to review requests submitted to the Board and, in appropriate circumstances, to call a special meeting of the Board to grant preliminary relief under proposed rule § 500.11.

**526 IMPASSE RESOLUTION PROCEEDINGS: COMPENSATION
NEGOTIATIONS**

§ 526.1

Comment: Several commenters asserted that the new language in the proposed rule is “no longer clear as to [which party] may initiate a notice of impasse.” The commenters suggested that the proposed rule state that “any party to the negotiation may file individually or the parties may file jointly.”

Response: The Board has redrafted the proposed rule to add language which clarifies that the notice of impasse may be filed by one or both parties, in accordance with D.C. Official Code § 1-617.17.

§ 526.1(e)

Comment: One commenter stated that the proposed rule is not explicit in providing that final bargaining proposals attached to a declaration of impasse must be filed under seal in order to maintain confidentiality, as required by D.C. Official Code § 1-617.17(h), and requested that PERB make this requirement clear in the rules.

Response: The Board has redrafted the proposed rule to address the commenter’s concerns.

§ 526.2

Comment: Several commenters remarked that the proposed rule is unclear as to what happens if the parties disagree that they are at impasse.

Response: The Board has made no substantive changes to the current rule.

§ 526.5

Comment: Several commenters stated that the proposed rule has removed the timeframe within which an impasse, if not resolved through mediation in thirty (30) days, may be referred to arbitration. One commenter contended that removing this timeframe will only ensure further delay and expense.

Response: The statutory language imposing a thirty (30)-day deadline has been restored for clarity.

§ 526.8

Comment: Several commenters considered it unreasonable that the arbitrator must issue the award within thirty-five (35) days of the arbitrator's appointment under the proposed rule. The commenters stated that it is impossible for the parties to schedule and complete a hearing within this time. Two (2) commenters suggested that the Board require the arbitrator's decision be issued within thirty-five (35) days of closing the record in the interest arbitration. One commenter was concerned that thirty-five (35) days is shorter than the forty-five (45) days allowed by D.C. Official Code § 1-617.17(f)(3).

Response: The Board has redrafted the proposed rule to state that the award should be issued within forty-five (45) days consistent with D.C. Official Code § 1-617.17(f)(3).

527 IMPASSE RESOLUTION PROCEEDINGS: NONCOMPENSATION NEGOTIATIONS

§ 527

Comment: Several commenters stated that the proposed rule removes the process for noncompensation impasse. The commenters contended that the process for noncompensation impasse resolution is already too vague.

Response: The proposed rules did not remove any processes for noncompensation impasse. The proposed rules added additional requirements for a request for impasse in proposed rule § 527.1; clarified rules for the appointment of the fact-finder in proposed rule §§ 527.3(a)-(f); and clarified rules for the selection of the arbitrator in proposed rule §§ 527.8(a)-(d).

§ 527.9

Comment: One commenter noted that proposed rule § 527.9 omitted the time limit for the arbitrator to serve arbitration awards currently in rule § 527.5(g).

Response: The Board has addressed the commenter's concerns by adding the language to proposed rule § 527.10. The deadline for an arbitrator to issue an award has been extended to forty-five (45) days for consistency with compensation impasse proceedings.

532 NEGOTIABILITY APPEAL PROCEEDINGS*§ 532.7*

Comment: Two (2) commenters noted that the proposed rule no longer permits a hearing on a negotiability dispute because current rule § 532.7 was removed. One commenter appreciated the need for expediency in resolving negotiability appeals, but believed that a hearing is warranted in certain cases.

Response: Board has redrafted the proposed rule to addresses the commenters' concerns.

544 STANDARDS OF CONDUCT COMPLAINTS*§ 544.5*

Comment: One commenter was concerned that the proposed rule could lead to never-ending amendments because it allows amended complaints to be filed no later than one hundred twenty (120) days after each additional violation is found, in open cases. The commenter stated that the proposed language should be changed to "filing amendments which occur within one hundred twenty (120) days of the original alleged violation."

Response: A party must file a motion to amend a complaint after an answer has been filed, pursuant to proposed rule § 502.16.

§ 544.7

Comment: Several commenters objected to the Executive Director reviewing evidence in the proposed rule. One commenter asserted that the proposed rule deprives the parties of the right to a full hearing and makes the process less fair.

Response: The Executive Director is authorized to review complaints and other matters submitted to the Board under proposed rule § 500.3. If there is a factual dispute, the case will proceed to a hearing, pursuant to proposed rule § 544.8. The proposed rule is consistent with unfair labor practice proceedings under proposed rule § 520.6.

550 HEARINGS*§ 550.2*

Comment: Two (2) commenters expressed concern that the removal of "or an authorized agent of the Board" from the proposed rule appears to eliminate the authority of hearing examiners and places that authority with the Executive Director, unless the Executive Director gives authority to the hearing examiner.

Response: Board has redrafted the proposed rule to addresses the commenters' concerns.

§ 550.13

Comment: Several commenters were concerned that the proposed rule removed the authority of the hearing examiner to compel discovery. The commenters stated that the proposed rule is inconsistent with proposed rule § 550.17, which provides for sanctions for parties that fail to comply with an order for the production of evidence.

Response: Board has redrafted the proposed rule to address the commenters' concerns.

552 CLOSING ARGUMENTS AND BRIEFS*§ 552.2*

Comment: One commenter suggested reducing the time limit to submit post-hearing briefs in the proposed rule. The commenter stated that parties receive the transcript about two (2) weeks after the hearing, and that, in practice, parties have about two (2) months after the hearing to submit post-hearing briefs. The commenter suggested reducing the thirty-five (35)-day period for the submission of post-hearing briefs to twenty (20) days.

Response: Thirty-five (35) days is consistent with the proposed use of seven (7)-day increments and provides parties with sufficient time to prepare their post-hearing briefs. Parties may also file a motion to expedite the filing of post-hearing briefs under proposed rule § 501.1.

555 MOTIONS*§ 555.2*

Comment: One commenter opposed the proposed rule, arguing that two (2) days is not enough time to respond to a motion for an extension of time. The commenter recommended five (5) days.

Response: A prompt response is necessary because motions for an extension of time are typically submitted within a few days of the filing deadline.

559 ISSUANCE AND RECONSIDERATION OF ORDERS*§ 559.2*

Comment: Several commenters stated that the language on finality from the current rule should be added to the proposed rule because the proposed language creates confusion as to when the Board's decision is final.

Response: Decisions by the Board are final under D.C. Official Code § 1-605.02(12). The current rule suggests that decisions are final after thirty (30) days, which is inconsistent with the

statute. The Board has redrafted proposed rule § 559.1 by adding: “An order of the Board is final upon issuance.”

§ 559.2

Comment: Two (2) commenters were concerned that the proposed rule reduces the time period to file a motion for reconsideration of a Board order from thirty (30) days to fourteen (14) days. The commenters contended that the proposed rule disadvantages employees and labor organizations.

Response: No substantive changes were made to the current rule.

560 ENFORCEMENT

§ 560.1(c)

Comment: One commenter recommended that the proposed rule be removed because judicial review is available for any Board decision and the Board has the authority to enforce its orders.

Response: The proposed rule may apply in circumstances where the deadline for a non-complying party to file a motion for reconsideration or judicial review has passed and the party has yet to comply with the Board’s order. The Board has redrafted paragraph (c) for clarity.

§ 560.2

Comment: Two (2) commenters requested clarification of the proposed rule as to whether a respondent may address an enforcement petition before the petition proceeds. One commenter stated that the proposed rules do not appear to contemplate receiving responses to enforcement proceedings.

Response: Board has redrafted the proposed rule to addresses the commenters’ concerns.

561 ELECTRONIC FILING

§ 561.8

Comment: Several commenters were concerned that the proposed rule fails to acknowledge that cases are sometimes consolidated, even though not all parties are identical and additional parties may be joined later in a case.

Response: Board has redrafted the proposed rule to addresses the commenters’ concerns. The Board has also added a requirement to the proposed rule that all parties in a consolidated case must enter an appearance in the lead case on File & ServeXpress. Parties are notified when cases are consolidated and which case is designated the lead case.

566 LIST OF NEUTRALS

§ 566

Comment: Several commenters supported making PERB’s list of neutrals a published list (or available upon request) to allow parties to review and request reassignment to a different neutral for good cause. One commenter supported publishing the list of neutrals in the interest of conserving time and resources due to scheduling mishaps.

Response: D.C. Official Code § 1-615.02(13) provides the Board the power to establish and maintain a list of neutrals. The statute does not require that the list be published. PERB maintains a list of neutrals in compliance with the statute. The Board has amended the proposed rule to require that the list be published on PERB’s website.

599 DEFINITIONS

§ 599

Comment: Several commenters supported restoring the definitions that were removed from the proposed rules.

Response: The proposed rules removed legal definitions that were not specific to PERB or the CMPA.

The goal of this Notice of Second Proposed Rulemaking is to improve the clarity and readability of the Board’s rules. In addition to the changes made in response to public comments, the Board has made revisions for consistency, as well as minor technical edits. The Board has revised deadlines throughout the rules in seven (7)-day increments.

The Board will consider comments received in response to this Notice of Second Proposed Rulemaking. Directions for submitting comments may be found at the end of this Notice.

Chapter 5, RULES OF THE PUBLIC EMPLOYEE RELATIONS BOARD, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is amended as follows:

500 GENERAL PROVISIONS

500.1 The District of Columbia Public Employee Relations Board (“Board”) was established in 1979 by § 501(a) of the Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-605.01(a) (2016 Repl.)) (“CMPA”), and administers the Labor-Management Relations Program for the District of Columbia pursuant to §§ 1701–1718 of the CMPA (D.C. Official Code §§ 1-617.01-1-617.18 (2016 Repl.)).

500.2 The five Board members are appointed by the Mayor with the advice and consent of the Council of the District of Columbia. The Board may appoint such employees as may be required to conduct its business.

- 500.3 These rules should be construed broadly to effectuate the purposes and provisions of the CMPA.
- 500.4 The Executive Director is the principal administrative officer of the Board and performs duties designated by the CMPA or assigned by the Board, including the investigation of all petitions, requests, complaints, and other matters referred or submitted to the Board.
- 500.5 The Executive Director is authorized, among other things, to conduct conferences and hearings, administer oaths, issue subpoenas, sign and issue notices and reports, certify copies of papers and documents, consider requests for extensions of time and requests to intervene in a case, and, pursuant to action by the Board or by an authorized panel thereof, sign and issue decisions and orders made by or on behalf of the Board.
- 500.6 The Executive Director is authorized to dismiss a case on motion of the complainant or petitioner or for any of the following reasons:
- (a) Untimeliness evident on the face of the complaint or petition;
 - (b) Failure to cure a deficiency in an initial pleading within seven (7) days of a notice of the deficiency given under § 502.14;
 - (c) Failure to allege facts that, if true, would entitle the complainant or petitioner to relief under the CMPA;
 - (d) Failure to prosecute the case;
 - (e) Noncompliance with an investigation of the case; or
 - (f) Any other ground for dismissal that the Board places within the discretion of the Executive Director.
- 500.7 A decision by the Executive Director will become the final decision of the Board unless within twenty-eight (28) days after issuance of the decision a party files a motion requesting the Board to reconsider the decision.
- 500.8 Official documents of the Board, including but not limited to notices, subpoenas, and other communications may be signed on behalf of the Board by the Executive Director or any staff members or agents authorized to sign on the Board's behalf.
- 500.9 Communications may be addressed to the Public Employee Relations Board at its office, 1100 Fourth Street S.W., Suite E630, Washington, D.C. 20024.

- 500.10 The business hours of the office are from 8:30 a.m. to 4:45 p.m., Monday through Friday, exclusive of holidays recognized by the Government of the District of Columbia.
- 500.11 The regular meetings of the Board are held on the third Thursday of each month at the Board's office, unless otherwise specified. The Board may hold a special meeting at any time at the request of the Chair, any member of the Board, or the Executive Director.
- 500.12 The Executive Director must give the public timely notice of all meetings of the Board. The notice must comply with D.C. Official Code § 2-576 (2016 Repl.).
- 500.13 The official acts of the Board must be recorded in the minutes of the Board. The Executive Director must maintain the minutes of the Board.
- 500.14 The Board is not bound in any way by any action or statement of an individual member or group of members of the Board, except when that action or statement is authorized by an official act of the Board or the provisions of this chapter.
- 500.15 Unless specifically provided for by a majority of the Board members present, only members of the Board, the Executive Director, staff, and agents of the Board may address the Board or participate in the discussion of matters at regular monthly, special, or emergency meetings of the Board.
- 500.16 The Board must make its decisions after consideration of the parties' briefs and the records submitted by the parties. The Board may order additional briefs where it deems appropriate. The Board may also order oral arguments on its own motion or upon motion of a party.
- 500.17 Three (3) members constitute a quorum. No decision of the Board will be valid unless supported by the majority of a quorum.
- 500.18 If a Board member cannot attend a meeting in person, that member may participate in the Board meeting via teleconference upon approval of the Chair.
- 500.19 If a Board member cannot attend a meeting in person or via teleconference, that Board member must provide reasonable notice to the Chair and the Executive Director.
- 500.20 If the Government of the District of Columbia is closed due to weather or a national emergency or other event, then a meeting of the Board scheduled to occur during the closure is deemed cancelled.
- 500.21 The public may inspect or copy the rules, decisions, and public records of the Board to the extent and in the manner authorized by the District of Columbia Freedom of Information Act, D.C. Official Code §§ 2-531—2-540.

500.22 A labor organization that represents employees of the District of Columbia Government must send the Board the name, telephone number, email address, and mailing address of each appointed and elected office holder.

501 COMPUTATION AND EXTENSIONS OF TIME

501.1 When an act is required or allowed to be done within a specified time by these rules, the Board, Chair, or the Executive Director may, upon timely request, order the time period extended or reduced to effectuate the purposes of the CMPA, except that no extension may be granted for the filing of initial pleadings.

501.2 A motion for an extension or reduction of time must be in writing and made at least three (3) business days before the expiration of the filing period. The Executive Director may allow exceptions to this requirement for good cause shown by a party.

501.3 A motion for an extension or reduction of time must indicate the purpose and reason for the requested extension or reduction of time and the positions of all interested parties regarding the change.

501.4 Whenever a period of time is measured from the service of a pleading and service is by U.S. mail, five (5) days will be added to the prescribed period.

501.5 In computing any period of time prescribed by these rules, the time begins to run the day after the event occurs. Whenever the last day to file a document falls on Saturday, Sunday, or a District of Columbia holiday, the period extends to the next business day. All prescribed time periods are calendar days, unless specified as business days.

502 FILING AND SERVICE OF PLEADINGS

502.1 All pleadings filed with the Board must be filed electronically through File & ServeXpress, pursuant to § 561, except those filed by a *pro se* party. All pleadings must include the following:

- (a) The title of the proceeding (for example, unfair labor practice complaint, standards of conduct complaint, arbitration review request, petition for compensation unit determination, enforcement petition, negotiability appeal, and petition for unit clarification) and the case number, if known;
- (b) The name, title, address, and telephone number of the person signing and the date of signing;
- (c) The name, mailing address, email address, and telephone number of the representative, if any, of the party filing the pleading; and

- (d) A signed certificate of service naming all other parties and attorneys or representatives, if any, on whom concurrent service was made. The certificate must state how and when such service was made.

502.2 As illustrated in the following example, all pleadings must contain a caption setting forth the name of the Board, the title of the proceeding, the case number, if known, and the title of the pleading:

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

[Name of Party]) Complainant or Petitioner)) v.)) [Name of Party]) Respondent)	PERB Case No. ____
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[Title of the Proceeding]

502.3 All pleadings submitted to the Board must be typed or legibly hand-written and limited to twenty (20) double-spaced pages. Requests to increase the page limitation must be submitted to the Executive Director at least three (3) business days before the pleading is due. The page limitation of this rule does not apply to pleadings filed with the trier of fact when the trier of fact is not the Board itself.

502.4 An initial pleading must be filed electronically through File & ServExpress, pursuant to § 561, unless filed by a *pro se* party. An initial pleading must include the following:

- (a) The name, mailing address, email address, and telephone number of each party filing the pleading and, if known, of each respondent;
- (b) A concise statement of the nature of the case, the basis for the claim, and the relief requested;
- (c) A concise statement of all information deemed relevant, which must be set forth in numbered paragraphs; and
- (d) A statement as to the existence of any related proceedings or other proceedings involving matters related to the complaint, if known, and the status or disposition of those proceedings.

- 502.5 A *pro se* party may file an initial pleading by personal delivery during the Board's business hours established in § 500.10. A *pro se* party may utilize the Board's public access terminal to upload the document free of charge.
- 502.6 An initial pleading must be served on the respondent or respondents by personal delivery, commercial delivery, or U.S. mail.
- 502.7 An initial pleading that is filed will be assigned a filing date and case number. The Board or its designated representative will review the pleading to determine whether it was filed in accordance with the procedural requirements of the CMPA and these rules.
- 502.8 An initial pleading may be amended as a matter of course before an answer is filed. Once an answer is filed, the initial pleading may be amended by motion. Unless the Board orders otherwise, an answer to an amended pleading must be made within the time remaining to respond to the original pleading or no later than fourteen (14) days after service of the amended pleading, whichever is later.
- 502.9 A complainant or petitioner may withdraw an initial pleading without prejudice at any time before an answer is filed. After an answer is filed, an initial pleading may be withdrawn only by order of dismissal by the Board or the Executive Director. Unless the order states otherwise, the dismissal is without prejudice.
- 502.10 Once a respondent has filed a notice of appearance, subsequent pleadings must be filed with the Board electronically through File & ServeXpress. A party submitting a subsequent pleading to the Board must concurrently serve a copy of the pleading on every other party, unless otherwise directed by these rules or by instructions from the Board. If a party is represented by an attorney or other representative, serving the attorney or representative is sufficient.
- (a) A *pro se* party must be served by personal delivery, commercial delivery, or U.S. mail, unless a *pro se* party has waived such method of service in writing and agreed to be served by email or electronically or has used File & ServeXpress for a filing in the case. A *pro se* party may serve a party by File & ServExpress, personal delivery, commercial delivery, or U.S. mail.
- 502.11 A party named as a respondent in an initial pleading must file an answer no later than fourteen (14) days after service of the initial pleading, unless otherwise stated in these rules. An answer must contain a statement of its position with respect to the allegations set forth in the initial pleading. An answer must also include a statement of any affirmative defenses.
- 502.12 An answer must include a specific admission, denial, or statement that the respondent is without knowledge to admit or deny each allegation in the initial pleading. A statement of a lack of knowledge to admit or deny will operate as a

denial. Admissions or denials may be made to all or part of an allegation but must address every allegation.

- 502.13 A respondent who fails to file a timely answer may be deemed to have admitted the material facts alleged in the initial pleading and to have waived a hearing. A failure to deny an allegation may also be deemed an admission of that allegation.
- 502.14 If review of a pleading reveals that the pleading does not comply with the procedural requirements of the CMPA or these rules, the Executive Director will notify the party or the party's representative of the deficiencies in the pleading and allow seven (7) days from the date of notice for the deficiencies to be cured. Failure to cure deficiencies in an initial pleading within that time may result in dismissal of the case without further notice. An amended pleading filed to cure deficiencies pursuant to a notice from the Executive Director relates back to the date of the original pleading.
- 502.15 An interested party who wishes to intervene in a pending proceeding must promptly file a request to intervene and state the grounds for intervention.
- 502.16 The Board or the Executive Director may grant or deny a request for intervention, taking into consideration the nature of the interests of the intervenor, whether those interests will be adequately protected by existing parties, and the timeliness of the intervenor's request.
- 502.17 When there is a change in representation, the new representative of a party must promptly file a notice of appearance in the case and serve a copy on all parties to the proceeding.

503 EXCLUSIVE RECOGNITION AND NONCOMPENSATION UNIT DETERMINATION

- 503.1 A labor organization seeking exclusive recognition as the representative for an appropriate unit may file a "recognition petition." The recognition petition must include the following:
- (a) A description of the proposed unit, including the name, address, and telephone number of the employing agency (and agency subdivision, if any), the number of employees in the proposed unit, and the general classifications of employees;
 - (b) The name, address, and telephone number of any other labor organization known to the petitioner that claims recognition as a representative of any employees in the proposed unit;

- (c) A statement as to whether there is a collective bargaining agreement in effect covering the proposed unit or any part of it, including the effective date and expiration date of any such agreement;
- (d) A statement as to how the employees in the proposed unit share a community of interest, by virtue of such common factors as skills, working conditions, supervision, physical location, organizational structure, distinctiveness of functions performed, or the existence of integrated work processes;
- (e) A roster of the petitioner's officers and representatives, a copy of its constitution, articles of incorporation, and bylaws, if any, and a statement of its objectives; and
- (f) A statement that the petitioning labor organization subscribes to the standards of conduct for labor organizations, as set forth in § 1703(a) of the CMPA, D.C. Official Code § 1-617.03(a) (2016 Repl.).

503.2 A petition for exclusive recognition must be supported by a showing of interest, not more than one year old, that at least thirty percent (30%) of the current employees in the proposed unit desire representation by the petitioner. Evidence of the employees' showing of interest must be submitted to the Board by commercial delivery, U.S. mail, or personal delivery to the Board's office. Forms of evidence may include the following:

- (a) Current dues deduction authorizations;
- (b) Notarized membership lists;
- (c) Membership cards;
- (d) Individual authorization cards or petitions signed and dated by employees indicating their desire to be represented by the labor organization; or
- (e) Other evidence as determined appropriate by the Board.

503.3 Upon service of the recognition petition by the petitioner, the agency must prepare an alphabetical list of all employees in the proposed unit for the last full pay period before the filing of the petition. The list must distinguish between professional and nonprofessional employees. This list, along with any comments concerning the petition, must be served on the Board no later than fourteen (14) days after the agency's receipt of the petition. The Executive Director may request additional payroll records from the agency in order to properly investigate the showing of interest.

- 503.4 The Board or its designee must determine whether the petitioner's evidence adequately shows that at least thirty percent (30%) of the employees in the proposed unit desire representation by the petitioner. While signed and dated authorization cards, in accordance with § 503.2, will always be accepted as adequate evidence, other forms of evidence may be considered adequate by the Board as prescribed under § 503.2 and § 503.12. The showing of interest determination may not be subject to appeal.
- 503.5 If the petition is amended to seek to represent a unit different from that in the original petition, the amended petition must be accompanied by a thirty percent (30%) showing of interest in the new unit.
- 503.6 In cases where an agency's staffing fluctuates due to the seasonal nature of the work or in cases where a unit is expanding, a showing of interest is required only among those employees employed at the time the petition was filed.
- 503.7 If the status of employees in the proposed unit or the appropriateness of the unit is disputed, the Executive Director may conduct proceedings to resolve the dispute.
- 503.8 If the Executive Director is unable to resolve issues concerning the eligibility of employees or unit appropriateness, a hearing may be ordered in the matter. If the hearing examiner recommends a change in the unit, the petitioner may submit additional evidence to establish a showing of interest in the changed unit, no later than seven (7) days after the issuance of the hearing examiner's report and recommendation.
- 503.9 The Board must maintain the confidentiality of the showing of interest submitted in support of a petition filed under this section or § 506, and this evidence will not be available for public access.
- 503.10 If the requirements of §§ 503.1, 503.2, and 503.3 are met, the Executive Director must prepare a notice of recognition petition to be posted by the agency in conspicuous places on all employee bulletin boards at work sites of employees in the proposed unit and to be distributed in a manner by which notices are normally distributed. The agency must post the notice no later than seven (7) days after the Board's service of the notice and keep it posted for fourteen (14) consecutive days. The notice must include the following:
- (a) The name of the petitioner;
 - (b) A description of the proposed unit;
 - (c) The date the notice was posted;
 - (d) The name of any other labor organization currently representing employees in the proposed unit; and

(e) The requirements for intervention by any other labor organization.

503.11 A labor organization may file an intervention petition within the period required by the notice. The intervention petition must contain the same information as required of a petitioner under § 503.1.

503.12 An intervention petition must be accompanied by:

- (a) A showing of interest that at least ten percent (10%) of the employees in the bargaining unit set forth in the petition for exclusive recognition wish to be represented by the intervening labor organization, unless a different unit is proposed by the intervenor, in which case a showing of interest of at least thirty percent (30%) must accompany the intervenor's petition; or
- (b) Where applicable, a statement that the intervenor is the incumbent exclusive representative of the employees in the proposed unit. The incumbent labor organization must be allowed to intervene as a matter of right without submitting any showing of interest.

503.13 If the intervenor's showing of interest is insufficient, the request for intervention will be denied.

503.14 A petition for exclusive recognition will be barred if:

- (a) During the previous twelve (12) months, a valid majority status determination has been made for substantially the same bargaining unit, a certification of representative has been issued, or the Board has determined the compensation unit placement; or
- (b) A collective bargaining agreement is in effect covering all or some of the employees in the bargaining unit unless:
 - (1) The agreement is of three (3) years or shorter duration and the petition is filed between one hundred twenty (120) and sixty (60) days before the scheduled expiration date or after the stated expiration of the contract; or
 - (2) The agreement has a duration of more than three (3) years and the petition is filed after the contract had been in effect for nine hundred seventy-five (975) days.

503.15 Upon the filing of a petition under § 503.1 or § 503.11, the Executive Director may conduct a preliminary investigation. Thereafter, the Board must take appropriate action, which may include any one or more of the following:

- (a) Approving a withdrawal request;
- (b) Dismissing the petition;
- (c) Conducting an informal conference;
- (d) Holding a hearing;
- (e) Conducting an election; or
- (f) Approving the petition certifying the labor organization pursuant to § 503.17.

503.16 Hearings under § 503.15(d) are investigatory and not adversarial.

503.17 If the choice available to employees in an appropriate unit is limited to the selection or rejection of a single labor organization, the Board may approve the employing agency to recognize the labor organization without an election on the basis of evidence that demonstrates majority status (more than fifty percent (50%) support for the petitioning labor organization), such as documentary proof not more than one year old, indicating that a majority of employees wish to be represented by the petitioning labor organization. The Executive Director must determine majority status and must recommend to the Board whether certification should be granted without an election.

- (a) If the proposed unit contains professionals and nonprofessionals, recognition without an election may be permitted only if a majority of the professional employees petition for inclusion in the unit.

503.18 If the choice available to employees in an appropriate unit includes two (2) or more labor organizations, the Board must order an election in accordance with these rules.

504 COMPENSATION UNIT DETERMINATION

504.1 An agency, a labor organization, or a group of labor organizations may file a “petition for compensation unit determination” seeking determination of an appropriate unit for the purpose of negotiations for compensation.

504.2 The Board may on its own motion initiate proceedings for the determination of units for compensation bargaining absent the filing of a petition by any party.

504.3 A petition for the determination of a compensation unit must include the following:

- (a) The name and address of each personnel authority, agency, and labor organization that might be affected by the petition;

- (b) A description of the proposed unit, setting forth the numbers and types of employees to be included;
- (c) A list of the pay, retirement, and other compensation systems to be included in the proposed unit; and
- (d) A showing that the proposed unit consists of broad occupational groups so as to minimize the number of pay systems.

504.4 Upon the filing of a petition or commencement of proceedings by the Board on its own motion for the determination of a compensation unit, the Executive Director must prepare an official notice to be posted by the employing agency in conspicuous places on employee bulletin boards at work sites of employees in the proposed unit and to be distributed in a manner by which notices are normally distributed. The agency must post the notice no later than seven (7) days after the Board's transmittal of the notice and keep it posted for fourteen (14) consecutive days thereafter. The notice must indicate the following:

- (a) The party or parties that filed the petition or initiated the proceedings;
- (b) Each labor organization that might be affected by the proposed unit;
- (c) The proposed unit description;
- (d) A list of the compensation systems proposed to be included;
- (e) The date the notice was posted; and
- (f) A statement that within fourteen (14) days after posting of the notice any interested labor organization or person may file written comments.

504.5 A labor organization may file a request to intervene in the case and any party may file comments concerning the proposed unit.

504.6 The Executive Director must serve a copy of the notice on each labor organization that has exclusive recognition for any employees in the proposed unit and on each affected agency or its representative.

504.7 Any labor organization that has exclusive recognition for any employees in the proposed unit must be permitted to intervene.

504.8 After the filing of a petition or upon commencement of a proceeding, the Executive Director may conduct a preliminary investigation.

504.9 In making its determination regarding an appropriate compensation unit, the Board may take any one or more of the following actions:

- (a) Approving a withdrawal request;
- (b) Dismissing the petition;
- (c) Conducting an informal conference;
- (d) Conducting a hearing; or
- (e) Granting the petition or determining a unit.

504.10 Hearings under § 504.9(d) are investigatory and not adversarial.

505 MODIFICATION OF UNITS

505.1 A petition for unit modification of either a compensation or non-compensation unit may be filed by a labor organization or by a labor organization and an agency jointly. A unit modification may be sought for any of the following purposes:

- (a) To reflect a change in the identity or statutory authority of the agency;
- (b) To add to an existing unit unrepresented classifications or employee positions created since the recognition or certification of the exclusive representative;
- (c) To delete classifications that are no longer in existence or that, by virtue of changed circumstances, are no longer appropriate to the established unit; or
- (d) To consolidate two (2) or more bargaining units within an agency that are represented by the same labor organization.

505.2 A petition for unit modification must include the following:

- (a) The names and addresses of all labor organizations and agencies affected by the proposed change;
- (b) A description of each existing unit and the proposed unit, including the name and address of the employer, the number of employees in the existing and proposed units, and the personnel and payroll classifications of the employees;
- (c) The date of recognition or certification of each labor organization for the affected units;

- (d) A copy of the documentation evidencing any existing recognition or certification; and
- (e) A statement of the reasons for the proposed modification.

505.3 Upon the filing of a petition for unit modification, the Executive Director must prepare an official notice to be posted by the agency in conspicuous places on employee bulletin boards at work sites of employees in the proposed unit and to be distributed in a manner by which notices are normally distributed. The agency must post the notice no later than seven (7) days after the Board's service of the notice and keep it posted for fourteen (14) days thereafter. The notice must indicate the following:

- (a) The party or parties who filed the petition or initiated the proceedings;
- (b) The names and addresses of all labor organizations that would be affected by the proposed modification;
- (c) The existing and the proposed unit descriptions;
- (d) A list of the compensation systems proposed to be included;
- (e) The date the notice was posted; and
- (f) A statement that, within fourteen (14) days after posting of the notice, any labor organization or person that would be affected may file written comments.

505.4 An affected labor organization may file a request to intervene in the case and any party may file comments concerning the proposed modification. All comments or requests to intervene must meet the requirements of § 502.

505.5 Upon the filing of a petition under this section, the Board may direct a preliminary investigation and thereafter must take appropriate action, which may be any one or more of the following:

- (a) Approving a withdrawal request;
- (b) Dismissing the petition;
- (c) Conducting an informal conference;
- (d) Holding a hearing; or
- (e) Granting the modification sought.

505.6 Hearings under § 505.5(d) are investigatory and not adversarial.

506 CLARIFICATION OF UNITS

506.1 A petition filed for clarification of an existing unit may be filed by the agency or by the exclusive representative of the unit. The petition must include the following:

- (a) A description of the existing unit;
- (b) A copy of the documentation evidencing any existing recognition or certification; and
- (c) A statement of why a clarification of the existing unit is requested.

506.2 The Board must grant or deny the petition following an appropriate investigation and recommendation to the Board by the Executive Director or a hearing examiner.

507 DECERTIFICATION PETITIONS

507.1 The purpose of a decertification proceeding is to determine whether a majority of the employees in a bargaining unit maintain their desire to be represented by the existing exclusive bargaining representative.

507.2 A petition to decertify an exclusive representative of a bargaining unit may be filed with the Board by the District or by an employee or employees in the bargaining unit. The petition must be served on the exclusive representative in accordance with § 502.6 and must include the following:

- (a) The name, address, and telephone number of the petitioner and of the petitioner's representative if any. (A petitioner's representative under this rule may not be a labor organization.)
- (b) The name, address, and telephone number of the exclusive representative.
- (c) The name, address, and telephone number of the employer;
- (d) A specific and detailed description of the bargaining unit including employee classifications or job titles;
- (e) The approximate number of employees in the bargaining unit;
- (f) The date that the exclusive representative was recognized and the method of recognition, if known; and

- (g) A brief description of any collective bargaining agreements covering any employees in the bargaining unit, including the expiration dates of the agreements.
- 507.3 A petition for decertification filed by an employee or employees must be accompanied by a showing that at least thirty percent (30%) of the employees in the bargaining unit no longer desire to be represented by the exclusive representative.
- 507.4 An employing agency may not assist an employee or group of employees in the filing of a decertification petition.
- 507.5 A petition for decertification filed by the District must be accompanied by a sworn statement and supporting evidence of lack of activity by the exclusive representative.
- 507.6 The exclusive representative may file a response to the decertification petition no later than fourteen (14) days after the date of service of the petition. If the exclusive representative does not file a timely response indicating that it desires to continue to represent the employees, the Board may issue a decertification order.
- 507.7 If the exclusive representative files a timely response indicating that it desires to continue to represent the employees and the requirements of § 507.2 and § 507.3 or § 507.5 have been met, the Board must order an election to determine majority status.
- 507.8 The Board will not entertain a decertification petition in the following circumstances:
- (a) Within the preceding twelve (12) months, the Board has certified the results of an election among all or some of the employees in the bargaining unit or has determined the compensation unit placement;
 - (b) The exclusive representative of the employees in the bargaining unit was voluntarily recognized within the preceding twelve (12) months and the recognition was certified by the Board; or
 - (c) A collective bargaining agreement is in effect covering employees in the bargaining unit except in the following circumstances:
 - (1) The agreement is of three (3) years or shorter duration and the petition is filed between one hundred twenty (120) and sixty (60) days before the scheduled expiration date or after the stated expiration of the contract; or

- (2) The agreement has a duration of more than three (3) years and the petition is filed after the contract had been in effect for nine hundred seventy-five (975) days.
- 507.9 Upon receiving a timely response from the exclusive representative pursuant to § 507.6, the Board must transmit a copy of the decertification petition to the agency. The agency must prepare an alphabetical list of all employees in the unit for the last full pay period before the filing of the petition. This list, along with any comments concerning the petition, must be served on the Board no later than fourteen (14) days after the Board's service of the petition on the agency.
- 507.10 The Board or its designee must determine the adequacy of the showing of interest.
- 507.11 If the requirements of §§ 507.2, 507.3 and 507.9 are met, the Executive Director must prepare a notice to be posted by the agency in conspicuous places on all employee bulletin boards at work sites of employees in the unit and to be distributed in a manner by which notices are normally distributed. The agency must post the notice no later than seven (7) days after the Board's service of the notice and keep it posted for fourteen (14) consecutive days. The notice must include the following:
- (a) The name of the petitioner;
 - (b) A description of the unit;
 - (c) The date the notice was posted;
 - (d) The name of the labor organization currently representing employees in the unit; and
 - (e) The requirements for intervention by any other labor organization.
- 507.12 A labor organization may file an intervention petition within the period required by the notice. The petition must contain the same information as required under § 507.2.
- 507.13 An intervention petition must be accompanied by a showing of interest that at least ten percent (10%) of the employees in the bargaining unit set forth in the decertification petition wish to be represented by the intervening labor organization, unless a different unit is proposed by the intervenor, in which case a showing of interest of at least thirty percent (30%) must accompany the intervenor's petition.
- 507.14 Upon the filing of a petition pursuant to § 507.2 or § 507.12, the Executive Director may conduct a preliminary investigation. Thereafter, the Board must take appropriate action, which may include any one or more of the following:

- (a) Approving a withdrawal request;
- (b) Dismissing the petition;
- (c) Conducting an informal conference;
- (d) Holding a hearing;
- (e) Conducting an election.

507.15 Hearings under § 507.14(d) are investigatory and not adversarial.

507.16 When there is no intervening labor organization, an election to decertify an incumbent exclusive representative is not held if the incumbent provides the Executive Director with a written disclaimer of any representation interest in the unit. When there is an intervenor, an election is held if the intervening labor organization proffers a thirty percent (30%) showing of interest within the time period established by the Executive Director.

510 ELECTION PROCEDURES: GENERAL

510.1 Representation elections will be conducted by the Board or by an impartial body selected by the mutual agreement of the parties. The parties to a representation election must inform the Board as to whether they have selected by mutual agreement an impartial body to conduct the election. If they inform the Board that they have not selected an impartial body, the Board will conduct the election.

510.2 All elections must be by secret ballot.

510.3 The agent of the Board or other impartial body conducting the election must furnish to the agency and to the labor organization(s) that are parties to the proceeding an official notice setting forth the details of the election. This notice must be posted not less than seven (7) days before the date of the election and must remain posted until after the election. Copies of the Notice must be distributed in a manner by which notices are normally distributed.

510.4 In any election, each party to the election may be represented at each polling place by an equal, predesignated number of poll watchers of its choice, subject to limitations that are either prescribed by the agent of the Board or other impartial body or mutually agreed upon by the parties and approved by the Board.

510.5 Each party must submit the names(s) of its designated observer(s) to the agent of the Board or other impartial body before the day of the election. The observers represent their principals, challenging voters and generally monitoring the election process.

- 510.6 When an election involves a bargaining unit containing professional and non-professional employees, all professional employees must be given two (2) ballots: one for indicating whether they desire a combined professional/nonprofessional unit and a second for indicating the choice of representative, if any.
- 510.7 If the choice available to employees in an appropriate unit is limited to the selection or rejection of a single labor organization, the employing agency has submitted a written waiver of a hearing, and the Board cannot determine whether a majority of the proposed bargaining unit wish to be represented by the petitioning labor organization or the employing agency chooses not to voluntarily recognize the appropriate unit, an election pursuant to §§ 512 or 513 will be conducted.
- 510.8 Parties are encouraged to enter into election agreements. If the parties are unable to agree on procedural matters—specifically, the eligibility period, method of election, dates, hours, or locations of the election—the Executive Director will decide election procedures and issue a direction of election, without prejudice to the rights of a party to file objections to the procedural conduct of the election.
- 510.9 When there is no intervening labor organization, an election will not be held if the petitioner provides the Executive Director with a written request to withdraw the petition. When there is an intervenor and the petitioner provides the Executive Director with a written request to withdraw the petition, an election will be held if the intervenor presents a thirty percent (30%) showing of interest within the time period established by the Executive Director.
- 510.10 The parties may consent to an election without holding a hearing on the appropriateness of the unit.

511 ELECTION PROCEDURES: ELIGIBILITY

- 511.1 To be eligible to vote in an election, an employee must have been employed in the bargaining unit during the pay period before the date on which the Board ordered the election or as otherwise determined by the Board or consented to by the parties and must still be employed in the bargaining unit on the date of the election.
- 511.2 The employer must file with the Board and the labor organization(s) a list of employees eligible to vote in the election no later than seven (7) days after approval of an election agreement or seven (7) days after the Board or the Executive Director has directed an election, whichever occurs first. Such list must also include the home addresses of the eligible employees.

- 511.3 To be eligible to vote in a runoff election, an employee must have been eligible to vote in the original election and still be employed in the bargaining unit on the date of the runoff.
- 511.4 The agent of the Board agent or other impartial body or any authorized observer may challenge the eligibility of any voter and in so doing must state the reason for the challenge. A voter whose identity has been challenged may establish identity by showing any piece of identification acceptable to the agent of the Board or other impartial body.
- 511.5 An individual whose eligibility to vote is in dispute will be given the opportunity to vote a challenged ballot. If the parties and the agent of the Board or other impartial body are unable to resolve the challenged ballot(s) before the tally of ballots, the agent of the Board or other impartial body will impound and preserve the unresolved challenged ballot(s) until the Executive Director or the Board makes a determination regarding the eligibility of the voter.
- 511.6 A challenged ballot must be placed in a “challenged ballot” envelope. The envelope must be sealed by the agent of the Board or other impartial body and initialed by the observers. The agent of the Board or other impartial body must write the reason for the challenge and the voter’s name on the envelope and place the envelope in the ballot box.
- 511.7 The agent of the Board or other impartial body should attempt to resolve ballot challenges to the satisfaction of both parties before the ballots are counted.

512 ELECTION PROCEDURES: ON-SITE ELECTIONS

- 512.1 The procedures set forth in this section apply to an election conducted on-site, unless otherwise agreed to by the parties and approved by the Board.
- 512.2 The agent of the Board or other impartial body must designate the areas in proximity to the polling place in which electioneering will be prohibited.
- 512.3 The agent of the Board or other impartial body must examine the ballot box in the presence of the observers immediately before opening the polls and must seal the ballot box following the observers’ inspection of the polls and the ballot box. The seal must allow for only one opening on the top of the ballot box for voters to insert their ballots.
- 512.4 A voter casts a ballot by marking an (X) or a (√) in a circle or block designating the voter’s choice in the election.
- 512.5 If a voter inadvertently spoils a ballot, the voter may return the ballot to the agent of the Board or other impartial body who must give the voter another ballot. The spoiled ballot must be placed in a “spoiled ballot” envelope. The envelope must

be sealed by the agent of the Board or other impartial body and initialed by the observers. The agent of the Board or other impartial body must place the envelope in the ballot box.

- 512.6 A voter should fold the ballot so that no part of its face is exposed and on leaving the voting booth deposit the ballot in the ballot box.
- 512.7 Each ballot box must be sealed by the agent of the Board or other impartial body and initialed by the observers after each election session and so kept until the re-opening of the polls and must remain in the custody of the agent of the Board or other impartial body until the tallying of the ballots.
- 512.8 Upon request of a voter, the agent of the Board or other impartial body may privately assist the voter to mark the ballot.
- 512.9 Upon conclusion of the polling, ballots will be tallied in accordance with § 514.
- 512.10 If there is only one polling location, ballots will be tallied at the polling site. If there is more than one polling location, the agent of the Board or other impartial body must, upon conclusion of the voting, seal the ballot boxes, each of which must be initialed by the observers. The agent of the Board or other impartial body must transport them to a predetermined central location. When all of the ballot boxes have arrived, the agent of the Board or other impartial body must open the ballot boxes in the presence of observers and commingle the ballots for tallying.

513 ELECTION PROCEDURES: MAIL BALLOTS

- 513.1 Taking into consideration the desires of the parties, the Executive Director may direct an election to be conducted by mail when the schedules, shifts, or work sites of employees prevent them from being present at a common location at common times.
- 513.2 Unless otherwise agreed to by the parties and approved by the Board, the procedures in this section apply to an election conducted by mail ballot.
- 513.3 When an election is conducted by mail, the agency must, at least fourteen (14) days before the date of the election, provide to the Board a copy of the employee list in the form of mailing labels or in a format in which the information can be readily transferred to mailing labels. The list must distinguish between professional and nonprofessional employees.
- 513.4 The agent of the Board or other impartial body must mail each eligible voter a packet containing a ballot, ballot envelope, pre-addressed stamped return envelope, and instructions.

- 513.5 The instructions must advise the voter to mark the ballot with an (X) or a (√) in the circle or block designating a choice in the election without identifying marks, place the ballot in the ballot envelope, seal the ballot envelope, place the ballot envelope in the return envelope, seal the return envelope, sign the return envelope, and mail the return envelope to the designated post office box or address provided in the instructions. The instructions must also advise the voter of the date by which envelopes must be received. Ballots not returned by U.S. mail will not be accepted.
- 513.6 When the election includes a vote on a combined professional/nonprofessional unit, the agent of the Board or other impartial body must mail the professional and nonprofessional employees separate ballots and ballot envelopes for unit preference and for choice of representative. The instructions must advise these voters to mark the ballots separately, to place them in their respective ballot envelopes, and to place both ballot envelopes in the return envelopes.
- 513.7 The parties may designate an equal number of representatives, as set by the Board, to observe the tallying of the ballots. The ballots will be tallied on a date and location set by the Board.
- 513.8 Ballots must remain unopened and be kept in the custody of the agent of the Board or other impartial body until the date set for tallying. On the date set for tallying, the representatives and the Agent may challenge any ballots before the opening of the return envelopes.
- 513.9 Only ballots received prior to the tally will be counted.
- 513.10 Challenged ballots must be handled in accordance with § 511.6.
- 513.11 All ballots that have not been challenged must be separated from their return envelopes and commingled before tallying. The ballots will be tallied in accordance with § 514.

514 ELECTION PROCEDURES: TALLYING

- 514.1 Representation will be determined by the majority of the valid ballots cast. Each party may designate representative(s) to observe the tallying of the ballots. Ballots must be tallied in the presence of the parties' observers. The count must proceed as set forth in this section.
- 514.2 The agent of the Board or other impartial body must segregate the challenged ballots. The challenged ballots will be opened and counted only if the challenges have been resolved to the satisfaction of the parties and the challenged ballots could be determinative of the outcome of the election.

- 514.3 When the election includes a vote on a combined professional/nonprofessional unit, the ballots on unit preference must be tallied first. If a majority of the professional employees casting valid ballots votes for a combined unit, the ballots on choice of representative, if any, must be tallied with the ballots of nonprofessional employees. If a majority of professional employees voting fails to vote for a combined unit, the ballots on choice of representative, if any, must be tallied separately.
- 514.4 The Board must preserve all ballots until the conclusion of any related proceedings.
- 514.5 The participants in the tally are the agent of the Board or other impartial body and official observers, in the numbers necessary. Members of the press and other interested persons may be present to the extent permitted by the physical facilities and the permission of the owner of the premises being used. The agent in charge of the election has discretion to limit the number of participants.
- 514.6 The intent of the voter, if clearly ascertainable from the ballot itself, must be followed in assessing the marking of the ballot.
- 514.7 If the ballot is defaced, torn, or marked in a manner that makes it not understandable or that identifies the voter, the ballot must be declared void.
- 514.8 If challenges to ballots have not been resolved to the satisfaction of the parties and the challenges are sufficient in number to affect the outcome of the election, the Board must resolve the challenges in accordance with §§ 515.3 and 515.4.

515 CERTIFICATION OF ELECTION RESULTS

- 515.1 The Executive Director must prepare a report of election results that includes a tally of the ballots. The Executive Director must serve the report on each party, attaching a certificate of service.
- 515.2 No later than seven (7) days after the tally of ballots has been served, any party to the election proceeding may file with the Board objections to the election procedure or to any conduct that might have improperly affected the results of the election. The objecting party must include a specific statement of the reasons for each objection.
- 515.3 If the challenged ballots are sufficient in number to affect the results of the election or if objections are filed, the Executive Director, or other person designated by the Board, must conduct an investigation and make a report of findings to the Board. If the Board has reason to believe that such allegations or challenges may be valid, the Board must order a hearing on the matter within two (2) weeks after the date of receipt of the objections. Any hearing held pursuant to this subsection is investigatory and not adversarial.

515.4 Following its consideration of all challenges and objections, the Board may:

- (a) Set aside the election and order that a new election be conducted;
- (b) Issue a certification of representative; or
- (c) Issue a certification of results that no union has been selected.

515.5 Except as provided in D.C. Official Code § 1-617.10(d), the Executive Director, on behalf of the Board, must certify the results of each election no later than ten (10) business days after the tally of ballots has been served.

515.6 Where there are three (3) or more choices on the ballot, an election in which (after any determinative challenges have been resolved) none of the choices receives a majority of the valid votes cast is considered an inconclusive election. In such case, the Board must order that another election be conducted between the two (2) choices on the original ballot that received the highest and next highest number of votes. In the event of a tie in the second election, the Board must certify the election results indicating that no representative was selected.

516 PETITIONS TO AMEND CERTIFICATION

516.1 An exclusive representative may file a petition with the Board to amend its certification when there is a change in the identity of the exclusive representative that does not raise a question concerning representation (*e.g.*, whether the employees have designated a particular organization as their bargaining agent). A change in the identity of the representative that does not raise a question concerning representation may include a change in the name of the labor organization.

516.2 The petition must contain the following:

- (a) The name, address, and telephone number of the employer as shown in the certification;
- (b) The name, address, and telephone number of the exclusive representative, as shown in the certification;
- (c) The name, address, and telephone number of the petitioner's representative; and
- (d) A description of the proposed amendment.

516.3 The Board may grant or deny the petition following an appropriate investigation, which may include a hearing and recommendation to the Board by the Executive Director.

520 UNFAIR LABOR PRACTICE COMPLAINTS

520.1 The rules in this section detail the procedures for initiating, processing, and resolving complaints that the agency, employees, or a labor organization has committed or is committing an unfair labor practice in violation of D.C. Official Code § 1-617.04 (2016 Repl.).

520.2 An unfair labor practice complaint may be filed with the Board by a labor organization, an agency, or an aggrieved person. An unfair labor practice complaint and any answer thereto must be filed in accordance with § 502.

520.3 Unfair labor practice complaints must include a clear and complete statement of the facts constituting the alleged unfair labor practice, including the date, time, and place of occurrence of each particular act alleged, the date the complainant became aware of such an act if that date is later than the date on which the act occurred, and the manner in which D.C. Official Code § 1-617.04 (2016 Repl.) is alleged to have been violated.

520.4 An unfair labor practice complaint must be filed no later than one hundred twenty (120) days after the date on which the alleged violation occurred or the date the complainant knew or should have known of the alleged violation, if later.

520.5 An amended complaint and any answer thereto must be filed in accordance with § 502.8. An amended complaint may allege an additional violation if the amended complaint is filed no later than one hundred twenty (120) days after the date on which the alleged additional violation occurred or the date the complainant knew or should have known of the alleged additional violation, if later.

520.6 If a review of the complaint and any response thereto reveals that there is no issue of fact to warrant a hearing, the Board may render a decision upon the pleadings or may request briefs and/or oral argument.

520.7 The Executive Director must investigate each complaint. The investigation may include an investigatory conference with the parties. When requested by the Executive Director, the parties must submit to the Executive Director evidence relevant to the complaint. Such evidence may include affidavits or other documents. If the evidence a complainant submits to the Executive Director is insufficient to establish the existence of an essential element of the complainant's case as to which it has the burden of proof, the Executive Director may dismiss the case.

- 520.8 If the investigation reveals that the pleadings present an issue of fact warranting a hearing, the Executive Director must issue a notice of hearing and serve it upon the parties.
- 520.9 The Board may order preliminary relief. A request for preliminary relief must be accompanied by affidavits or other evidence supporting the request. Preliminary relief may be granted where the Board's ultimate remedy may be inadequate and the Board finds that the conduct is clear-cut and flagrant, the effect of the alleged unfair labor practice is widespread, the public interest is seriously affected, or the Board's processes are being interfered with.
- 526 IMPASSE RESOLUTION PROCEEDINGS: COMPENSATION NEGOTIATIONS**
- 526.1 A notice of impasse under D.C. Official Code §§ 1-617.17(f)(2) or (3) (2016 Repl.) may be filed by one or both of the parties and must include the following:
- (a) The name of the chief negotiator for each party;
 - (b) The expiration date of the existing collective bargaining agreement (if any);
 - (c) A description of the unit affected by the impasse, including the approximate number of employees in the unit;
 - (d) The date when negotiations commenced and the date of the last meeting; and
 - (e) The nature of the matters in dispute and any other relevant facts, including a list of specific demands upon which impasse has been reached. Any bargaining proposal included with the notice of impasse must be filed in a manner consistent with D.C. Official Code § 1-617.17(h) (2016 Repl.).
- 526.2 Upon receipt of a notice of impasse concerning compensation negotiations, other than an automatic impasse as prescribed under D.C. Official Code § 1-617.17(f)(2) (2016 Repl.), the Executive Director must verify with the other party (unless jointly filed) that the parties are at impasse.
- 526.3 Upon receipt of a notice of impasse and, if required, verification thereof, the Executive Director must consult with the parties regarding their choice of mediator, if any. If the parties are unable to agree upon a mediator, the Executive Director must appoint one or request that the Federal Mediation and Conciliation Service provide one.
- 526.4 Any information disclosed by the parties to a mediator, including all records, reports and documents prepared or received by the mediator in the performance of duties is confidential.

- 526.5 If impasse is not resolved through mediation within thirty (30) days, using a method of their choosing, the parties may recommend an arbitrator or board of arbitration to be appointed by the Executive Director.
- 526.6 If the parties do not make a recommendation, an arbitrator will be selected in the following manner:
- (a) The Executive Director must submit to the parties a list of at least five (5) names of arbitrators.
 - (b) The parties must confer in person or by telephone and select an arbitrator by means of alternate striking of names from the list until one remains.
 - (c) The parties must give the remaining name to the Executive Director, who will appoint that individual as the arbitrator.
 - (d) If the appointed arbitrator declines or is unable to serve, the above process will be repeated.
- 526.7 No later than seven (7) days after appointment, the arbitrator and the parties, with the assistance of the Executive Director, if necessary, must jointly select a date, time, and place for the hearing.
- 526.8 Arbitration awards must be in writing and signed by the arbitrator and must be served on the parties no later than forty-five (45) days after the arbitrator has been appointed, unless otherwise agreed to by the parties. A statement of the arbitrator's fee and expenses should be submitted with the award.

527 IMPASSE RESOLUTION PROCEEDINGS: NONCOMPENSATION NEGOTIATIONS

- 527.1 Upon receipt of a request for impasse resolution concerning terms and conditions of employment other than compensation, or upon its own motion, the Executive Director may declare an impasse when the following has occurred:
- (a) After a reasonable period of negotiations, further negotiation appears to be unproductive; or
 - (b) An impasse is declared in compensation negotiations covering the same employees as the terms and conditions negotiations.
- 527.2 A request for resolution of an impasse concerning terms and conditions of employment other than compensation must include the following:
- (a) The name of the chief negotiator for each party;

- (b) The expiration date of the existing collective bargaining agreement (if any);
- (c) A description of the unit affected by the impasse, including the approximate number of employees in the unit;
- (d) The date when negotiations commenced and the date of the last meeting; and
- (e) The nature of the matters in dispute and any other relevant facts, including a list of specific demands upon which impasse has been reached.

527.3 Upon receipt of a request for impasse resolution procedures for noncompensation matters, the Executive Director must initiate an informal inquiry. If the Executive Director determines that the parties have reached an impasse, despite diligent efforts, the Executive Director must consult with the parties regarding their choice of impasse resolution procedures. These include mediation, fact-finding, and arbitration, either exclusively or some combination thereof. The parties may decide, by mutual agreement, to engage in any of the impasse resolution procedures outlined in D.C. Official Code §§ 1-617.02(c) and 1-617.17(f)(3A) (2016 Repl.).

527.4 If the parties are unable to agree on the type of impasse resolution procedures to be utilized, the Executive Director will appoint a mediator.

527.5 If the parties are unable to agree upon a mediator, the Executive Director must appoint one or request that the Federal Mediation and Conciliation Service provide one.

527.6 Any information disclosed by the parties to a mediator, including all records, reports and documents prepared or received by the mediator in the performance of mediation duties is confidential.

527.7 The Executive Director may direct fact-finding using the following procedures:

- (a) The parties may jointly request the assignment of a specific fact-finder or fact-finder arb or designate the mediator to serve as the fact-finder or as a member of a fact-finding panel;
- (b) If the parties are unable to make a selection from a list supplied by the Executive Director, the Executive Director must assign a fact-finder;
- (c) The fact-finder must review the positions of the parties with a view toward focusing attention on the issues in dispute and resolving differences as to facts;

- (d) The fact-finder must meet with the parties within seven (7) days after appointment, hold conferences and hearings, if necessary, to facilitate the fact-finding process, and take any other steps necessary to investigate and to effect settlement of the impasse through fact-finding;
- (e) The fact-finder must make a written report of findings of fact and recommendations for resolution of the impasse. The Board may set a deadline for the submission of the report, which must be submitted confidentially to the parties and to the Board, unless the parties resolve the dispute before the submission of the written report; and
- (f) If the parties are unable to resolve the dispute within seven (7) days after the Board receives the report and recommendations, the Board may make the report and recommendations public using the news media or other appropriate means.

527.8 Upon joint request of the parties, the Executive Director may appoint an arbitrator to resolve the impasse. The parties may jointly request the assignment of a particular arbitrator, or the use of a particular arbitrator selection service. The parties may request as an arbitrator for noncompensation matters, an arbitrator or Board of Arbitration currently appointed to consider compensation matters at impasse between the parties.

527.9 If the parties do not make a recommendation, an arbitrator will be selected in the following manner:

- (a) The Executive Director must submit to the parties a list of at least five (5) names of arbitrators.
- (b) The parties must confer in person or by telephone and select an arbitrator by means of alternate striking of names from the list until one remains.
- (c) The parties must give the remaining name to the Executive Director, who will appoint that individual as the arbitrator.
- (d) If the appointed arbitrator declines or is unable to serve, the above process will be repeated.

527.10 No later than seven (7) days after appointment, the arbitrator and the parties, with the assistance of the Executive Director, if necessary, must jointly select a date, time, and place for the hearing.

527.11 Arbitration awards must be in writing and signed by the arbitrator and must be served on the parties no later than forty-five (45) days after the arbitrator has been appointed, unless otherwise agreed to by the parties. A statement of the arbitrator's fee and expenses must be submitted with the award.

527.12 Fact-finding or arbitration proceedings directed by the Board may proceed in the absence of any party who, after due notice, fails to be present and fails to obtain an adjournment.

532 NEGOTIABILITY APPEAL PROCEEDINGS

532.1 If in connection with collective bargaining, an issue arises as to whether a proposal is within the scope of bargaining, the party presenting the proposal may file a negotiability appeal with the Board. If a negotiability issue exists at the time the Executive Director determines that an impasse has occurred, a negotiability appeal must be filed with the Board no later than seven (7) days after the Executive Director's determination as to the existence of an impasse. Unless otherwise ordered by the Board, impasse proceedings will not be suspended pending the Board's determination of a negotiability appeal.

532.2 Except as provided in § 532.1, a negotiability appeal must be filed no later than thirty-five (35) days after a written communication from the other party to the negotiations asserting that a matter is nonnegotiable or otherwise not within the scope of collective bargaining under the CMPA.

532.3 A negotiability appeal must include the following:

- (a) The name, title, mailing address, email address, and telephone number of the chief negotiator for each party;
- (b) A clear and complete statement of the negotiability issue(s), including a copy of the proposed or existing provisions at issue and specific reference to any applicable statute, regulation, or collective bargaining agreement provision; and
- (c) Any written communication from the other party to the negotiation asserting that a proposal is nonnegotiable.

532.4 The respondent may file an answer and supporting brief to the negotiability appeal within fourteen (14) days after the date of service of the appeal. The response must state in clear and complete terms the respondent's position on each negotiability issue raised in the appeal.

532.5 The petitioner may file a reply brief within fourteen (14) days after the date of service of the answer.

532.6 Following final submission on the matter, the Board may issue a written decision or, if necessary, hold a hearing. A hearing pursuant to this subsection is investigatory and not adversarial.

538 GRIEVANCE ARBITRATION REVIEW REQUEST

538.1 A party to a grievance arbitration proceeding who is aggrieved by the arbitration award may file with the Board a request for review of the award no later than twenty-one (21) days after service of the award. Service of the arbitration award on a party occurs when the award is personally delivered during business hours; deposited in the U.S. mail, properly addressed, first class postage prepaid; sent through commercial delivery; or served by email or facsimile. Whenever an award is served by U.S. mail, five (5) days will be added to the prescribed period of time to file an arbitration review request.

538.2 The arbitration review request must include the following:

- (a) The name, address, and telephone number of the arbitrator;
- (b) A brief requesting the Board to set aside, remand, or modify an award on one or more of the grounds set forth in D.C. Official Code § 1-605.02(6);
- (c) A copy of the award;
- (d) An affidavit or other proof of the date of service of the award; and
- (e) Any other portion of the arbitration record upon which the petitioner relies in the arbitration review request.

538.3 A brief in opposition to the arbitration review request may be filed with the Board by the other party to the arbitration proceeding no later than fourteen (14) days after service of the request. The respondent may file with its opposition any portion of the arbitration record not submitted by the petitioner.

538.4 The Board must make its decision after consideration of the review request, the parties' briefs and the record submitted by the parties.

544 STANDARDS OF CONDUCT COMPLAINTS

544.1 The provisions of D.C. Official Code § 1-617.03 (2016 Repl.), concerning the standards of conduct for labor organizations, must govern the conduct of any labor organization that has been accorded exclusive recognition under D.C. Official Code § 1-617.10(a) or § 1-617.11(b) (2016 Repl.) or that is seeking to be certified as an exclusive representative by the Board.

544.2 Any individual aggrieved because a labor organization has failed to comply with the standards of conduct for labor organizations set forth in D.C. Official Code § 1-617.03(a) may file a complaint with the Board. A standards of conduct complaint and any answer thereto must be filed in accordance with § 502.

- 544.3 A standards of conduct complaint must include:
- (a) A clear and complete statement of the facts constituting the alleged standards of conduct violation, including date, time and place of occurrence of each particular act alleged;
 - (b) The date the complainant became aware of each such act if that date is later than the date on which the act occurred; and
 - (c) The manner in which D.C. Official Code § 1-617.03 (2016 Repl.) is alleged to have been violated.
- 544.4 A complaint alleging a violation under this section must be filed no later than one hundred twenty (120) days from the date the alleged violation occurred or the date the complainant knew or should have known of the alleged violation, if later.
- 544.5 An amended complaint and any answer thereto must be filed in accordance with § 502.8. An amended complaint may allege an additional violation if the amended complaint is filed no later than one hundred twenty (120) days from the date the alleged additional violation occurred or the date the complainant knew or should have known of the alleged additional violation, if later.
- 544.6 A complainant may withdraw a complaint without prejudice at any time before an answer is filed.
- 544.7 The Executive Director must investigate each complaint. The investigation may include an investigatory conference with the parties. When requested by the Executive Director, the parties must submit to the Executive Director evidence relevant to the complaint. Evidence may include affidavits or other documents.
- 544.8 If the investigation reveals that the pleadings present an issue of fact warranting a hearing, the Executive Director will issue a notice of hearing and serve it upon the parties.
- 544.9 The Board may order preliminary relief. A request for preliminary relief must be accompanied by affidavits or other evidence supporting the request. Preliminary relief may be granted where the Board's ultimate remedy may be inadequate and the Board finds that the conduct is clear-cut and flagrant, the effect of the alleged violation is widespread, the public interest is seriously affected, or interference with the Board's processes.

549 ***EX PARTE* COMMUNICATIONS**

- 549.1 For purposes of this section, the phrase “*ex parte* communication” means any oral or written communication between decision-making personnel and a party in a

proceeding, the party's representative, or any other person who might be affected by the outcome of a proceeding without the participation of the other parties to the proceeding. Decision-making personnel include, for example, any hearing examiner, employee, or member of the Board who reasonably may be expected to participate in the decision-making processes of the Board.

549.2 No party or representative of a party may engage in any *ex parte* communication with a hearing examiner or with any member of the Board regarding proceedings pending before the Board.

549.3 Except during settlement discussions or mediations, *ex parte* communications with an employee of the Board that involve the merits of a case or that violate other rules requiring submissions to be in writing are prohibited until the Board has rendered a final decision in the case. Interested parties may make inquiries to the Executive Director about such matters as the status of a case and when it will be heard. Parties must not make orally a submission that is required to be made in writing or inquire about such matters as what defense they should use or whether their evidence is adequate.

549.4 If a prohibited *ex parte* communication is made orally, the hearing examiner or other presiding official must describe that occurrence on the record with notice to the parties either by filing a memorandum or by making a statement. If a prohibited *ex parte* communication is made in writing, the hearing examiner or presiding official must file into the record of the proceeding any writing delivered to him or her.

549.5 A Board member who receives an *ex parte* communication that violates § 549.2 must promptly report the communication to the chairperson of the Board and to the Executive Director.

549.6 The Executive Director must promptly report to the Board any *ex parte* communications he or she receives that violate § 549.3. Any other employee of the Board who receives an *ex parte* communication that violates § 549.3 must promptly report the communication to the Executive Director.

549.7 Upon determining that a party has initiated a prohibited *ex parte* communication, the hearing examiner, the Executive Director, or the Board may impose procedural sanctions or take remedial actions that are appropriate under the circumstances.

550 HEARINGS

550.1 The purpose of a hearing is to develop a full and factual record upon which the Board may make a decision. A party with the burden of proof must carry that burden by a preponderance of the evidence.

- 550.2 In any proceeding when a hearing is to be held, the Executive Director or any authorized agent of the Board may meet with the parties to conduct one or more pre-hearing conferences to do any one or more of the following:
- (a) Delineate the issues;
 - (b) Agree on facts, matters, and procedures that will facilitate and expedite the case; and
 - (c) Exchange lists of witnesses and exhibits.
- 550.3 No statement or communication made during the course of a pre-hearing conference may be offered as evidence in the same or a subsequent proceeding except upon agreement by all parties.
- 550.4 When a hearing has been directed by the Board or Executive Director, unless otherwise provided by these rules or directed by the Board, the Executive Director must issue a notice of hearing to all parties to the proceeding at least fourteen (14) days before the scheduled date of the hearing. The hearing will be conducted at the time and place specified in the notice of hearing and will be open to the public.
- 550.5 The Executive Director may postpone a hearing for good cause shown by a party. A request for postponement must propose alternate dates for the hearing and state the positions of all other parties on the postponement and on the alternate dates.
- 550.6 Except under extraordinary circumstances, no request for postponement may be granted during the seven (7) days immediately preceding the date of a hearing.
- 550.7 Any party intending to introduce documentary exhibits at a hearing must make every effort to furnish a copy of each proposed exhibit to each of the other parties at least seven (7) days before the hearing.
- 550.8 When a copy of an exhibit has not been tendered to the other parties because it was not available before the opening of the hearing, a copy of the exhibit must be furnished to each of the other parties at the outset of the hearing.
- 550.9 One copy of each documentary exhibit must be submitted to the hearing examiner at the time the exhibit is offered into evidence at the hearing, unless otherwise requested by the hearing examiner.
- 550.10 Objections to an exhibit are reserved until the exhibit is offered into evidence.
- 550.11 Any party intending to call witnesses to testify at a hearing must furnish a list of proposed witnesses to each of the other parties at least seven (7) days before the hearing. The party calling the witness is responsible for notifying the witness of

the time and place of the hearing and, for witnesses who are employees of the District, so informing the representative of record for the District in the proceeding.

- 550.12 Hearings will be presided over by a hearing examiner, who is a representative of the Board. A hearing examiner will have full authority to conduct a hearing unless restricted by the Board.
- 550.13 Hearing examiners must conduct fair and impartial hearings, take all necessary action to avoid delay in the proceedings, and maintain order. To those ends, hearing examiners are authorized to:
- (a) Administer oaths and affirmations;
 - (b) Request the issuance of subpoenas;
 - (c) Rule upon motions;
 - (d) Compel discovery of evidence ruled competent, relevant, material, and not cumulative;
 - (e) Regulate the course of the proceeding, fix the time and place of any continuance of a hearing or conference, and exclude persons from such hearings or conferences for contumacious conduct;
 - (f) Call and examine witnesses and introduce or exclude documentary or other evidence;
 - (g) Recommend to the Board dismissal of a case based on a settlement agreement reached by the parties; and
 - (h) Take any other appropriate action authorized by statute, these rules, or the Board.
- 550.14 All objections to evidence must be raised before the hearing examiner. Any objection not made before the hearing examiner is waived unless the failure to make such objection is excused by the Board because of extraordinary circumstances.
- 550.15 Strict compliance with the rules of evidence applied by the courts is not required. The hearing examiner may admit and consider proffered evidence that possesses probative value. Evidence that is cumulative or repetitious may be excluded.
- 550.16 The hearing examiner may impose procedural sanctions upon the parties as necessary to serve the ends of justice, including, but not limited to, the instances set forth in §§ 550.17, 550.18, and 550.19 below.

- 550.17 If a party fails to comply with an order for the production of evidence within the party's control or for the production of witnesses, unless for good cause, the hearing examiner may:
- (a) Draw an inference in favor of the requesting party with regard to the information sought;
 - (b) Prohibit the party failing to comply with such order from introducing evidence concerning, or otherwise relying upon, testimony relating to the information sought;
 - (c) Permit the requesting party to introduce secondary evidence concerning the information sought; and
 - (d) Strike any part of the pleadings or other submissions of the party failing to comply with such request that relate to the requested information.
- 550.18 If a party fails to prosecute an action, the hearing examiner may recommend that the Board or Executive Director dismiss the action with prejudice or rule against the defaulting party.
- 550.19 The hearing examiner or Executive Director may refuse to consider any motion or other action that is not filed timely in compliance with this section.
- 550.20 The Board must reach its decision upon a review of the entire record. The Board may adopt the recommended decision of a hearing examiner to the extent that it is supported by the record, reasonable, and consistent with the Board's precedent.

552 CLOSING ARGUMENTS AND BRIEFS

- 552.1 Any party is entitled, upon request, to a reasonable time for oral argument before the close of the hearing. Upon the agreement of all parties or at the direction of the hearing examiner, the parties may make oral or written closing arguments instead of filing post-hearing briefs.
- 552.2 Except as provided in § 552.1, any party may submit to the hearing examiner a brief meeting the requirements of §§ 502 and 561. Briefs must be filed no later than thirty-five (35) days after the transcript becomes available and the parties are so informed. The Executive Director may, for good cause shown, extend the time for the filing of briefs.

553 HEARING EXAMINER'S REPORT/EXCEPTIONS

- 553.1 Following a hearing, the hearing examiner must submit a report and recommendations to the Executive Director and the parties no later than thirty-

five (35) days following the submission of post-hearing briefs, if any, or following the conclusion of closing arguments. Upon request of the hearing examiner, the Executive Director may extend the time for submission of the report and recommendations.

553.2 A party may file exceptions and a brief in support of the exceptions no later than fourteen (14) days after service of the hearing examiner's report and recommendations. A response or opposition to the exceptions may be filed by a party no later than fourteen (14) days after service of the exceptions. A party may file a request for oral argument before the Board, stating the reasons for the request.

554 SUBPOENAS

554.1 An application for issuance of a subpoena requiring a person to appear and testify at a specific place and time or to produce designated documents must be made in writing to the Executive Director. All requests for *subpoenas ad testificandum* must clearly identify the person subpoenaed and, except for employees of the Government of the District of Columbia, be accompanied by a forty dollar (\$40) per diem consisting of a certified check or money order payable to each person subpoenaed.

554.2 An application for issuance of a subpoena requiring a person to produce documents (including writings, drawings, graphs, charts, photographs, electronic records and other recordings, and other data compilations from which information may be obtained) at a specific time and place must be made in writing to the Executive Director.

554.3 An applicant for a subpoena must arrange for service. A subpoena may be served in either of two (2) ways:

- (a) Personal service. Service of a subpoena may be made by any person who is not a party to the proceeding and who is at least eighteen (18) years of age. The person making such service must attest to the service of the subpoena in an affidavit. The attesting affidavit must state the date, time, and method of service.
- (b) Service by certified mail. Service of a subpoena may be made by certified mail. If the subpoena is served by certified mail, the subpoena must be mailed to the address of the person or business entity to be served, at the person's residence, principal office, or place of business. The return receipt will serve as proof of service of the document.

554.4 Any motion to limit or quash the subpoena must be filed no later than seven (7) days after service of the subpoena or on the date for compliance with the subpoena, whichever is earlier. The motion must set forth all assertions of

privilege, burdensomeness, irrelevance, or other factual and legal objections to the subpoena, including all appropriate arguments, affidavits, and other supporting documentation.

554.5 In the case of contumacy or failure to obey a subpoena, the Board may request enforcement of the subpoena in the Superior Court of the District of Columbia pursuant to D.C. Official Code § 1-605.02(16) (2016 Repl.).

554.6 Board members and employees may not be subpoenaed.

554.7 When an employee of the District receives a subpoena to appear and testify or to produce designated documents, the employing agency must make the employee available to respond to the subpoena, pursuant to D.C. Official Code § 1-605.02(8). When responding to a subpoena, a witness will be on official duty status and must not be required to use leave.

555 MOTIONS

555.1 Motions must briefly state the relief sought and set forth with particularity the grounds for the motion. A motion, other than one made at a hearing, must be filed with the Board and meet the requirements of §§ 502 and 561.

555.2 Any response to a written motion must be in writing and filed no later than fourteen (14) days after service of the motion or no later than two (2) days after service in the case of a motion for an extension of time filed under § 501.2 or a motion to increase the page limit filed under § 502.3. The Executive Director may allow additional responses by the moving or responding party upon a request made no later than seven (7) days after service of a pleading.

555.3 The Executive Director may refer to a hearing examiner motions made before the issuance of a hearing examiner's report and recommendations. Motions made during a hearing will be ruled on by the hearing examiner, except when the hearing examiner refers the matter to the Board.

555.4 All rulings on motions must be in writing, except that rulings made at a hearing may be stated orally on the record.

556 INTERLOCUTORY APPEALS

556.1 Unless authorized by the Board, interlocutory appeals to the Board from rulings by the Executive Director, a hearing examiner, or other Board agents are not permitted. The Board will consider objections to such rulings when it examines the record of the proceeding.

557 DISQUALIFICATION

- 557.1 A hearing examiner or Board member must withdraw from proceedings whenever that person has a conflict of interest.
- 557.2 When a party requests a hearing examiner to withdraw and the hearing examiner does not withdraw, the hearing examiner must state the reason for the decision on the record. The Board must consider the request when it examines the record of the proceeding.

558 MEDIATION AND SETTLEMENT OF DISPUTES

- 558.1 It is Board policy to encourage voluntary efforts of parties to settle disputes involving issues of representation, unfair labor practices, standards of conduct, or issues arising during negotiations.
- 558.2 Parties' efforts at resolution and any settlements or adjustments reached must be consistent with the provisions, purposes, and policies of the CMPA.
- 558.3 No admissions or offers of settlement made during efforts toward resolution may be used in any proceeding as evidence or as an admission of a violation of any law or regulation.
- 558.4 Parties filing pleadings before the Board may be required to submit to the mediation program established by the Board. The Executive Director may schedule a disputed case for mediation or for a settlement conference.
- 558.5 The Executive Director will designate the mediator in each matter scheduled for mediation.
- 558.6 The parties must make a good faith effort in all mediations to resolve the issues in dispute. Party representatives at mediation proceedings must have settlement authority of the party.
- 558.7 Parties must inform the Executive Director when they have multiple pending cases that raise common issues. The Board encourages the resolution and consolidation of multiple cases for the purpose of mediation and other resolution.
- 558.8 If mediation does not resolve a dispute within a reasonable period of time, the Executive Director may terminate mediation and continue proceedings for resolution of the matter pursuant to these rules and the CMPA.

559 ISSUANCE AND RECONSIDERATION OF ORDERS

- 559.1 A decision and order of the Board is final upon service on the parties either through File & ServeXpress or as provided in § 502.10(a). The Board may reopen

a case on its own motion within fourteen (14) days after issuance of the decision, unless the order specifies otherwise.

559.2 A party may file a motion for reconsideration of an order of the Board no later than fourteen (14) days after issuance of the order.

559.3 The Board will not entertain a motion to reconsider a ruling on a motion for reconsideration filed under § 559.2.

560 ENFORCEMENT

560.1 A prevailing party in a case may petition the Board to seek judicial process to enforce an order of the Board issued in the case if

- (a) The respondent in the case has failed to comply with the order;
- (b) Neither a motion for reconsideration nor a request for judicial review is pending in the case; and
- (c) No timely request for reconsideration or judicial review of the order remains available.

560.2 A party named as a respondent may file an answer to the petition no later than fourteen (14) days after service of the petition.

561 ELECTRONIC FILING

561.1 All pleadings, motions, memoranda of law, orders, or other documents to be filed in connection with a case must be filed electronically through File & ServeXpress, except for documents excluded by these rules, including §§ 502.5 and 502.10(a), or by order of the Executive Director.

561.2 Unless the Board orders otherwise, an original of a document filed electronically, including original signatures, must be maintained by the party filing the document and must be made available, upon reasonable notice, for inspection by another party or the Board.

561.3 Any pleading filed electronically is deemed filed with the Board at the time the transaction is completed. Any document filed with the Board before midnight Eastern Time is deemed filed with the Board on that date; however, for the purpose of computing time for any other party to respond, any document filed on a day or at a time when the Board is not open for business must be deemed to have been filed on the day and at the time of the next opening of the Board for business.

- 561.4 File & ServeXpress is the Board agent for the electronic filing, receipt, service, or retrieval of any pleading or document filed electronically. Upon filing and receipt of a document, File & ServeXpress issues a confirmation that the document has been received. The confirmation serves as proof that the document has been filed.
- 561.5 If the electronic filing is not filed with the Board because of: (1) an error in the transmission of the document to File & ServeXpress, which was unknown to the sending party; (2) File & ServeXpress's failure to process the electronic filing upon receipt; or (3) other technical problems that the filer might experience, the Board or Executive Director may upon satisfactory proof file an order permitting the document to be filed *nunc pro tunc* on the date it was first attempted to be filed electronically.
- 561.6 Documents filed electronically must be formatted as an 8½-inch by 11-inch document with black print on a white background.
- 561.7 Every pleading, document, and instrument electronically filed must be deemed to have been signed by the representative or *pro se* party and must bear a facsimile or typographical signature of such person, along with the name, address, and telephone number. Typographical signatures must be styled “/s/ name” and must be treated as personal signatures for all purposes under these rules.
- 561.8 When cases are consolidated, all parties must file a notice of appearance in the designated lead case. A single filing in the lead case is deemed to be filed in all cases consolidated with it.
- 561.9 The Board may issue, file, and serve notices, orders, and other documents electronically, subject to the provisions of this section.
- 561.10 Documents may be filed under seal if leave is granted by the Executive Director upon motion of a party. Redacted copies of documents filed under seal may be filed and served electronically. Documents filed under seal containing confidential information may be filed conventionally (in physical form) or as a sealed electronic document.

566 LIST OF NEUTRALS

- 566.1 The Board must establish and maintain on its website a list of persons qualified to act as neutrals in resolving disputes. The list must specify, for each person, the capacities for which that person is qualified (for example, mediator, fact-finder, arbitrator, hearing examiner). Unless otherwise specified by these rules or by the parties' mutual agreement, the selection of mediators, fact-finders, and arbitrators must be made in order from the list of neutrals maintained by the Board, assuming the availability of the selected neutral.

- 566.2 Nomination of a person to the list referred to in this section may be made by a member of the Board, the Executive Director, or any other person including the nominee, by writing to the Executive Director. A nomination must include the following information:
- (a) The name, occupation, residence, business address, and telephone number of the nominee;
 - (b) A resume, which includes any relevant professional memberships; and
 - (c) A statement of any association the nominee has or had, other than as a neutral, with an agency or with a labor organization that represents or seeks to represent employees of the Government of the District of Columbia.
- 566.3 In making appointments to the list, the Board must consider such factors as experience and training, membership on other recognized mediation or arbitration panels, education, prior published awards, current advocacy in employment relations matters, potential conflicts of interest, letters of recommendations supporting the application, and any other relevant material supplied by the applicant or requested by the Board. Special consideration will be granted to applicants who are residents of the District of Columbia who meet the above qualifications.
- 566.4 Every person appointed to the list must file a fee schedule with the Board. An individual on the list who is selected to serve in a case as a mediator, fact finder or arbitrator, must not charge a fee greater than that listed in the fee schedule the individual has filed with the Board. A minimum of thirty (30) days prior written notice must be given to the Board of changes in fee schedules.

567 AMENDMENTS TO RULES

- 567.1 Whenever the Board deems amendment of these rules to be in the public interest, it must give notice of the proposed amendments in accordance with the requirements in the District of Columbia Administrative Procedure Act, D.C. Official Code § 2-505. Copies of the proposed amendments must be posted as appropriate and published in the *D.C. Register*.
- 567.2 Any interested person may petition the Board in writing for amendments to any portion of the rules and may provide specific proposed language together with a statement of grounds in support of the amendments.
- 567.3 Any person desiring to comment on a proposed amendment may do so within the time specified by the Board in the notice of the proposed amendment published in the *D.C. Register*. Comments must be in writing unless otherwise stated in the notice.

599 **DEFINITIONS**

599.1 As used in this chapter, the following terms and phrases must have the meanings ascribed:

Agency - Any unit of the Government of the District of Columbia required by law, by the Mayor of the District of Columbia, or by the Council of the District to administer any law, rule, or any regulation adopted under authority of law. The term “agency” must also include any unit of the Government of the District of Columbia created by the reorganization of one or more of the units of an agency and any unit of the Government of the District of Columbia created or organized by the Council of the District of Columbia as an agency. The term “agency” does not include the Council of the District of Columbia.

CMPA - the Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code §§ 1-601.01 to 1-636.03 (2016 Repl.)).

Days - Calendar days, unless otherwise specified.

Board - The District of Columbia Public Employee Relations Board.

Impasse - The point in collective bargaining negotiations at which no further progress can be made by the parties without the intervention of a neutral third party, except as otherwise defined by the CMPA for compensation bargaining.

Party - A person, employee, organization, agency, or agency subdivision initiating a proceeding authorized by these rules or named as a participant in a proceeding or whose intervention in a proceeding has been granted or directed under the authority of the Board.

Pleading - A complaint, petition, appeal, notice of impasse, request for review or resolution, motion, exceptions, briefs, or a response to one of the foregoing.

Pro se party - A party who is neither represented by legal counsel nor represented in proceedings before the Board by a representative from a labor organization.

Showing of Interest - Documents offered to the Board to establish that a percentage (as defined by these rules) of employees in a proposed or existing bargaining unit desires representation by a petitioner seeking exclusive recognition or by another labor organization seeking to

intervene in a representation proceeding, or that the unit employees no longer desire representation by a labor organization.

All persons interested in commenting on the proposed rulemaking may submit comments in writing, no later than February 21, 2020, through any of the following ways: in writing to Clarene Martin, Executive Director, Public Employee Relations Board, 1100 Fourth Street S.W., Suite 630 East, Washington, D.C. 20024; via email at perb@dc.gov; or submitted through <http://www.dcregs.dc.gov/>. Copies of this second proposed rulemaking are available at PERB's office for the public to view upon request.

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

NOTICE OF FOURTH 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 15-87; D.C. Official Code § 25-211 (2012 Repl. & 2019 Supp.)), and D.C. Official Code §§ 25-351, *et seq.* (2012 Repl.), as amended, hereby gives notice of the following emergency rulemaking which would amend Section 304 (Adams Morgan Moratorium Zone) of Chapter 3 (Limitations On Licenses) of Title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (“DCMR”).

The proposed rulemaking would: (1) continue the moratorium on on-premises retailer’s licenses, classes CN, DN, CT, DT, CX, and DX, issued in a portion of Adams Morgan; (2) cap the total number of tavern and multipurpose facility licenses in this area at ten (10); (3) extend the moratorium zone to cover eighteen hundred feet (1,800 ft.) in all directions from 2459 18th St., N.W., Washington, D.C. 20009; and (4) keep the moratorium in place for three (3) years.

I. **PROCEDURAL BACKGROUND**

The Adams Morgan Moratorium Zone (AMMZ), promulgated at 23 DCMR § 304, was scheduled to expire on August 27, 2018. In order to prevent the rules from expiring, the Board adopted emergency rules on August 15, 2018 (published October 12, 2018, at 65 DCR 11521), which allowed the then current moratorium to remain in effect pending a public hearing. Before the emergency rules expired, however, the Board approved a Notice of Emergency and Proposed Rulemaking on November 28, 2018.

The emergency and proposed rulemaking the Board adopted in November 2018 superseded the previously adopted emergency rulemaking. The emergency and proposed rulemaking mirrored the emergency rulemaking in that it maintained the existing cap on CT/DT, CN/DN, and CX/DX licenses and a cap of ten (10) on tavern and multipurpose licenses. The one distinction between the two rulemakings was that the emergency and proposed rulemaking extended the moratorium zone to eighteen hundred square feet (1,800 sq. ft.) in all directions from 2459 18th St., N.W. The Board made this change to the moratorium based on the community’s overwhelming support for the amendment at the Board’s public hearing.

On March 22, 2019, the emergency and proposed rulemaking was published in the *D.C. Register* for notice and comment. *See* 66 DCR 3502 (March 22, 2019). The comment period ended on April 22, 2019, with the Board not receiving any additional comments. The emergency rules, however, would have expired on March 28, 2019, but for the Board adopting the Adams Morgan Moratorium Zone Notice of Second Emergency Rulemaking (“second emergency rulemaking”) on March 27, 2019. *See* 66 DCR 6208 (May 17, 2019). This action was necessary in order to allow the emergency rulemaking to remain in effect while the Council reviewed the proposed rulemaking.

The second emergency rulemaking was scheduled to expire on July 25, 2019. In order to prevent the emergency rules from expiring before the Council review period expired, the Board adopted the Adams Morgan Moratorium Zone Notice of Third Emergency Rulemaking (“third emergency rulemaking”) on July 17, 2019. *See* 66 DCR 11499 (August 23, 2019). The third emergency rulemaking expires on November 14, 2019. The Council review period ends December 17, 2019. *See* <http://lms.dccouncil.us/Legislation/PR23-0442>. This is a month after the current emergency rules are expiring. Since the emergency rulemaking will likely expire before either the Council affirmatively affirms the proposed rulemaking or they are deemed approved upon the expiration of the review period, the Board determined emergency action is necessary.

Emergency action is also necessary at this time because even if the Council were to approve the Adams Morgan Moratorium proposed rulemaking before December 17, 2019, the Board must still adopt the final rulemaking at a public hearing and those rules must be published in the *D.C. Register* for five (5) days before taking effect. This, however, could not occur before the current emergency rules expired on November 14, 2019. Thus, emergency action is imperative. Failure to adopt emergency rules will leave the Adams Morgan community without any protection from future ABC licenses, especially nightclubs and taverns. As such, adoption of the emergency rulemaking ensures the protection of the public health and welfare of the community, who is also a proponent of the amended moratorium.

For the reasons explained above, the Board finds the adoption of the emergency rulemaking essential to promoting the public health and safety of the community. Therefore, the Board gives notice, that on November 6, 2019, it has approved the Adams Morgan Moratorium Zone Notice of Fourth Emergency Rulemaking, four (5) to zero (0). The emergency rules shall remain in effect for one hundred twenty (120) days, expiring on March 5, 2020, unless superseded by an emergency or final rulemaking. These emergency rules shall supersede the emergency rules that are currently in effect.

Chapter 3, LIMITATIONS ON LICENSES, of Title 23 DCMR, ALCOHOLIC BEVERAGES, is amended as follows:

Strike the current Section 304, ADAMS MORGAN MORATORIUM ZONE, in its entirety, and insert the following in its place, to read as follows:

304 ADAMS MORGAN MORATORIUM ZONE

304.1 No new Retailer's License Class CN, CT, CX, DN, DT, or DX shall be issued for a period of three (3) years from the effective date of this section in the area that extends approximately eighteen hundred (1800) feet in all directions from 2459 18th St., N.W., Washington, D.C. 20009. This area shall be known as the Adams Morgan Moratorium Zone.

304.2 The Adams Morgan Moratorium Zone is more specifically described as beginning at 18th Street and Vernon Street, NW; and proceeding on both sides of all streets, unless otherwise noted; West on Vernon Street to 19th Street; Northwest on 19th

Street to Wyoming Avenue; Southwest on Wyoming Avenue to 20th Street; Northwest on 10th Street to Belmont Road; West on Belmont Road to Waterside Drive; North on Waterside Drive to Allen Place; East on Allen Place to 20th Street; North on 20th Street to Biltmore Street; North on Biltmore Street to Calvert Street; East on Calvert Street to Lanier Place; Northeast on Lanier Place to Adams Mill Road; Northwest on Adams Mill Road, and then Northeast to Ontario Road; East on Ontario Road to Lanier Place; Northeast on Lanier Place to Quarry Road; Southeast on Quarry Road to Columbia Road; Northeast on Columbia Road to Mozart Place; South on Mozart Place to Euclid Street; East on Euclid Street to 16th Street; South on the West side of 16th Street to Florida Avenue; Southwest on Florida Avenue to U Street, and West on U Street to 18th Street, Washington, D.C.

- 304.3 The following license classes shall be exempt from the Adams Morgan Moratorium Zone:
- (a) All restaurants, whether present or future;
 - (b) All hotels, whether present or future; and
 - (c) Retailer's licenses Class A and B.
- 304.4 The number of Retailer's licenses Class CT, CX, DT, or DX located within the Adams Morgan Moratorium Zone shall not exceed ten (10). The number of Retailer's licenses Class CN or DN shall not exceed zero (0). The holder of a Retailer's license Class CR or DR located within the Adams Morgan Moratorium Zone shall be prohibited from changing its license class except when the number of Retailer's licenses Class CT, CX, DT, or DX in the Adams Morgan Moratorium Zone is fewer than ten (10). Nothing in this subsection shall prohibit the Board from approving a change of license class application that was filed with the Board by the holder of a Retailer's license Class CR or DR located within the Adams Morgan Moratorium Zone prior to August 2, 2006.
- 304.5 Nothing in this section shall prohibit the Board from approving the transfer of ownership of a retailer's license Class CR, CT, CX, DR, DT, and DX within the Adams Morgan Moratorium Zone that was in effect or for which an application was pending prior to the effective date of this section, subject to the requirements of Title 25 of the D.C. Official Code and this title.
- 304.6 Nothing in this section shall prohibit the Board from approving the transfer of a license from a location within the Adams Morgan Moratorium Zone to a new location within the Adams Morgan Moratorium Zone.
- 304.7 A license holder outside the Adams Morgan Moratorium Zone shall not be permitted to transfer its license to a location within the Adams Morgan Moratorium Zone, unless exempt by § 304.3.

- 304.8 Nothing in this section shall prohibit a valid protest of any transfer or change of a license class.

- 304.9 The moratorium shall have a prospective effect and shall not apply to any license granted prior to the effective date of this section or to any application for licensure pending on the effective date of this section.

- 304.10 This section shall expire three (3) years after the date of publication of the notice of final rulemaking in the District of Columbia Register.

ACADEMY OF HOPE ADULT PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS (RFPs)****Prospective Marketing & Qualitative Research Consultant**

Academy of Hope Adult PCS, a leader in DC Adult Education, is soliciting proposals for a **Prospective Marketing & Qualitative Research Consultant** in February 2020 at our Ward 5 Washington, D.C. location. All interested applicants can go to <https://bit.ly/2FgpYdQ> for more information. Responses should be provided in electronic format and emailed to Sasha V. Lotas, Director of Research and Evaluation, at sasha@aohdc.org.

OFFICE OF THE CHIEF FINANCIAL OFFICER
OFFICE OF REVENUE ANALYSIS

District of Columbia Motor Fuel Tax Remains Unchanged
Effective October 1, 2019

Pursuant to D.C. Official Code § 47-2301, the District of Columbia is required to levy and collect a tax on motor vehicle fuels equal to 8 percent of the average wholesale price of a gallon of regular unleaded gasoline. The average wholesale price is to be calculated semi-annually and in no case shall the price computed be less than \$2.94. The computed average wholesale price should also not vary by more than 10 percent from the prior period's average price. The average wholesale price is computed by using the monthly Regular Gasoline Wholesale/Resale Price by Refiners provided by the Energy Information Administration for the Central Atlantic (PADD 1B) region for the six month periods ending in June and December each year.

For the six-month period ending June 30, 2019, the computed average wholesale price of a gallon of gasoline was less than \$2.94. Accordingly, the tax, computed at 8 percent of the \$2.94 minimum price, remains at 23.5 cents per gallon for the period of October 1, 2019 through March 31, 2020.

BOARD OF ELECTIONS

CERTIFICATION OF ANC/SMD VACANCY

The District of Columbia Board of Elections hereby gives notice that there are vacancies in five (5) Advisory Neighborhood Commission offices, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed; 2006 Repl. Vol.

VACANT: 1B07, 3F07, 4A05, 5A04 and 7F07

Petition Circulation Period: **Tuesday, January 21, 2020 thru Monday February 10, 2020**
Petition Challenge Period: **Thursday, February 13, 2020 thru Friday, February 20, 2020**

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

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

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

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS****Notice of Certification of Vacancy in the
Office of Ward 2 Member of the Council of the District of Columbia**

The D.C. Board of Elections announces the vacancy in the Office of Ward 2 Member of the Council of the District of Columbia. The Board certified the vacancy at the Regular Board meeting on January 8, 2020. The Board will conduct a Special Election to fill the vacancy on June 16, 2020. For more information, the public may call (202) 727-2525 or TTY 711, or visit the Board's website at www.dcboe.org.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS**Final Notice of Polling Place Relocation**

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of final action taken at its January 8, 2020 meeting in relocating Precinct #105, Ward 7 Polling Place.

The public is advised that the proposed voting area for Precinct #105 will be changed from:

**Benning Park Recreation Center
5100 Southern Avenue, S.E.
“Multi-Purpose Room”**

and moved to:

**St. John Baptist Church
5228 Call Place, S.E.
“Fellowship Hall”**

Please note that the relocation will be effective beginning with the upcoming June 2, 2020, Presidential Primary Election. The Board will individually notify all registered voters in the precinct of this change.

For further information, members of the public may contact the Board of Elections at 727-2525.

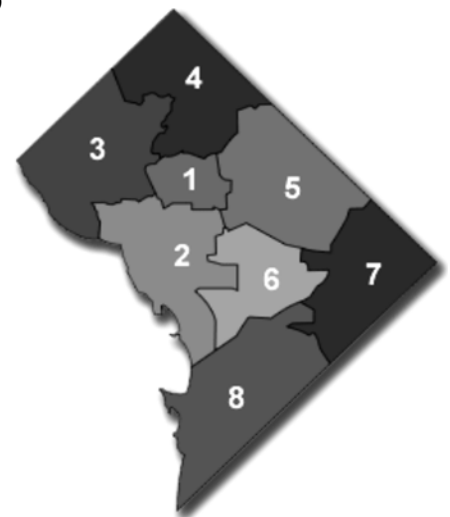
**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION SUMMARY
As Of December 31, 2019**

WARD	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	48,196	2,900	609	256	172	11,987	64,120
2	32,080	5,400	240	254	136	11,235	49,345
3	39,457	5,797	348	241	127	11,455	57,425
4	50,197	2,198	540	145	153	9,523	62,756
5	55,121	2,507	585	240	242	10,519	69,214
6	59,269	7,846	496	404	229	15,277	83,521
7	49,838	1,380	453	114	193	7,917	59,895
8	48,136	1,527	480	127	190	8,729	59,189
Totals	382,294	29,555	3,751	1,781	1,442	86,642	505,465
Percentage By Party	75.63%	5.85%	.74%	.35%	.29%	17.14%	100.00%

**DISTRICT OF COLUMBIA BOARD OF ELECTIONS MONTHLY REPORT OF
VOTER REGISTRATION STATISTICS AND REGISTRATION TRANSACTIONS
AS OF THE END OF DECEMBER 31, 2019**

COVERING CITY WIDE TOTALS BY:
WARD, PRECINCT AND PARTY

ONE JUDICIARY SQUARE
1015 HALF STREET, SE SUITE 750
WASHINGTON, DC 20003
(202) 727-2525
<http://www.dcboe.org>



D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 1 REGISTRATION SUMMARY
As Of December 31, 2019

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
20	1,758	35	11	9	8	309	2,130
22	3,980	411	26	18	12	1,072	5,519
23	3,073	208	40	19	12	795	4,147
24	2,793	253	30	32	7	818	3,933
25	4,001	408	49	21	11	1,073	5,563
35	3,867	194	58	22	12	851	5,004
36	4,498	234	46	19	15	1,061	5,873
37	3,864	194	35	21	22	919	5,055
38	3,088	145	38	14	12	801	4,098
39	4,308	176	68	18	11	1,000	5,581
40	3,982	184	77	15	12	1,038	5,308
41	3,965	197	77	21	20	1,102	5,382
42	1,895	90	26	10	7	501	2,529
43	1,940	71	21	8	7	386	2,433
137	1,184	100	7	9	4	261	1,565
TOTALS	48,196	2,900	609	256	172	11,987	64,120

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 2 REGISTRATION SUMMARY
As Of December 31, 2019

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
2	940	166	8	8	7	532	1,661
3	1,843	363	12	17	10	727	2,972
4	2,078	501	11	16	10	820	3,436
5	2,145	585	16	28	9	837	3,620
6	2,463	721	18	22	16	1,315	4,555
13	1,313	211	7	8	6	430	1,975
14	2,925	425	23	24	7	952	4,356
15	3,149	337	34	26	10	922	4,478
16	3,466	430	29	24	14	926	4,889
17	4,918	583	33	43	21	1,521	7,119
129	2,591	403	15	14	10	977	4,010
141	2,610	317	19	14	8	670	3,638
143	1,639	358	15	10	8	606	2,636
TOTALS	32,080	5,400	240	254	136	11,235	49,345

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 3 REGISTRATION SUMMARY
As Of December 31, 2019

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
7	1,336	393	9	11	4	580	2,333
8	2,496	584	22	11	9	860	3,982
9	1,272	472	10	10	8	528	2,300
10	1,916	359	19	14	8	691	3,007
11	3,604	739	40	44	17	1,309	5,753
12	516	168	1	4	2	221	912
26	3,076	340	25	14	8	892	4,355
27	2,490	236	20	10	3	575	3,334
28	2,529	401	30	21	14	792	3,787
29	1,327	160	14	8	6	404	1,919
30	1,294	177	11	4	4	317	1,807
31	2,489	296	20	12	11	590	3,418
32	2,856	280	29	12	10	613	3,800
33	2,968	258	23	11	3	677	3,940
34	3,948	355	36	14	7	1,076	5,436
50	2,266	279	17	15	6	553	3,136
136	914	66	8	4	1	269	1,262
138	2,160	234	14	22	6	508	2,944
TOTALS	39,457	5,797	348	241	127	11,455	57,425

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 4 REGISTRATION SUMMARY**

As Of December 31, 2019 PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
45	2,369	55	27	13	6	393	2,863
46	2,859	91	34	12	12	521	3,529
47	3,530	150	46	9	15	767	4,517
48	2,844	124	38	4	2	580	3,592
49	952	39	13	2	8	217	1,231
51	3,411	496	19	11	10	657	4,604
52	1,264	140	10	4	3	241	1,662
53	1,250	67	22	3	4	249	1,595
54	2,332	81	31	4	7	449	2,904
55	2,516	79	20	6	16	453	3,090
56	3,288	97	38	19	12	682	4,136
57	2,505	68	23	9	9	530	3,144
58	2,260	64	21	4	5	393	2,747
59	2,610	81	25	8	7	427	3,158
60	2,232	72	27	8	8	659	3,006
61	1,644	61	17	5	5	309	2,041
62	3,206	128	20	5	3	438	3,800
63	3,914	146	56	7	14	723	4,860
64	2,392	68	20	4	6	409	2,899
65	2,819	91	33	8	1	426	3,378
Totals	50,197	2,198	540	145	153	9,523	62,756

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 5 REGISTRATION SUMMARY
As Of December 31, 2019**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
19	4,790	230	69	30	23	1,093	6,235
44	2,855	200	27	14	13	679	3,788
66	4,717	120	37	18	16	719	5,627
67	2,860	102	22	6	8	471	3,469
68	1,988	173	22	10	13	421	2,627
69	2,141	77	19	6	10	310	2,563
70	1,543	65	24	3	5	262	1,902
71	2,515	74	27	13	11	409	3,049
72	4,517	152	38	19	26	770	5,522
73	1,957	95	21	10	9	384	2,476
74	5,015	285	65	23	22	1,085	6,495
75	4,315	242	40	27	19	887	5,530
76	1,698	117	21	10	11	409	2,266
77	3,039	121	30	11	12	586	3,799
78	3,046	106	44	11	13	544	3,764
79	2,191	93	22	6	12	444	2,768
135	3,194	169	38	16	13	647	4,077
139	2,740	86	19	7	6	399	3,257
TOTALS	55,121	2,507	585	240	242	10,519	69,214

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 6 REGISTRATION SUMMARY
As Of December 31, 2019

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	4,784	593	36	33	16	1,409	6,871
18	4,998	378	45	24	16	1,187	6,648
21	1,240	60	10	9	1	266	1,586
81	4,750	375	45	25	22	1,006	6,223
82	2,611	272	25	16	3	644	3,571
83	6,507	868	47	65	28	1,759	9,274
84	2,034	404	19	13	9	563	3,042
85	2,741	511	18	12	5	766	4,053
86	2,252	257	17	8	8	434	2,976
87	2,720	293	16	15	16	631	3,691
88	2,133	284	22	10	8	481	2,938
89	2,766	620	23	22	10	807	4,248
90	1,682	232	14	9	14	502	2,453
91	4,321	432	31	24	19	1,005	5,832
127	4,281	318	44	22	20	947	5,632
128	2,602	227	25	14	7	652	3,527
130	780	295	6	5	3	266	1,355
131	3,923	1,126	38	50	18	1,321	6,476
142	2,144	301	15	28	6	631	3,125
TOTALS	59,269	7,846	496	404	229	15,277	83,521

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 7 REGISTRATION SUMMARY
As Of December 31, 2019

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
80	1,453	89	16	5	8	294	1,865
92	1,570	39	14	2	5	253	1,883
93	1,667	49	21	1	9	278	2,025
94	2,046	59	21	6	6	316	2,454
95	1,667	53	14	2	4	290	2,030
96	2,458	72	16	2	12	395	2,955
97	1,436	53	16	3	6	255	1,769
98	2,012	49	23	6	15	319	2,424
99	1,677	51	15	10	14	340	2,107
100	2,639	39	20	5	6	377	3,086
101	1,574	43	16	8	5	215	1,861
102	2,568	67	20	3	15	372	3,045
103	3,630	85	37	9	12	570	4,343
104	3,336	90	36	3	18	566	4,049
105	2,565	78	20	8	10	461	3,142
106	2,902	69	26	6	11	441	3,455
107	1,765	54	14	3	6	267	2,109
108	1,076	30	4	0	2	144	1,256
109	954	34	3	3	1	125	1,120
110	3,891	102	24	7	11	496	4,531
111	2,557	63	35	10	5	457	3,127
113	2,266	56	23	4	7	318	2,674
132	2,129	56	19	8	5	368	2,585
TOTALS	49,838	1,380	453	114	193	7,917	59,895

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 8 REGISTRATION SUMMARY
As Of December 31, 2019**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
112	2,276	62	18	1	10	368	2,735
114	4,114	168	52	20	24	897	5,275
115	2,855	90	26	7	11	658	3,647
116	4,246	102	41	10	13	716	5,128
117	2,269	58	21	7	8	430	2,793
118	2,950	83	41	7	17	496	3,594
119	2,655	98	29	8	16	500	3,306
120	2,211	47	13	6	4	354	2,635
121	3,533	87	28	12	7	558	4,225
122	1,878	59	21	3	8	328	2,297
123	2,487	201	31	18	17	493	3,247
124	2,628	69	21	5	10	406	3,139
125	4,537	104	44	7	16	829	5,537
126	4,027	136	51	10	15	841	5,080
133	1,327	42	6	1	0	195	1,571
134	2,231	55	24	2	3	342	2,657
140	1,912	66	13	3	11	318	2,323
TOTALS	48,136	1,527	480	127	190	8,729	59,189

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION ACTIVITY

For voter registration activity between 11/30/2019 and 12/31/2019

NEW REGISTRATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Beginning Totals	381,397	29,462	3,753	1,763	1,453	86,201	504,029
Board of Elections Over the Counter	12	0	0	0	0	4	16
Board of Elections by Mail	36	3	2	0	0	8	49
Board of Elections Online Registration	77	8	1	0	0	16	102
Department of Motor Vehicle	1,406	194	9	21	2	594	2,226
Department of Disability Services	3	0	0	0	0	2	5
Office of Aging	2	0	0	0	0	0	2
Federal Postcard Application	0	0	0	0	0	0	0
Department of Parks and Recreation	0	0	0	0	0	0	0
Nursing Home Program	0	0	0	0	0	0	0
Dept. of Youth Rehabilitative Services	0	0	0	0	0	0	0
Department of Corrections	1	0	1	0	0	0	2
Department of Human Services	0	0	0	0	0	0	0
Special / Provisional	0	0	0	0	0	0	0
All Other Sources	72	5	0	3	0	45	125
+Total New Registrations	1,609	210	13	24	2	669	2,527

ACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Reinstated from Inactive Status	182	18	3	1	1	58	263
Administrative Corrections	0	0	0	0	0	0	0
+TOTAL ACTIVATIONS	182	18	3	1	1	58	263

DEACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Changed to Inactive Status	504	36	11	3	4	119	677
Moved Out of District (Deleted)	0	0	0	0	0	0	0
Felon (Deleted)	0	0	0	0	0	0	0
Deceased (Deleted)	23	0	0	0	0	0	23
Administrative Corrections	431	62	3	7	1	370	874
-TOTAL DEACTIVATIONS	958	98	14	10	5	489	1,574

AFFILIATION CHANGES	DEM	REP	STG	LIB	OTH	N-P	
+ Changed To Party	375	76	28	16	3	523	
- Changed From Party	-311	-113	-32	-13	-12	-320	
ENDING TOTALS	382,294	29,555	3,751	1,781	1,442	86,642	505,465

DEPARTMENT OF ENERGY AND ENVIRONMENT**NOTICE OF EXTENSION OF PUBLIC COMMENT PERIOD****Anacostia River Sediment Project: Proposed Plan**

Notice is hereby given that the Department of Energy and Environment (the Department) is extending the public comment period for the Anacostia River Sediment Project's Proposed Plan and supporting documents. The Proposed Plan and supporting documents were shared on the Department's website on December 27, 2019, which began a 30-day comment period ending on January 26, 2020. On January 3, 2020, the Department received a request to extend the public comment period for the Proposed Plan and supporting documents from the Anacostia Watershed Society. The extended public comment period will end on March 2, 2020.

A person may obtain a copy of the Anacostia River Sediment Project Proposed Plan and supporting documents by any of the following means:

Download from the Department's website <https://www.anacostiasedimentproject.com>

Visit the following venues where copies of the Proposed Plan and supporting documents will be available for review during normal business hours:

- Francis A. Gregory Public Library (3660 Alabama Avenue SE)
- Rosedale Neighborhood Library (1701 Gales St NE)
- Department of Energy and Environment (1200 First Street NE, 5th Floor)

The public is invited to attend information sessions on the Proposed Plan. The RSVP page and event information is available at <https://www.anacostiasedimentproject.com/>

Community Meeting #1: discusses the Proposed Plan and process leading up to a Record of Decision (ROD)

Date: Thursday, January 23, 2020 | 6:30pm - 8:30pm

Venue: Dept. of Employment Services, Community Room #1, 4058 Minnesota Avenue NE, Washington, DC 20019

Community Meeting #2: focuses on early cleanup actions in the main stem of the Anacostia River

Date: Monday, January 27, 2020 | 10:00am - 12:00pm

Venue: DCHR Headquarters, Floor 9, 1015 Half St SE, Washington, DC 20003

Community Meeting #3: focuses on early cleanup actions in Kingman Lake

Date: Wednesday, January 29, 2020 | 7:00pm - 8:30pm

Venue: St. Coletta of Greater Washington, 1901 Independence Avenue Southeast, Washington, DC, 20003

Community Meeting #4: focuses on early cleanup actions in the Washington Channel

Date: Tuesday, February 4, 2020 | 10:00am - 12:00pm

Venue: Wharf Dockmaster Building, 101 District Square Southwest, Washington, DC, 20024

Interested persons may submit written comments on the Proposed Plan and any other supporting documents in the Anacostia River Sediment Project Administrative Record. Submitted comments must include the person's name; telephone number; affiliation, if any; mailing address; a statement outlining their concerns; and any facts underscoring those concerns. **All comments must be submitted no later than March 2, 2020.** To help with responding to comments, the Department suggests submitting comments using the electronic comment form, which can be accessed at the above webpage.

Comments should be clearly marked "Anacostia River Sediment Project: Proposed Plan Comments" and either:

- (1) E-mailed to anacostiariversedimentproject@dc.gov,
- (2) Mailed or hand-delivered to the Department of Energy and Environment, Gretchen Mikeska, 1200 First Street NE, 5th Floor, Washington, DC 20002, or
- (3) If reviewing at a library location, a comment form may be submitted to a representative at the library.

The Department will consider all timely received comments before finalizing the Proposed Plan and issuing an Interim Record of Decision (ROD). All comments will be treated as public documents and will be made available for public viewing on the Department's website. When the Department identifies a comment containing copyrighted material, the Department will provide a reference to that material on the website. If a comment is sent by e-mail, the e-mail address will be automatically captured and included as part of the comment that is placed in the public record and made available on the Department's website. If the Department cannot read a comment due to technical difficulties, and the e-mail address contains an error, the Department may not be able to contact the commenter for clarification, and may not be able to consider the comment.

DEPARTMENT OF ENERGY AND ENVIRONMENT

PUBLIC NOTICE

Notice is hereby given that, pursuant to 20 DCMR § 210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, 5th Floor, Washington DC, intends to issue air quality permit No. 6856-R1 to New Cingular Wireless PCS, LLC, DBA AT&T Mobility, to operate one diesel-fired emergency generator set, located in Washington DC. The contact person for the applicant is Sean McFarlane, EH&S Environmental Services, at (925) 277-6725.

Emergency Generator to be Permitted

Equipment Location Address	Generator Standby Rating (Engine Size)	Engine Make	Generator Type	Permit No.
410 M Street SE Washington DC	80 kWe (131 bhp)	IVECO/FPT	Generac Model SD080	6856-R1

The proposed emission limits are as follows:

- a. Emissions from this unit shall not exceed those in the following table as measured according to the procedures set forth in 40 CFR 89, Subpart E for NMHC, NO_x, and CO and 40 CFR 89.112(c) for PM. [40 CFR 60.4205(b), 40 CFR 60.4202(a)(2) and 40 CFR 89.112(a)-(c)]:

Pollutant Emission Limits (g/kW-hr)		
NMHC+NO_x	CO	PM
4.0	5.0	0.30

- b. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1].
- c. In addition to the requirements of Condition II(b), exhaust opacity, measured and calculated as set forth in 40 CFR 86, Subpart I, shall not exceed [40 CFR 60.4205(b), 40 CFR 60.4202(a), and 40 CFR 89.113]:
 - 1. 20 percent during the acceleration mode;
 - 2. 15 percent during the lugging mode;
 - 3. 40 percent during the peaks in either the acceleration or lugging modes. *Note that this condition is streamlined with the requirements of 20 DCMR 606.1.*

- d. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated maximum emissions the emergency generator are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	0.05
Oxides of Nitrogen (NO _x)	0.19
Volatile Organic Compounds (VOC)	0.02
Total Particulate Matter (PM Total)	0.01
Sulfur Dioxide (SO _x)	0.0004

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

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

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

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

No comments or hearing requests submitted after February 17, 2020 will be accepted.

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

DEPARTMENT OF ENERGY AND ENVIRONMENT

PUBLIC NOTICE

Notice is hereby given that, pursuant to 20 DCMR § 210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, 5th Floor, Washington DC, intends to issue air quality permit No. 6857-R1 to New Cingular Wireless PCS, LLC, DBA AT&T Mobility, to operate one diesel-fired emergency generator set, located in Washington DC. The contact person for the applicant is Sean McFarlane, EH&S Environmental Services, at (925) 277-6725.

Emergency Generator to be Permitted

Equipment Location Address	Generator Standby Rating (Engine Size)	Engine Make	Generator Type	Permit No.
2000 Connecticut Avenue NW Washington, DC 20008	80 kWe (131 bhp)	IVECO/FPT	Generac Model SD080	6857-R1

The proposed emission limits are as follows:

- a. Emissions from this unit shall not exceed those in the following table as measured according to the procedures set forth in 40 CFR 89, Subpart E for NMHC, NO_x, and CO and 40 CFR 89.112(c) for PM. [40 CFR 60.4205(b), 40 CFR 60.4202(a)(2) and 40 CFR 89.112(a)-(c)]:

Pollutant Emission Limits (g/kW-hr)		
NMHC+NO_x	CO	PM
4.0	5.0	0.30

- b. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1].
- c. In addition to the requirements of Condition II(b), exhaust opacity, measured and calculated as set forth in 40 CFR 86, Subpart I, shall not exceed [40 CFR 60.4205(b), 40 CFR 60.4202(a), and 40 CFR 89.113]:
 - 1. 20 percent during the acceleration mode;
 - 2. 15 percent during the lugging mode;
 - 3. 40 percent during the peaks in either the acceleration or lugging modes. *Note that this condition is streamlined with the requirements of 20 DCMR 606.1.*

- d. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated maximum emissions the emergency generator are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	0.05
Oxides of Nitrogen (NO _x)	0.19
Volatile Organic Compounds (VOC)	0.02
Total Particulate Matter (PM Total)	0.01
Sulfur Dioxide (SO _x)	0.0004

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

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

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

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

No comments or hearing requests submitted after February 17, 2020 will be accepted.

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

DEPARTMENT OF ENERGY AND ENVIRONMENT

PUBLIC NOTICE

Notice is hereby given that, pursuant to 20 DCMR § 210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, 5th Floor, Washington DC, intends to issue air quality permit No. 6858-R1 to New Cingular Wireless PCS, LLC, DBA AT&T Mobility, to operate one diesel-fired emergency generator set, located in Washington DC. The contact person for the applicant is Sean McFarlane, EH&S Environmental Services, at (925) 277-6725.

Emergency Generator to be Permitted

Equipment Location Address	Generator Standby Rating (Engine Size)	Engine Make	Generator Type	Permit No.
1140 North Capitol Street NW Washington DC	80 kWe (131 bhp)	IVECO/FPT	Generac Model SD080	6858-R1

The proposed emission limits are as follows:

- a. Emissions from this unit shall not exceed those in the following table as measured according to the procedures set forth in 40 CFR 89, Subpart E for NMHC, NO_x, and CO and 40 CFR 89.112(c) for PM. [40 CFR 60.4205(b), 40 CFR 60.4202(a)(2) and 40 CFR 89.112(a)-(c)]:

Pollutant Emission Limits (g/kW-hr)		
NMHC+NO_x	CO	PM
4.0	5.0	0.30

- b. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1].
- c. In addition to the requirements of Condition II(b), exhaust opacity, measured and calculated as set forth in 40 CFR 86, Subpart I, shall not exceed [40 CFR 60.4205(b), 40 CFR 60.4202(a), and 40 CFR 89.113]:
 - 1. 20 percent during the acceleration mode;
 - 2. 15 percent during the lugging mode;
 - 3. 40 percent during the peaks in either the acceleration or lugging modes. *Note that this condition is streamlined with the requirements of 20 DCMR 606.1.*

- d. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated maximum emissions the emergency generator are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	0.05
Oxides of Nitrogen (NO _x)	0.19
Volatile Organic Compounds (VOC)	0.02
Total Particulate Matter (PM Total)	0.01
Sulfur Dioxide (SO _x)	0.0004

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

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

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

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

No comments or hearing requests submitted after February 17, 2020 will be accepted.

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

DEPARTMENT OF ENERGY AND ENVIRONMENT

PUBLIC NOTICE

Notice is hereby given that, pursuant to 20 DCMR § 210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, 5th Floor, Washington DC, intends to issue air quality permit No. 6916-R1 to New Cingular Wireless PCS, LLC, DBA AT&T Mobility, to operate one diesel-fired emergency generator set, located in Washington DC. The contact person for the applicant is Sean McFarlane, EH&S Environmental Services, at (925) 277-6725.

Emergency Generator to be Permitted

Equipment Location Address	Generator Standby Rating (Engine Size)	Engine Make	Generator Type	Permit No.
1301 New Jersey Ave. NW Washington DC	80 kWe (131 bhp)	IVECO/FPT	Generac Model SD080	6916-R1

The proposed emission limits are as follows:

- a. Emissions from this unit shall not exceed those in the following table as measured according to the procedures set forth in 40 CFR 89, Subpart E for NMHC, NO_x, and CO and 40 CFR 89.112(c) for PM. [40 CFR 60.4205(b), 40 CFR 60.4202(a)(2) and 40 CFR 89.112(a)-(c)]:

Pollutant Emission Limits (g/kW-hr)		
NMHC+NO_x	CO	PM
4.0	5.0	0.30

- b. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1].
- c. In addition to the requirements of Condition II(b), exhaust opacity, measured and calculated as set forth in 40 CFR 86, Subpart I, shall not exceed [40 CFR 60.4205(b), 40 CFR 60.4202(a), and 40 CFR 89.113]:
 - 1. 20 percent during the acceleration mode;
 - 2. 15 percent during the lugging mode;
 - 3. 40 percent during the peaks in either the acceleration or lugging modes. *Note that this condition is streamlined with the requirements of 20 DCMR 606.1.*

- d. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated maximum emissions the emergency generator are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	0.05
Oxides of Nitrogen (NO _x)	0.19
Volatile Organic Compounds (VOC)	0.02
Total Particulate Matter , PM (Total)	0.01
Sulfur Dioxide (SO _x)	0.0004

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

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

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

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

No comments or hearing requests submitted after February 17, 2020 will be accepted.

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

DEPARTMENT OF ENERGY AND ENVIRONMENT

PUBLIC NOTICE

Notice is hereby given that, pursuant to 20 DCMR § 210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, 5th Floor, Washington DC, intends to issue air quality permit No. 6925-R1 to New Cingular Wireless PCS, LLC, DBA AT&T Mobility, to operate one diesel-fired emergency generator set, located in Washington DC. The contact person for the applicant is Sean McFarlane, EH&S Environmental Services, at (925) 277-6725.

Emergency Generator to be Permitted

Equipment Location Address	Generator Standby Rating (Engine Size)	Engine Make	Generator Type	Permit No.
1005 3rd Street NE Washington DC	80 kWe (131 bhp)	IVECO/FPT	Generac Model SD080	6925-R1

The proposed emission limits are as follows:

- a. Emissions from this unit shall not exceed those in the following table as measured according to the procedures set forth in 40 CFR 89, Subpart E for NMHC, NO_x, and CO and 40 CFR 89.112(c) for PM. [40 CFR 60.4205(b), 40 CFR 60.4202(a)(2) and 40 CFR 89.112(a)-(c)]:

Pollutant Emission Limits (g/kW-hr)		
NMHC+NO_x	CO	PM
4.0	5.0	0.30

- b. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1].
- c. In addition to the requirements of Condition II(b), exhaust opacity, measured and calculated as set forth in 40 CFR 86, Subpart I, shall not exceed [40 CFR 60.4205(b), 40 CFR 60.4202(a), and 40 CFR 89.113]:
 - 1. 20 percent during the acceleration mode;
 - 2. 15 percent during the lugging mode;
 - 3. 40 percent during the peaks in either the acceleration or lugging modes. *Note that this condition is streamlined with the requirements of 20 DCMR 606.1.*

- d. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated maximum emissions the emergency generator are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	0.05
Oxides of Nitrogen (NO _x)	0.19
Volatile Organic Compounds (VOC)	0.02
Total Particulate Matter , PM (Total)	0.01
Sulfur Dioxide (SO _x)	0.0004

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

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

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

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

No comments or hearing requests submitted after February 17, 2020 will be accepted.

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

**DEPARTMENT OF HEALTH (DC HEALTH)
COMMUNITY HEALTH ADMINISTRATION (CHA)
NOTICE OF FUNDING AVAILABILITY (NOFA)
RFA# CHA_WIPP_01.24.20**

Workforce Incentive Pilot Program

This notice supersedes the notice published in DC Register on January 10, 2020 Vol 67/2

The District of Columbia, Department of Health (DC Health) is soliciting applications from qualified applicants to provide 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:	Workforce Incentive Pilot Program
Funding Opportunity Number:	FO-CHA-PG00004-035
Program RFA ID#:	CHA_WIPP_01.24.20
Opportunity Category:	Competitive
DC Health Administrative Unit:	Community Health Administration
DC Health Program Bureau	Health Care Access Bureau
Program Contact:	Urvi Patel 202-442-9168
Program Description:	DC Health's Community Health Administration (CHA) is soliciting applications from qualified organizations to implement a pilot project to assess the feasibility and effectiveness of evidence-informed strategies to improve health care workforce recruitment and retention in two priority areas: financial incentives and workforce satisfaction. Applicants will plan, implement and evaluate the impact of financial incentives and workforce satisfaction strategies on recruitment and retention among health professionals in the shortage areas.
Eligible Applicants	Eligible organizations must be a non-profit or public health center providing primary medical, dental and/or mental health services to DC residents regardless of their ability to pay. The applicants' organization must be located in a federally designated Health Professional Shortage Area (HPSA) or Medically Underserved Area (MUA), providing services that correspond with the HPSA designation.
Anticipated # of Awards:	Up to three (3) awards
Anticipated Amount Available:	\$450,000
Floor Award Amount:	\$25,000

Ceiling Award Amount:	\$150,000
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Funding Authorization

Legislative Authorization	Fiscal Year 2020 Budget Support Act of 2019: District of Columbia Health Professional Recruitment Program Act of 2005, Title 22B, Chapter 61 (D.C. Law 16-71)
Associated CFDA#	Not Applicable
Associated Federal Award ID#	Not Applicable
Cost Sharing /Match Required?	No
RFA Release Date:	January 24, 2020
Pre-Application Meeting Date	February 6, 2020
Pre-Application Meeting Time	10:00AM-11:30AM
Pre-Application Meeting (Location/Conference Call Access)	899 North Capitol Street, NE Third Floor, Room 306 Washington, DC 20002 (Contact urvi.patel@dc.gov)
Letter of Intent Due date:	Not applicable
Application Deadline Date:	February 28, 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

Notes:

1. DC Health reserves the right to issue addenda and/or amendments subsequent to the issuance of the NOFA or RFA, or to rescind the NOFA or RFA.
2. Awards are contingent upon the availability of funds.
3. Individuals are not eligible for DC Health grant funding.
4. Applicants must have a DUNS #, Tax ID#, be registered in the federal Systems for Award Management (SAM) and the DC Health Enterprise Grants Management System (EGMS)
5. Contact the program manager assigned to this funding opportunity for additional information.
6. DC Health is located in a secured building. Government issued identification must be presented for entrance.

**DISTRICT OF COLUMBIA DEPARTMENT OF HEALTH
HEALTH REGULATION AND LICENSING ADMINISTRATION
DIVISION OF MEDICAL MARIJUANA AND
INTEGRATIVE THERAPY**

PUBLIC NOTICE

**Open Period for Submission of Letter of Intent to Submit Application for Medical
Marijuana Testing Laboratory Registration**

Pursuant to 22-C DCMR § 5401.1, applications for new testing laboratory registrations shall only be accepted by the Director during the open application period as specified by the Director by published Notice in the D.C. Register; such period shall not be extended. Pursuant to 22-C DCMR § 5401.2, prior to the submission of a formal application for a new testing laboratory registration, the prospective applicant shall submit a Letter of Intent to the Director or a designee. The Director shall only accept Letters of Intent during the time period specified by the Director by Notice in the D. C. Register; such period shall not be extended. The purpose of the Letter of Intent is to formally notify the Director that an application for a testing laboratory registration will be forthcoming.

Letters of Intent shall be submitted only by completing the Letter of Intent Form posted on the Division of Medical Marijuana and Integrative Therapy Webpage <https://dchealth.dc.gov/service/medical-marijuana-and-integrative-therapy>. No other format is acceptable. Letters of Intent for a testing laboratory will be received beginning Monday, January 20, 2020 at 9:00 am and ending Friday February 21, 2020 at 12:00 pm EST. Letters should be addressed to: DC Division of Medical Marijuana and Integrative Therapy, 899 North Capitol Street, NE, 2nd Floor Washington, DC 20002, Attention: Arian R. Gibson. Letters should be submitted in a manner to ensure a dated, signed receipt.

In accordance with 22-C DCMR § 5200.3, **the number of testing laboratories registered to operate in the District of Columbia shall not exceed two (2)**. Only the individuals and entities that submit timely Letters of Intent to the Director, meeting the requirements set forth in the regulations, shall be permitted to submit an application for a testing laboratory registration. Regardless of the number of applications submitted, the number of registrations issued shall not exceed two (2). Pursuant to 22-C DCMR § 5401.8, an applicant may apply for more than one (1) testing laboratory registration.

The United States Congress has determined that marijuana is a controlled substance and has placed marijuana in Schedule I of the Controlled Substance Act. Growing, distributing, and possessing marijuana in any capacity, other than part of a federally authorized research program, is a violation of federal laws. The District of Columbia's law authorizing the District's medical marijuana program will not excuse any person from any violation of the federal laws governing marijuana or authorize any registrant to violate federal laws.

DEPARTMENT OF HEALTH

PUBLIC NOTICE

The District of Columbia Board of Respiratory Care (“Board”) hereby gives notice of a change in its regular meetings for the calendar year 2020, 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 has been conducting bi-monthly meetings during the calendar years 2018 and 2019. Based on a careful assessment, the Board has determined that it will change the frequency of its regular meetings to quarterly starting in calendar year 2020. Accordingly, the Board’s next regular meeting will be held from 9:00 AM – 11:00 AM on February 10, 2020, with the subsequent meetings to be held at the same time on the second Monday of each quarter. The meeting will be open to the public from 9:00 AM until 9:30 AM to discuss various agenda items and any comments and/or concerns from the public. In accordance with § 575(b) of the Open Meetings Act of 2010 (D.C. Official Code § 2-575(b) (2016 Repl.)), the meeting will be closed from 9:30 AM to 11:00 AM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

Below is the full list of the Board’s meetings in 2020 calendar year:

Monday, February 10, 2020
Monday, May 11, 2020
Monday, August 10, 2020
Monday, November 9, 2020

The meetings will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Health Professional Licensing Administration website at <http://doh.dc.gov/events> and to view additional information and agenda.

DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF PUBLIC MEETINGS

Board of Commissioners

1133 NORTH CAPITOL STREET, NORTHEAST
WASHINGTON, D.C. 20002-7599
202-535-1000

The regular meetings of the Board of Commissioners of the District of Columbia Housing Authority are held in open session on the second Wednesday of each month. The following dates and times of the meetings are for the Year 2020. All meetings are held at 1133 North Capitol Street, NE, Washington, DC 20002 unless otherwise indicated.

February 12, 2020	DCHA - 1133 North Capitol St., NE	1:00 p.m.
March 11, 2020	DCHA - 1133 North Capitol St., NE	1:00 p.m.
April 8, 2020	Ft. Dupont/Stoddert 155 Ridge Road SE, WDC 20019	1:00 p.m.
May 13, 2020	Greenleaf 203 N St., SW, WDC 20024	1:00 p.m.
June 10, 2020	DCHA - 1133 North Capitol St., NE	1:00 p.m.
July 8, 2020	Sibley 1140 N. Capitol St., NW WDC 2002	1:00 p.m.
September 9, 2020	DCHA - 1133 North Capitol St., NE	1:00 p.m.
October 14, 2020	Montana 1625 Montana Ave., WDC 20018	1:00 p.m.
*November 12, 2020	Riverside Community Center 601 Division Ave., NE, WDC 20019	1:00 p.m.
December 9, 2020	Annual & Regular meeting DCHA - 1133 North Capitol St., NE	1:00 p.m.

**Thursday due to Veterans Day holiday*

DEPARTMENT OF INSURANCE, SECURITIES AND BANKING**DISTRICT OF COLUMBIA FINANCIAL LITERACY COUNCIL****NOTICE OF PUBLIC MEETING**

The Members of the District of Columbia Financial Literacy Council (DCFLC) will hold a meeting 3:00 PM, Thursday, January 30, 2020. The meeting will be held at the DC Department of Insurance, Securities and Banking, 1050 First Street, NE, 8th Floor Conference Room, Washington, D.C. 20002. Below is the draft agenda for this meeting. A final agenda will be posted to the Department of Insurance, Securities, and Banking's website at <http://disb.dc.gov>. Please RSVP to Idriys J. Abdullah, idriys.abdullah@dc.gov, for additional information call (202) 442-7832 or e-mail idriys.abdullah@dc.gov

DRAFT AGENDA

- I. Call to Order
- II. Welcoming Remarks
- III. Minutes of the Previous Meeting
- IV. Unfinished Business
 - DC Financial Literacy Council Bi-Monthly E-Newsletter
 - DC Financial Literacy Council Website Content Update
 - DC Financial Literacy Council Recommendations Report
- V. New Business
 - DC Financial Literacy Conference
- VI. Adjournment

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

The DC Interagency Council on Homelessness (ICH) will be holding a meeting on Tuesday, January 21, 2020 at 2:00 pm. The meeting will be held at One Judiciary Square (Room: Old Council Chambers, Address: 441 4th Street NW, Washington, DC 20001).

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

Meeting Details

Date: Tuesday, January 21, 2019

Time: 12:30 – 1:30 pm Pre-Meeting for advocates, agencies, consumers and providers

2 – 3:30 pm Full Council

Location: One Judiciary Square – Old Council Chambers
441 4th Street NW, Washington DC 20001

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

Draft Agenda

- I. Welcome and Opening Remarks
- II. Public Comments
- III. Homeward DC 2.0
- IV. Other Updates
- V. Public Comments (*Time Permitting*)
- VI. Adjournment

KIPP DC PUBLIC CHARTER SCHOOLS**REQUEST FOR PROPOSALS****Construction Site Security Services**

KIPP DC is soliciting proposals from qualified vendors for Construction Site Security Services. The RFP can be found on KIPP DC's website at www.kippdc.org/procurement. Proposals should be uploaded to the website no later than 5:00 PM ET on January 29, 2020. Questions should be addressed to kevin.mehm@kippdc.org.

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA
RECOMMENDATIONS FOR APPOINTMENTS AS NOTARIES PUBLIC

Notice is hereby given that the following named persons have been recommended for appointment as Notaries Public in and for the District of Columbia, effective on or after February 15, 2020.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 441 4th Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on February 17, 2020. Additional copies of this list are available at the above address or the website of the Office of the Secretary at www.os.dc.gov.

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

Effective: February 15, 2020

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Aird	John Wiley	Lincoln Property Company 409 3rd Street, SW, 310	20024
Aly	Bander	TD Bank 1753 Connecticut Avenue, NW	20009
Anderson	Kevin Dale	Standard Title Group 1734 20th Street, NW	20009
Baker	Duiona R.	community Wellness Alliance 1029 Park Road, NW	20010
Baugh	Miklos	Vorys, Sater, Seymour and Pease 1909 K Street, NW	20006
Bender	Rhodessa	Wurtzel Offices 2134 R Street, NW	20008
Berkeley	Nerissa E.	The UPS Store 996 Maine Avenue, SW	20024
Berman	Wendi L.	Service of Process By Law Students, LLC 1010 Wisconsin Avenue, NW, Suite 208	20007
Boublouh	Kamal	Suntrust INC 5000 Connecticut Avenue, NW	20008
Brooks	Sheri Lynn	National Geographic Society 1145 17th Street, NW	20036
Brown	Nancy R.	Milbank, LLP 1850 K Street, NW	20006
Brown	Velma Lee	Self 1968 Naylor Road, SE	20020
Campbell	Miyonna Migel	Law Offices of J. Kenneth Krivant 1100 Connecticut Avenue, NW, 450	20036
Chavez	Maria P.	Covington & Burling LLP 850 Tenth Street, NW	20001
Clark	Broderick J.	EP Federal Credit Union 13th C Street, SW, Suite 215A	20228

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Recommendations for Appointments as DC Notaries PublicEffective: February 15, 2020
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Clegg	Nicole	The Urban Alliance 2030 Q Street, NW	20009
Cockerham	Denise E.	Attorney At Law 1030 15th Street, NW, 555 W	20005
Cook	Damen	Mele, Brengarth, and Associates LLC 611 Pennsylvania Avenue, SE, Suite 143	20003
Cooney	Alexis	Clifford Chance US LLP 2001 K Street, NW	20006
Disler	Mitchell M.	Chase Bank 501 H Street, NE	20002
Douglas	Kris T.	Self 1122 21st Street, NE, # 102	20002
Dupre Jr.	Mitchell J.	UPS 1100 New Jersey Avenue, SE	20003
Duquette	Mara	Self (Dual) 4425 19th Place, NE	20018
Elcock	Benita Maria	Riverside Condominium 1425 4th Street, SW, Management Office	20024
Everett	Maiesha S.	OAG Child Support Divison 441 4th Street, NW, Suite 550N	20001
Fernandez	Marta M.	Merrill/Bank of America 1152 15th Street, NW, Suite 6000	20005
Ficklin	Teijera	Wells Fargo Bank, N.A. 3200 Pennsylvania Avenue, SE	20020

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Flores	Jose A.	TD Bank 1753 Connecticut Avenue, NW	20009
Fuentes	Vanessa	Children's National Hospital 111 Michigan Avenue, NW	20010
Gan	Saul	Planet Depos 1100 Connecticut Avenue, NW, Suite 950	20036
Gleaton	Breshai N.	Chase Bank 501 H Street, NE	20002
Golden	Harriett L.	Ballard Spahr, LLP 1909 K Street, NW, 1200 South	20006
Gregory	Shannon K.	Alvarez & Marsal Public Sector Services 655 15th Street, NW, Suite 600	20005
Harris	Christopher Michael	Brunswick Group 600 Massachusetts Avenue, NW, Suite 350	20001
Hastings	Charles Dean	The UPS Store at the Wharf 996 Maine Avenue, SW	20024
Hilliard	Nikea L.	United Planning Organization 2907 Martin Luther King Avenue, SE	20032
Hood	Yusef A.	Wells Fargo Bank 215 Pennsylvania Avenue, SE	20003
Hopkins	Adam Wayne	Reno & Cavanaugh, PLLC 455 Massachusetts Avenue, NW, 400	20001
Howard	Crystal	Self 1818 Kalorama Road, NW, #23	20009
Howard	Rhonda W.	MetLife Investment Management 600 13th Street, NW, Suite 350	20005
Hughes	Otrina A.	MedStar Georgetown University Hospital 3800 Reservoir Road, NW	20007
Jaques	Dawn A.	Digital Evidence Group 1730 M Street, NW, Suite 812	20036

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Recommendations for Appointments as DC Notaries Public

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Johnson	Theodora S.	Ballard Spahr, LLP 1909 K Street, NW	20006
Li	Siyu	PNC BANK 833 7th Street, NW	20001
Madeira	Megan Yumiko	Center for Civilians in Conflict 1828 L Street, NW, 1050	20036
McIntire	Keisha N.	District of Columbia Government 441 4th Street, NW, Suite 550 N	20001
Metzger	William Evan	Residences at Gallery Place 777 7th Street, NW, Suite 300	20001
Milenkovic	Biljana	Self 2728 Ordway Street, NW, #6	20008
Miller	Mitzi D.	CropLife America 1156 15th Street, NW, Suite 400	20005
Mujica	Linda Marie	Allied Title & Escrow, LLC 1100 Vermont Avenue, NW, Suite 500	20005
Nalunga	Elizabeth	Georgetown University 3700 O Street, NW	20057
O'Connor	Jennifer Marie	Worldwide Reporting, LLP 529 14th Street, SE	20003
Oyathelemi	Eramosi J.	The Leverage Law Firm 4102 Arkansas Avenue, NW	20011
Parada	Ivan	Settlement Agent, Ivan Parada 6218 Georgia Avenue, NW, Suite 1- 507	20011
Phillips	Tracy	Self 3601 Texas Avenue, SE	20020
Pomeroy	Angela R.	Banner Witcoff 1100 13th Street, NW, Suite 1200	20005

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 Recommendations for Appointments as DC Notaries Public

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Ponce Poma	Oscar Alfredo	Interpol, U.S. Department of Justice 145 N Street, NE, Suite 1200	20530
Reyes	Margaret Eleonor	C.L.A Title & Escrow 1050 Connecticut Avenue, NW, 500	20036
Robinson	Senghor	The UPS Store 1100 New Jersey Avenue, SE	20003
Rollerson	Rhonda Denise	Morgan, Lewis & Bockius, LLP 1111 Pennsylvania Avenue, NW, Morgan, Lewis & Bockius, LLP	20004
Sarkis	Jessica	FINRA 1735 K Street, NW	20006
Saxon	Sheila	Steptoe & Johnson LLP 1330 Connecticut Avenue, NW	20036
Senk	Danielle	Cassidy Levy Kent (USA), LLP 900 19th Street, NW, 4th Floor	20006
Sherman	Robert Arthur	Self (Dual) 1400 14th Street, NW, #402	20005
Snell, Jr.	Joseph E	Police Federal Credit Union 300 Indiana Avenue, NW, Suite 4067	20001
Taylor	Geraldine D.	Federal Communications Commission 445 12th Street, SW	20554
Terrell	Alicia M.	Ballard Spahr, LLC 1909 K Street, NW, 12th floor	20006
Tikkanen	Kai	Citibank 1901 Wisconsin Avenue, NW	20007
Tucker	Carl Ryan	Self 1205 Half Street, SE, #533	20003
Vaughn	Kevin A.	MedStar Health 110 Irving Street, NW, 6A-126	20010
Vignola	Denise L.	The Morris and Gwendolyn Cafritz Foundation 1825 K Street, NW, 1400	20006

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Wagner	Margaret	The George Washington University 801 22nd Street, NW, Rome Hall 101	20052
Walker	David	Self 1918 Sixth Street, NW	20001
Ward	Chiquita	Department of Housing and Urban Development 451 7th Street, SW	20410
Watts	Devin L.	TeaBow Residential, LLC 519 C Street, NE	20002
Williams	Shelore A. C.	Self 3215 13th Street, NW	20010
Wiseman	Messina	Ballard Spahr, LLP 1909 K Street, NW, 12th Floor	20006
Wray	Kathryn C.	Sonosky, Chambers, Sachse, Endreson & Perry, LLP 1425 K Street, NW, Suite 600	20005
Zaharevich	Daniel William	Zaharevich Law Office 1140 3rd Street, NE, 2nd Floor	20002

D.C. SENTENCING COMMISSION**PUBLIC NOTICE****APPOINTMENT OF BASIL EVANS AS IT SPECIALIST****DATA MANAGEMENT FOR
THE D.C. SENTENCING COMMISSION**

The D.C. Sentencing Commission hereby gives notice pursuant to D.C. Code § 1-609.03 (c) (2013) that Basil Evans was appointed as IT Specialist – Data Management for the D.C. Sentencing Commission on December 23, 2019. This is an excepted service position.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) will be holding a meeting on Thursday, February 6, 2020 at 9:30 a.m. The meeting will be held in the Board Room (2nd floor) at 1385 Canal Street, S.E. (use 120 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 DC Water's website at www.dewater.com.

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

DRAFT AGENDA

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|----|--|-------------------------|
| 1. | Call to Order | Board Chairman |
| 2. | Roll Call | Board Secretary |
| 3. | Approval of January, 2020 Meeting Minutes | Board Chairman |
| 4. | Committee Reports | Committee Chairperson |
| 5. | Chief Executive Officer's Report | Chief Executive Officer |
| 6. | Action Items
Joint-Use
Non Joint-Use | Board Chairman |
| 7. | Other Business | Board Chairman |
| 8. | Adjournment | Board Chairman |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

District of Columbia Retail Water and Sewer Rates Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) District of Columbia Retail Water and Sewer Rates Committee will be holding a meeting on Tuesday, January 28, 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 DC Water’s website at www.dcwater.com.

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

DRAFT AGENDA

- | | | |
|----|---------------------|--|
| 1. | Call to Order | Committee Chairperson |
| 2. | Monthly Updates | Executive VP,
Finance & Procurement |
| 3. | Committee Work Plan | Executive VP,
Finance & Procurement |
| 4. | Other Business | Executive VP,
Finance & Procurement |
| 5. | Adjournment | Committee Chairperson |

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

Application No. 19886 of Giuseppe and Teresa Farruggio, as amended, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle D §§ 1206.4 and 5201 from the rear addition requirements of Subtitle D § 1206.3, and under Subtitle C § 1504 from the penthouse setback requirements of Subtitle C § 1502.1(b), and pursuant to Subtitle X, Chapter 10, for variances from the front setback requirements of Subtitle B § 315.1(c) and Subtitle D § 1205.2, and from the nonconforming structure requirements of Subtitle C § 202.2, to construct a rear addition to the existing attached principal dwelling unit in the R-20 Zone at premises 3602 Prospect Street, N.W. (Square 1202, Lot 838).

HEARING DATE: January 9, 2019
DECISION DATES: April 3, 2019 and September 18, 2019

CORRECTED¹ DECISION AND ORDER

Giuseppe and Teresa Farruggio (the “**Applicant**”) filed an application (the “**Application**”) with the Board of Zoning Adjustment (the “**Board**”) on September 20, 2018, that requested the following relief, as subsequently amended, from the Zoning Regulations (Title 11 of the DCMR to which all references are made unless otherwise specified):

- special exception relief from the rear wall extension limits of Subtitle D § 1206.3 pursuant to Subtitle D §§ 1206.4 and 5201;
- special exception relief from the penthouse setback requirements of Subtitle C § 1502.1(b) pursuant to Subtitle C § 1504;
- area variance relief from the front setback requirements of Subtitle B § 315.1(c) and Subtitle D § 1205.2; and
- area variance relief from the limits on expanding a nonconforming structure of Subtitle C § 202.2,²

to construct a rear addition to the existing attached principal dwelling unit in the R-20 Zone at premises 3602 Prospect Street, N.W. (Square 1202, Lot 838) (the “**Property**”). For the reasons explained below, the Board voted to **APPROVE** the Application.

¹ This corrected order has been issued to revise a typographical error in Finding of Fact 4, which previously incorrectly identified the affected ANC 7C, rather than ANC 2E. No other revisions have been made, nor does the issuance of this correction change the effective date of the order.

² The Board believes that this relief should have properly been requested as a special exception pursuant to Subtitle D § 5201.1(f); however, the Board concluded that the Applicant was able to meet the variance test.

FINDINGS OF FACT

Notice of Application and Notice of Public Hearing

1. Pursuant to Subtitle Y §§ 400.4 and 402.1, the Office of Zoning (“OZ”) sent notice of the Application and the December 12, 2018 hearing by an October 29, 2018 letter to:
 - the Applicant;
 - Advisory Neighborhood Commission (“ANC”) 2E, the ANC within which boundaries the Property is located and so the “affected” ANC per Subtitle Z § 101.8;
 - the Single Member District (“SMD”) Commissioner for ANC 2E05 and the Office of ANCs;
 - the Office of Planning (“OP”);
 - the District Department of Transportation (“DDOT”);
 - the Commission of Fine Arts (“CFA”);
 - the Councilmember for Ward 2;
 - the Chairman of the Council;
 - the At-Large Councilmembers; and
 - the owners of all property within 200 feet of the Property. (Exhibit [“Ex.”] 20-33.)
2. OZ also published notice of the December 12, 2018 public hearing in the *D.C. Register* on October 19, 2018 (65 DCR 11659), as well as through the calendar on OZ’s website.
3. The Board subsequently postponed the hearing and rescheduled for January 9, 2019.

Parties

4. The Applicant and ANC 2E were automatically parties in this proceeding per Subtitle Y § 403.5.
5. On October 31, 2018, the Board granted the party status request in opposition of adjoining neighbor at 3604 Prospect Street, N.W., Kaloust Yedibalian (the “**3604 Opponent**”). (Ex. 17-18.)

The Property

6. The Property is a rectangular lot with an area of 3,100 square feet and a width of 25 feet. (Ex. 4.)
7. The Property slopes down from Prospect Street, N.W. toward the rear of the lot to the south.
8. The Property is improved with a one-family, two-story plus basement attached dwelling unit (the “**Building**”). The Building includes four floors – two above grade and two basement levels with a rear patio area off of the upper basement level.

9. The Building is 25 feet wide with a depth of approximately 32 feet. The gross floor area of the Building is about 800 square feet per floor. (BZA Public Hearing of January 9, 2019 Transcript [“Tr.”] at 183.)
10. The adjacent property to the east is 3600 Prospect Street, N.W. (“**3600 Prospect**”), a two-story plus basement row dwelling.
11. The adjacent property to the west is 3604 Prospect Street, N.W. (“**3604 Prospect**”), a three-story plus basement row dwelling.
12. The rest of Prospect Street, N.W. is developed with a mixture of two, three, and four-story row dwellings and apartment houses.
13. The Property is zoned R-20 and is located in the Georgetown Historic District, which is within the jurisdiction of the Commission of Fine Arts Old Georgetown Board (“**OGB**”).
14. The purpose of the R-20 zone to “[r]etain and reinforce the unique mix of housing types including detached, semi-detached, and row buildings and permit row buildings on small lots and includes areas where row buildings are mingled with detached buildings and semi-detached.” (Subtitle D § 1200.3.)

Front Setback

15. The front façade of the Building is set back approximately 30 feet from Prospect Street, N.W. and does not align with the front wall of either of the adjacent properties which are much closer to Prospect Street, N.W. The Building is the only property on the block with a significant front setback. (Ex. 6A1-6A2 and 7A1.)
16. The front wall of 3600 Prospect is set back approximately 8.37 feet from Prospect Street, N.W. (Ex. 56.)
17. The front wall of 3604 Prospect is set back approximately 6 feet from Prospect Street, N.W. (Ex. 56.)
18. The Building and 3600 Prospect were constructed at the same time in the 1950s, prior to any requirements in the Zoning Regulations regarding front setbacks. The design of the two buildings suggests that the extensive setback was included as a deliberate design feature. (Ex. 53 and 56.)
19. The Building is non-conforming with regards to the front setback provisions of Subtitle D § 1205.2, which requires a building in the R-20 zone have a front setback consistent with at least one of the immediately adjacent properties. This rule echoes the general requirements of Subtitle B § 315.1(c) – that a proposed building façade for an interior-lot

row dwelling facing a street lot line shall not be further forward or further back than the building façade of one of the immediately adjoining buildings.

Rear Wall

20. 3600 Prospect's rear wall aligns with the Building's rear wall. On its first-story, 3600 Prospect has a deck that is open underneath.
21. At the upper basement level, the Property is separated from 3600 Prospect by a wall and vegetation. (Ex. 90.)
22. 3604 Prospect is of a similar depth, measured front-to-back, to the Building, but because of the Building's staggered front setback façade with 3604 Prospect, the Building extends 21.2 feet beyond the rear wall of 3604 Prospect.
23. The Property is separated from 3604 Prospect at the property line by a wall, fence, and vegetation. (Ex. 90.)
24. The Building is non-conforming as to its rear wall which extends further than the maximum ten feet allowed beyond the farthest rear wall of 3604 Prospect under Subtitle D § 1206.3 (the rear wall of a row or semi-detached building shall not be constructed to extend farther than ten feet beyond the farthest rear wall of any adjoining principal residential building on any adjacent property). The Building is conforming for rear wall in relation to 3600 Prospect.

The Application

Initial Proposal

25. The Application proposed to construct a one-story addition to the upper basement with a rear deck from the first floor above; to add a bay addition on the rear of the first and second floors; and to add a new third story, set back from the Building's front façade (the "**Addition**"). (Ex. 7A1-7A2 and 41A1-41A2.)
26. The Addition would extend beyond the rear wall of 3600 Prospect by:
 - a) Approximately 13 feet, 6.5 inches at the basement, aligning with 3600 Prospect's back deck; and
 - b) Approximately 3 feet, 2 inches at the first and second floors.
27. The Addition would extend beyond the rear wall of 3604 Prospect by:
 - a) Approximately 34 feet, 8.625 inches at the basement, slightly higher than the existing wall and fence; and
 - b) Approximately 24 feet, 4.125 inches at the first, second, and third floors.

Revised Proposal

28. In response to concerns raised by the 3604 Opponent and Board at the January 9, 2019 public hearing, the Applicant agreed to work with the 3604 Opponent on revised plans that would reduce the depth of the third story. (Tr. at 217-219.)
29. On February 21, 2019, the Applicant submitted revised architectural plans and elevations (Ex. 79, the “**Revised Plans**”) that proposed to reduce the depth of the third story of the Addition by at least six feet and replacing it with an approximately seven-foot rear deck. The Revised Plans also lowered the height of the third-story of the Addition by approximately four feet, resulting in total building height of 26 feet, 10 inches. The Revised Plans did not change the Addition’s proposed basement, first, and second floors.
30. The Addition, as revised, would match the rear wall of 3604 Prospect at the basement, first and second stories, but would still extend 17 feet, 6.25 inches beyond the third-story rear wall of 3604 Prospect.
31. In place of the reduced third-story, the Addition, as revised, proposed a 7-foot, 5.5-inch rear deck, which would include a 3-foot, 8-inch guardrail directly aligned with the rear wall of the second-story of the Addition below. (Ex. 79.) The guardrail would be designed to be minimally visible and would provide more light and air than a solid brick parapet. (Ex. 87A.)
32. Pursuant to Subtitle C § 1502.1(b), any rear guardrail must be set back a distance equal to its height from the rear building wall of the roof upon which it is located. The proposed guardrail does not meet this one-to-one setback requirement.
33. The Application asserts that the Addition, as revised, would otherwise conform to the development standards of the R-20 Zone:
 - a) Lot occupancy – 37% proposed, less than the maximum of 60% (Subtitle D § 1204.1)
 - b) Height – 26 feet, 10 inches with three stories, less than the maximum of 35 feet with three stories (Subtitle D § 1203.1)
 - c) Rear Yard – 48-foot rear yard, more than the minimum 20-foot (Subtitle D § 1206.2.)
34. In response to the Board’s June 19, 2019 request, the Applicant submitted plans clarifying the measurements of the Addition, as revised. (Ex. 95-95D.)

Zoning ReliefSpecial Exception – Rear Addition (Subtitle D § 1206.3)

35. The Applicant requires special exception relief from the rear wall extension limits of Subtitle D § 1206.3 because the Addition, as revised, would:
 - a) Extend beyond 3604 Prospect’s rear wall by
 - 34 feet, 8.625 inches at the basement level;

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- 24 feet, 4.125 inches at the first and second stories; and
 - 17 feet, 6.25 inches feet on the third-story; and
- b) Extend beyond the rear wall of 3600 Prospect by
- 13 feet, 6.5 inches at the basement level

Special Exception – Penthouse Setbacks (Subtitle C § 1502.1(b))

36. The Application requires special exception relief from the penthouse setback requirements because the Addition, as revised, proposes to construct a penthouse deck that includes a guardrail at the rear that measures three feet, two inches in height and does not meet the one-to-one setback requirement.

Variance – Front Setbacks (Subtitles D § 1205.2 and B § 315.1(c)³)

37. The Application requires variance relief from these provisions because the proposed third-story of the Addition, as revised, would be set back further than the front facades of both 3600 and 3604 Prospect and special exception relief is not available.

Variance – Nonconforming Structures (Subtitle C § 202.2)

38. The Application proposes to extend the Building's nonconforming rear wall and to extend the nonconforming front setback to a new third story. The Application therefore requests variance relief from the prohibition against the extension of existing nonconformities under Subtitle C § 202.2. (FF 19, 22, 25, and 29.)

Applicant's Statement

39. The Application asserted that it met the requirements for the special exception relief because the Addition, as revised, would not result in significant impacts to the light, air, privacy and enjoyment of the adjacent properties. (Ex. 56.)
40. In support of its position, the Applicant also submitted sun studies showing a comparison between the existing light impacts and the proposed light impacts of the Addition based on a day in March at the following times, 9 a.m., 12 p.m., and 3 p.m. (Ex. 55A1 and 55A2.)
41. The Applicant submitted additional sun studies showing a comparison between the existing light impacts and the proposed light impacts of the Addition based on days in March, June, and December at the following times, 7:30 a.m., 9:00 a.m., and 10:30 a.m. These sun studies demonstrated that the greatest impacts of the Addition, as revised, to the light available to adjacent properties occurred in the mornings between 7:30 and 9 a.m. and primarily affected the third-floor windows of 3604 Prospect. (Ex. 65, 66, and 67.)

³ Although variance relief is typically not available from a rule of measurement, the Board notes that this provision is written as a prescriptive requirement, rather than merely a directive as to how to measure the setback. (Ex. 53.)

42. The Application asserted that it met the requirements for variance relief because of the design and orientation of the Building, including the unusually deep front setback and the staggered rear wall in relation to the adjacent properties created a unique situation which limited the Applicant's ability to expand the Building. The Application also noted the Building's location in the Georgetown Historic District and the associated design limitations.

Responses to the Application

OP Report

43. OP submitted a report dated November 30, 2018 (the "**OP Report**") that concluded that the Application for the Addition had met the variance and special exception standards and recommended approval of the Application. With regards to the variance relief, the OP Report concluded that the existing, deep front setback constituted an "exceptional situation resulting in a practical difficulty". The OP Report also concluded that the rear addition would not significantly impact the available light to 3600 Prospect due to that property's existing rear deck. In terms of 3604 Prospect, the OP Report concluded that while the third-story addition would result in some increased shadows during the morning hours, it would not result in a significant overall impact. (Ex. 53.)
44. At the January 9, 2019 public hearing, OP testified that although the OP Report was submitted before the Applicant provided sun studies to the record, upon reviewing the sun studies, OP remained in support of the Application. (Tr. at 176.)
45. OP submitted a supplemental report, dated February 22, 2019 (the "**OP Supplemental Report**"), that analyzed the Addition as revised by the Revised Plans. The OP Supplemental Report noted that the reduced third-floor addition would extend 24.4 feet from the adjacent rear wall of 3604 Prospect and the proposed roof deck would be approximately 10.3 feet deep. The OP Supplemental Report recommended approval of the additional penthouse setback relief requested for the guardrail and reiterated its support for the Application. (Ex. 81.)
46. At the request of the Board, OP submitted an additional report, dated August 19, 2019, revising its analysis based on the need for clarification from the Applicant about the dimensions of the proposed rear addition, specifically the third floor (the "**OP Corrected Report**"). The OP Corrected Report amended its comments in the OP Supplemental Report to correctly state that the reduced third-floor would only extend approximately 17 feet, 6 inches beyond the rear wall of 3604 Prospect. The OP Corrected Report continued to recommend approval of the special exceptions and variances requested in the revised Application. (Ex. 96.)

DDOT Report

47. DDOT submitted a report dated November 30, 2018 (the "**DDOT Report**") stating that it had no objection to the Application. The DDOT Report concluded that the proposed

development would not result in any adverse impacts to the District transportation network. (Ex. 54.)

ANC Report

48. ANC 2E submitted a written report (the “**ANC Report**”) stating that at a duly noticed and scheduled public meeting on December 3, 2018, at which a quorum was present, the ANC voted to adopt a resolution indicating concerns about the potential loss of light to adjacent property owners. (Ex. 60.)
49. The ANC Report recognized that there were existing “specific and unique conditions which would lead the owners of 3602 Prospect Street NW to request a special exception and variances for their home” but also expressed concern about the potential loss of light and requested that the Board give the issues of light and air impacts “great thought in consideration of granting the special exception and variances required to move this project forward.” (Ex. 60.)

OGB Review

50. On January 11, 2019, the Applicant submitted a copy of the letter from OGB, which had no objection to the concept design for the proposed additions at the roof and rear of the property per the drawings received September 18, 2018. (Ex. 70-71.)

3604 Opponent

51. The 3604 Opponent provided evidence and testimony in opposition to the Application, primarily focusing on the rear addition’s adverse impacts on light and air.

Shadow Impacts

52. The 3604 Opponent’s main concern was that the third-story addition would impact the morning sun available to his third-floor rear windows by at least an hour. (Ex. 68; Tr. at 151-52.)
53. The 3604 Opponent provided a shadow study prepared by Teass\Warren Architects (Ex. 68) and proffered Will Teass as an expert witness to provide testimony on the shadow studies. Based on the analysis of the Addition as originally proposed, Mr. Teass concluded that the primary impact would be on the third-story rear window of 3604 Prospect. Mr. Teass asserted that the Addition, as originally proposed, “eliminates the ability to look out from the master bedroom and see the sunrise in the winter in the morning.” (Tr. at 148.)
54. The 3604 Opponent also expressed concerns that the extension of the nonconforming rear wall at the basement of the Addition would further impact the available light and air on that level. (Tr. at 148-49.)

55. The Applicant asserted that the 3604 Opponent's sun studies failed to show the four-foot existing parapet on the roof of the Property which the Applicant proposed to retain and did not show the proposed third story's sloped roof design. The Applicant contended that these omissions exaggerated the morning shadows cast from the proposed third story roof. (Tr. at 197-198, Ex. 87.)
56. In response to the Board's June 19, 2019, decision to reopen the record for clarified plans from the Applicant and responses, the 3604 Opponent submitted a response asserting that the Applicant's clarified plans failed to provide sufficient detail for the Board to rely upon to grant the Application.

The Alternative Design

57. The 3604 Opponent proposed an alternative design (the "**Alternative Design**") to reduce the light and air impacts to 3604 Prospect. The Alternative Design would:
- a) Reduce the extent of the third story addition to five feet beyond the rear wall of 3604 Prospect;
 - b) Reduce the extent of the basement addition to 26.2 feet beyond 3604 Prospect (or 5 feet beyond the nonconforming rear wall of the Building); and
 - c) Remove the first-floor deck while maintaining the first and second floor bay additions as originally proposed by the Applicant. (Ex. 86.)
58. In response to the Alternative Design, the Applicant noted that the Addition's third floor, as originally proposed, would already be set back three feet from the Property's front wall. Further limiting its depth to five feet from the rear wall of 3604 Prospect would result in a third story with a total depth of approximately 13 feet. The Applicant explained that this would leave little usable space on the third floor, given that most of the space would be located under the sloped portion of the roof and a portion of the space would be used by the staircase. The Applicant notes that the existing staircase has already been relocated in the Addition's proposed design and cannot be relocated to accommodate the Alternative Design, as there is not enough room to do so. (Ex. 87, pg. 1-2, Ex. 89 pg. 3-4.)
59. The Applicant also argued that the Alternative Design's reduction of the basement addition would have a nominal impact on light and privacy given that the existing nonconforming rear wall already extends 21.2 feet.
60. In response to the Board's June 19, 2019, decision to reopen the record for additional information, the 3604 Opponent submitted a response to the Applicant's clarified plans asserting that these clarified plans failed to respond with sufficient accuracy for the Board to make a decision on the case.

Variance Test

61. The 3604 Opponent also contended that the Applicant had not met the test for variance relief. Specifically, the 3604 Opponent argued that the Applicant had not met the first prong of the variance test — demonstrating a unique and exceptional conditions affecting the property — because the Applicant relied on the Property’s location in a historic district, despite DC Court of Appeals case law holding that this alone was not a sufficient basis for an exceptional condition. (*See Dupont Circle Citizens Ass’n v. D.C. Bd. of Zoning Adjustment*, 182 A.3d 138 (D.C. 2018).)

Persons in Opposition

62. The Board received a letter in opposition to the Application from Robert and Barbara O’Malley, owners of 3600 Prospect. (Ex. 58.)
63. Mr. O’Malley testified at the public hearing on January 9, 2019 in opposition to the proposed rear basement addition. Mr. O’Malley disagreed with OP’s finding that the rear basement addition will not result in adverse impacts on 3600 Prospect because the Addition would wall in the open space under the rear deck at 3600 Prospect. (Tr. at 186-90.)
64. Mr. O’Malley also testified that he would be strongly opposed to an addition to the front setback of the Building, as it would impact the windows on the west façade of 3600 Prospect that face into the Building’s front setback. (Tr. at 191.)

Board’s Decision and Motion to Reopen Record

65. At both the Applicant’s and the 3604 Opponent’s request, the Board postponed the decision scheduled for February 27, 2019; the decision was rescheduled to March 6, 2019.
66. On March 6, 2019, the Board further postponed the decision to April 3, 2019 in order to allow the 3604 Opponent additional time to review the Revised Plans.
67. On April 3, 2019, the Board voted to approve the Application for the Addition, as revised by the Revised Plans.
68. On June 19, 2019, the Board, on its own motion, rescinded its vote and reopened the case record for additional submissions to clarify the depth of the rear wall of the proposed third floor of the Addition, as revised, in relation to the rear wall of 3604 Prospect. The Board requested that the Applicant submit a final complete set of plans, and additional clarifying illustrations delineating the depth of all four proposed floors, both original and revised, and their relationship to the adjacent properties. The Board also requested that OP provide a supplemental report based on the clarifications from the Applicant. (Ex. 92.)

69. In response, the Applicant provided clarified plans (FF 34); OP submitted the OP Corrected Report (FF 45); and the 3604 Opponent responded in opposition (FF 55).

CONCLUSIONS OF LAW

Special Exception Relief

1. Section 8 of the Zoning Act of 1938 (D.C. Official Code § 6-641.07(g)(2) (2018 Repl.); *see also* Subtitle X § 901.2) authorizes the Board to grant special exceptions, as provided in the Zoning Regulations, where, in the judgement of the Board, the special exception:
 - (i) *will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map,*
 - (ii) *will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, and*
 - (iii) *complies with the special conditions specified in the Zoning Regulations.*For the relief requested by the Application, the “specific conditions” are those of Subtitle D § 5201.
2. Relief granted by the Board through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the relief requested are met. In reviewing an application for special exception relief, the Board’s discretion is limited to determining whether the proposed exception satisfies the requirements of the regulations and “if the applicant meets its burden, the Board ordinarily must grant the application.” *First Washington Baptist Church v. D.C. Bd. of Zoning Adjustment*, 423 A.2d 695, 701 (D.C. 1981) (quoting *Stewart v. D.C. Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)).

Subtitle D § 1206.3 – Special Exception for Rear Addition

3. Relief under Subtitle D § 5201 is limited to projects that:
 - (i) *are an addition to a residential building or a new or enlarged accessory structure to a residential building;* (Subtitle D § 5201.2) and
 - (ii) *do not authorize the introduction or expansion of either a nonconforming use or the introduction or expansion of nonconforming height or number of stories or a lot occupancy exceeding 70%. (Subtitle D §§ 5201.3(e), 5201.5, and 5201.6.)*
4. An applicant must demonstrate through graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways (Subtitle D § 5201.3(d)), that the requested relief, if granted, would not have a substantially adverse effect on:
 - (a) *the light and air available to neighboring properties shall not be unduly affected;*
 - (b) *the privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and*

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(c) the addition or accessory structure, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage. (Subtitle D § 5201.3.)

5. The Board concludes that the Application meets the eligibility requirement of Subtitle D § 5201.2(a) as an addition to a residential building and complies with Subtitle D §§ 5201.3(e), 5201.5, and 5201.6 as it does not propose to introduce or expand a nonconforming use or height, nor does it provide a lot occupancy over 70%.
6. The Board also concludes that the Applicant complied with Subtitle D § 5201.3(d) by providing sufficient plans, photographs, and elevations to demonstrate that it met the criteria of Subtitle D § 5201.3(a), (b), and (c), as discussed in turn. The Board specifically rejects the 3604 Opponent's opposition to the Applicant's clarified plans (Ex. 95-95D), which the Board concludes did provide sufficient detail for the Board to properly evaluate the Application.

Subtitle D § 5201.3(a) – Light and Air

7. The Board concludes that the Applicant has demonstrated that the Addition will not unduly affect the light and air available to neighboring properties because, although there will be some additional shadowing on adjacent properties, the Board concludes that the design of the Addition, as revised, sufficiently mitigates the potential impacts.

3600 Prospect

8. The Board recognizes that the Addition's proposed basement will have some effect on the light and air available to the 3600 Prospect basement patio area, because the basement addition would replace the existing three-foot high brick wall and trees along the property line. However, the Board concludes that the potential impacts do not rise to the level of "unduly affecting" the adjacent property, as there would be only a slight increase of the existing shading on a limited portion of 3600 Prospect. The Board also notes that this specific portion of 3600 Prospect is currently beneath an existing rear deck and bordered by an existing wall and trees, all of which currently limit the available light.

3604 Prospect

9. The Board concludes that the Addition's basement, though it extends the rear wall of the Building by an additional 13 feet, 6.5 inches, will not create an undue impact on the light or air available to 3604 Prospect, as the property line between the properties is currently buffered by a wall, fence, and vegetation.
10. The Board concludes that the Addition's proposed bay window on the first and second floors would not create any undue shadowing impacts on the property at 3604 Prospect, as they would extend the Building by only approximately three feet.

11. The Board recognizes that the Addition, as revised, will have some impact on the light available to 3604 Prospect. As demonstrated in the sun studies provided by both the Applicant and the 3604 Opponent, the Property currently affects the morning sunlight available to 3604 Prospect's third-story rear windows. The Board acknowledges that the proposed third-story of the Addition, as revised, would cast increased shadows on all of the third-story rear windows of 3604 Prospect in the early morning. However, the Board concludes that the sloped roof design and the reduced depth of the revised third-story addition, will help mitigate the overall impacts to morning light in the 3604 Prospect third-story bedroom. Therefore, the Board concludes that the Addition, as revised, would not cause an undue impact on 3604 Prospect because the impact is limited in time and does not represent a significant change from the existing state of the properties.

Subtitle D § 5201.3(b) – Privacy of Use and Enjoyment

12. The Board concludes that the Application would not unduly compromise the privacy of use, and enjoyment of neighboring properties. With respect to both adjacent properties, the Board notes that substantial planters are proposed on both sides of the ground floor bay addition to maintain the privacy of neighboring properties. (Tr. 124.)
13. The Board also concludes that since no windows are proposed on the side elevation of the Addition, as revised, and the proposed windows and doors on the rear façade will match the existing, no windows will look directly into either adjoining property.

Subtitle E § 5201.3(c) – Visual Intrusion

14. Finally, the Board concludes that the Addition, as revised, will not substantially visually intrude upon the character, scale, and pattern of houses along Prospect Street, N.W., as viewed from the street, alley, and other public way. The Addition, as revised, will be minimally visible from the street frontage because the proposed third story will be set back three feet from the existing front façade of the Building.
15. Further, the Board finds that OGB reviewed the Application for compatibility with the Georgetown Historic District and granted concept approval.

Subtitle C § 1502.1(b) – Special Exception for Penthouse Setback

16. The Board is authorized to grant special exception relief from the penthouse setback requirements of Subtitle C § 1502.1(b) when the Application meets the criteria of Subtitle C § 1504.1 and the general special exception requirements of Subtitle X § 901.2. The Board determined that the Application meets the criteria of Subtitle C § 1504.1, as follows:

- (a) *The strict application of the requirements of this chapter would result in construction that is unduly restrictive, prohibitively costly, or unreasonable, or is inconsistent with building codes;*

The Board concludes that requiring the third-story guardrail to be set back by approximately four feet would be unduly restrictive, as it would result in a deck that is only approximately 3.5 feet deep.

- (b) *The relief requested would result in a better design of the roof structure without appearing to be an extension of the building wall;*

The Board concludes that even though the guardrail is not set back from the rear wall below, it would allow for increased light and air to 3604 Prospect, and it would not appear to be an extension of the building wall because the guard rail design would use different materials than the ones used for the Addition below.

- (c) *The relief requested would result in a roof structure that is visually less intrusive;*

The Board concludes that granting the relief would result in a less visually intrusive design because, the guardrail would be minimally visible, and it would provide enhanced light and air resulting in a better less bulky design than a solid brick parapet.

- (d) *Operating difficulties such as meeting D.C. Construction Code, Title 12 DCMR requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly or unreasonable;*

The Board concludes that providing a door as an entryway limits the usable space on the rear deck, such that further setting back the guardrail by approximately four feet would be unreasonable.

- (e) *Every effort has been made for the housing for mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setbacks; and*

The request for setback relief does not involve housing for mechanical equipment, stairways, nor elevator penthouses. As such, the Board determined that this requirement is not relevant to its analysis in this case.

- (f) *The intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.*

Finally, the Board concludes that the positioning of the proposed guard rail allows for a rear deck to be provided as part of the third-story addition, which mitigates potential impacts on the light and air of adjacent buildings.

Subtitle X § 901.2 – General Special Exception Standards

17. Pursuant to Subtitle X § 901.2(a), the Board concludes that granting the requested special exceptions would be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps because the Application is consistent with the residential purposes of the R-20 Zone and would not result in a building out of scale or character with the surrounding development. (Subtitle D § 1200.3.)
18. This Application proposes the expansion of an attached dwelling unit, in keeping with the intent of the R-20 zone. Although the Application requires relief from the rear addition and penthouse requirements, the expansion of the Building would nonetheless result in a structure that would not exceed the R-20 development standards for lot occupancy, height or rear yards. For these reasons, the Board concludes that the Application would be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.
19. Pursuant to Subtitle X § 901.2(b), the Board concludes that the Addition, as revised, would not have an adverse impact on light and air available to adjacent properties, privacy of use and enjoyment of adjacent properties, or the visual character of the street frontage or public alley, as explained in the discussion of the specific special exception criteria above.

Variance Relief

20. The Board is authorized to grant variances from the requirements of 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.”* (Section 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(3) (2018 Repl.); Subtitle X § 1000.1)
21. The Application’s requests for relief from the front setback and nonconforming structure requirements qualify as area variances because they are requirements “that affect the size, location, and placement of buildings and other structures ...”. (Subtitle X § 1001.3(a)) 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.*

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D.C. Bd. of Zoning Adjustment, 579 A.2d 1164, 1170 (D.C. 1990); Subtitle X § 1002.1(a).)

22. “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

23. The Board concludes that the Property faces an exceptional condition because the Building’s front façade has been set back 30 feet from the street since its construction in the 1950s. The Board determined that such a deep front setback is atypical for the block and considers the two adjoining properties of 3600 and 3604 Prospect to have front setbacks more typical of the block. The unusual depth of the front setback creates a staggering effect for the Building in relation to the two adjoining properties.
24. The Board also notes that the Property is located in a historic district and although the Building is not a contributing structure in the Georgetown Historic District, OGB has indicated that it would not support any changes to the Building’s existing brick front façade, due to the relationship with the adjoining structure at 3600 Prospect which was constructed at the same time.
25. While the 3604 Opponent argues that a property’s location in a historic district does not establish an exceptional condition on its own, the Board concludes that this argument is not persuasive in this case. The Board concludes that the Property’s location in a historic district is not the sole or primary reason for the exceptional circumstance, but rather gives rise to a “confluence of factors” affecting the property. The Board considers the Property’s existing nonconforming front setback to be a unique condition and concludes that OGB’s opposition to any expansion of the Building into the front setback compounds the situation by limiting the Applicant’s ability to alter the front façade or expand the Building towards the street, thereby creating a practical difficulty.

Practical Difficulty

26. The Board concludes that the exceptional condition of the Building’s existing nonconforming front setback, along with the design limitations imposed by OGB’s approval, constrains the Applicant’s ability to reasonably expand the Building and creates

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a practical difficulty in this case. Because the Property is affected by existing nonconformities, there are no matter-of-right options to expand the Building and any addition would require zoning relief. Given the small size of the Building, the Board concludes that it would be unduly burdensome for the Applicant to have no option to increase the size of his property.

27. Further, the Board was persuaded by the testimony and evidence provided by the Applicant that he considered alternative designs, including that proposed by the 3604 Opponent, but each presented practical difficulties to the Applicant. Specifically, the 3604 Opponent's Alternative Design would only allow for a 13-foot deep third story addition which is further limited by the sloping roof design.

No Substantial Detriment to the Public Good

28. The Board concludes that granting the Application would not result in a substantial detriment to the public good. The Board concludes that the third-story and rear addition proposed by the Application will not have an undue impact on the light, air, and privacy of adjacent property owners because:
- a) The third floor would have a limited impact on the light and air available to 3600 Prospect because the third floor would not extend beyond the rear wall of 3600 Prospect.
 - b) The third floor would have more of an impact on 3604 Prospect but as previously stated, the reduced size of the third floor, the sloped roof design, and the inclusion of a deck instead of a third story rear wall aligning with the floor below will mitigate the impacts to morning light available to 3604 Prospect.
29. In addition, the third story addition will not create any negative impacts on the character of the streetscape, as viewed from the street. Notably, the third story would be set back 3 feet from the front wall of the Property to minimize its visibility. The Board also notes that the Application received approval from OGB which determined the design was compatible with the Georgetown Historic District.

No Substantial Impairment to the Zone Plan

30. The Board concludes that the requested variance can be granted without substantial impairment to the Zoning Regulations because the expansion of a one-family dwelling is in keeping with the purpose and intent of the R-20 zone.

“Great Weight” to the Recommendations of OP

31. The Board is required to give “great weight” to the recommendation of the Office of Planning. (D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Y § 405.8.)
32. In this case, OP recommended approval of the Application and all the requested relief. The Board has carefully considered OP's Reports and finds its recommendation of approval persuasive and concurs in that judgement.

“Great Weight” to the Written Report of the ANC

33. The Board must give “great weight” to the issues and concerns raised in a written report of the 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.); see Subtitle Z § 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).”
34. The Board first notes that the ANC Report concluded that the Building was affected by “specific and unique conditions” that would necessitate the Applicant requesting zoning relief.
35. The ANC Report qualified this conclusion by also noting its concern regarding the potential loss of light and requested that the Board consider this issue before granting relief. As discussed above, the Board reviewed the shadow studies provided by both parties and carefully considered the Application’s potential impacts on light in the context of the variance and special exception relief requested. Based on the evidence in the record, the Board found that the rear addition would create some impacts on the light available to 3604 Prospect during the morning hours, but the Board concluded that this would not rise to the level of an undue impact to justify denial of the relief requested.

DECISION

Based on the case record, and the Findings of Fact and Conclusions of Law, the Board concludes that the Applicant has satisfied the burden of proof with respect to the request for

- special exception relief from the rear wall extension limits of Subtitle D § 1206.3;
- special exception relief from the penthouse setback requirements of Subtitle C § 1502.1(b);
- variance relief from the front setback requirements of Subtitle D § 1205.2 and Subtitle B § 315.1(c) under Subtitle X, Chapter 10; and
- variance relief from the nonconforming structure requirements of Subtitle C § 202.2, pursuant to Subtitle X, Chapter 10.

The Board therefore **ORDERS** that the Application is hereby **GRANTED**, subject to the following **CONDITION**:

BZA ORDER NO. 19886(1)

PAGE NO. 18

1. Development of the Property that uses the relief granted in this Order shall comply with the approved plans at Exhibits 95A-95D⁴ as required by Subtitle Y §§ 604.9 and 604.10.

VOTE (Sept. 18, 2019): 4-0-1 (Frederick L. Hill, Lorna L. John, Lesylleé M. White, and Robert E. Miller to **APPROVE**; Carlton E. Hart not participating.)

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

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

FINAL DATE OF ORDER: December 31, 2019

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.

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.

⁴ Self-Certification. The zoning relief requested in this case was self-certified, pursuant to Subtitle Y § 300.6 (Exhibit 46.) In granting the requested self-certified relief subject to the plans submitted with the Application, the Board makes no finding that the requested relief is either necessary or sufficient to authorize the proposed construction project described in the Application and depicted on the approved plans. 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 such application that would require additional or different zoning relief from that is granted by this Order.

BZA ORDER NO. 19886(1)

PAGE NO. 19

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
PUBLIC MEETING NOTICE
WEDNESDAY, MARCH 11, 2020
441 4TH STREET, N.W.
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH
WASHINGTON, D.C. 20001**

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

TIME: 9:30 A.M.

FOR EXPEDITED REVIEW

WARD ONE

20194 **Application of Hamilton St NW, LLC**, pursuant to 11 DCMR Subtitle X, ANC 1A Chapter 9, for a special exception under Subtitle E § 205.5 from the rear addition requirements requirements of Subtitle E § 205.4, to construct third story and a three-story rear addition to an existing principal dwelling unit and convert it to a flat in the RF-1 Zone at premises 752 Lamont Street N.W. (Square 2892, Lot 45).

WARD ONE

20219 **Application of Julia Garrison**, pursuant to 11 DCMR Subtitle X, Chapter ANC 1A 9, for a special exception under Subtitle E §§ 206.2 and 5203.3 from the upper floor addition requirements of Subtitle E § 206.1, to alter an existing rooftop architectural element on an existing, attached, principal dwelling unit in the RF-1 Zone at premises 3629 13th Street N.W. (Square 2829, Lot 148).

PLEASE NOTE:

Failure of an applicant to supply a complete application to the Board, and address the required standards of proof for the application, may subject the application or appeal to postponement, dismissal or denial. The public meeting 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. Individuals and organizations interested in any application may submit written comments to the Board.

An applicant is not required to attend for the decision, but it is recommended so that they may offer clarifications should the Board have questions about the case.

BZA PUBLIC MEETING NOTICE

MARCH 11, 2020

PAGE NO. 2

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

The application will remain on the Expedited Review Calendar unless a request for party status is filed in opposition, or if a request to remove the application from the agenda is made by: (1) a Board member; (2) OP; (3) an affected ANC or affected Single Member District; (4) the Councilmember representing the area in which the property is located, or representing an area located within two-hundred feet of the property; or (5) an owner or occupant of any property located within 200 feet of the property.

The removal of the application from the Expedited Review Calendar will be announced as a preliminary matter on the scheduled decision date and then rescheduled for a public hearing on a later date. Notice of the rescheduled hearing will be posted on the Office of Zoning website calendar at <http://dcoz.dc.gov/bza/calendar.shtm> and on a revised public hearing notice in the OZ office. If an applicant fails to appear at the public hearing, this application may be dismissed.

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

Do you need assistance to participate?

Amharic

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

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

0312 ወይም በኤሜል 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

BZA PUBLIC MEETING NOTICE

MARCH 11, 2020

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

ZONING COMMISSION ORDER NO. 08-07E
Z.C. Case No. 08-07E
Four Points Development, LLC
(Two-Year Time Extension for PUD @ Squares 5783 and 5785)
June 24, 2019

Pursuant to notice, at a public meeting held on June 24, 2019, the Zoning Commission for the District of Columbia (the “Commission”) considered the request of Four Points Development, LLC (the “Applicant”) for a two-year time extension of the May 22, 2019 deadline to file an application for a second-stage planned unit development (“PUD”) established by the first-stage PUD approval granted by Z.C. Order Nos. 08-07 (the “Original Order”), and 08-07A, for part of Lot 906 in Square 5785, and Lot 1018 in Square 5783 (collectively, the “Property”). The Commission reviewed the application pursuant to the Commission’s Rules of Practice and Procedures, which are codified in Subtitle Z of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

1. By the Original Order, effective on October 25, 2013, the Commission granted the Applicant approval of a first-stage PUD for the Property, composed of three phases covering eight buildings.
2. The parties to the Original Order were the Applicant and Advisory Neighborhood Commission (“ANC”) 8A.
3. The Original Order established a four-year period starting from the effective date of the order granting approval of a second-stage PUD for Phase I, within which the Applicant had to file an application for a second-stage PUD for Phase II. (Original Order, Condition D.2(b).)
4. The Commission approved a second-stage for Phase I in Z.C. Order No. 08-07A, effective May 22, 2015. As a result, the deadline for filing a second-stage PUD application for Phase II was set for May 22, 2019.
5. Phase II of the PUD involves the construction of three proposed buildings:
 - Building 2 as a commercial office building;
 - Building 4 as a mixed-use building with a mix of office and retail uses; and
 - Building 5 as a mixed-use building containing a mix of retail and residential uses.
6. The Commission approved a second-stage PUD for Building 4 in Z.C. Order No. 08-07C,¹ effective November 9, 2018. On December 17, 2018, the Commission denied a motion for

¹ Z.C. Case No. 08-07B was filed as a second-stage PUD and PUD modification for Buildings 4, 8, and 9, but was abandoned without a hearing being held.

reconsideration of the original approval and issued Z.C. Order No. 08-07C(1), effective on February 1, 2019. (Exhibit [“Ex.”] 1D.)

7. Z.C. Order Nos. 08-07C and 08-07C(1) have both been appealed to the D.C. Court of Appeals (Case Nos. 18-AA-1261 and 19-AA-0139) and are currently pending. (Ex. 1D.)
8. Z.C. Order No. 08-07D extended the deadline established by the Original Order to file a second-stage PUD application for Phase I.

The Application

9. On May 20, 2019, within the four-year period established by Z.C. Order No. 08-07, the Applicant filed an application requesting a two-year extension of the May 22, 2019 deadline to file a second-stage PUD application for Buildings 2 and 5 in Phase II (the “Application”).
10. The Application included a Certificate of Service attesting to service on the only other party to the Original Order, ANC 8A, on May 20, 2019. (Ex. 1.)
11. The Application asserted that no substantial change had occurred in any of the material facts on which the Commission had relied in approving the first-stage PUD approval for the Property in the Original Order.
12. The Application justified the requested time extension due to the delays caused by the pending litigation of Z.C. Order Nos. 08-07C and 08-07C(1) concerning Building 4. The Application stated that the Applicant is suspending subsequent PUD phases until the litigation is resolved. The Application further notes that the Applicant has filed motions for leave to intervene in both appeals and is following the timelines set by the D.C. Court of Appeals. (Ex. 1D, 1G-H.)

Responses to the Application

Office of Planning (“OP”)

13. OP submitted a June 11, 2019, report recommending approval of the Application (the “OP Report”). (Ex. 4.) The OP Report stated that no substantial change had occurred to the material facts upon which the Commission had relied in issuing the Original Order and concluded that the Applicant satisfied the relevant standards of Subtitle Z § 705.2.

ANC 8A

14. ANC 8A did not provide a formal report in response to the Application. However, the Single Member District (“SMD”) Commissioner 8A06, Ty’on Jones, whose SMD boundaries include the property, did submit a letter stating that he had met with the Applicant and discussed the Application, and that he was personally supportive of the Application. Mr. Jones also noted that due to respective schedules of the ANC and Commission, the Applicant had been unable to present to the full ANC in advance of the Commission’s June 24, 2019 meeting. (Ex. 5.)

CONCLUSIONS OF LAW

1. Subtitle Z § 705.2 authorizes the Commission to extend the time period of an order approving a PUD upon determining that the time extension request demonstrated satisfaction of the requirements of Subtitle Z § 705.2 and compliance with the limitations of Subtitle Z §§ 705.3, 705.5, and 705.6.
2. The Commission concludes that the Applicant timely filed the Application on May 20, 2019, prior to the May 22, 2019 deadline for filing a second-stage PUD application that the Application seeks to extend.
3. Subtitle Z § 705.2(a) requires that an Applicant serve the extension request on all parties and that all parties are allowed 30 days to respond.
4. The Commission concludes that the Applicant has satisfied Subtitle Z § 705.2(a) by demonstrating that it had served the only other party to the Original Order – ANC 8A – and that the ANC was given 30 days to respond from the May 20, 2019 date of service. While ANC 8A did not submit a formal report to the record, the Commission noted that it appreciated the clarification provided by the SMD Commissioner’s letter, which demonstrated that the ANC did receive proper notice of the Application. (June 24, 2019 Public Meeting Transcript at 4-5.)
5. Subtitle Z § 705.2(b) requires that the Commission find that there is no substantial change in any of the material facts upon which the Commission based its original approval of the PUD that would undermine the Commission’s justification for approving the PUD.
6. The Commission concludes that the Application satisfied Subtitle Z § 705.2(b) based on the Application and the OP Report.
7. Subtitle Z § 705.2(c) requires that an application demonstrate with substantial evidence one or more of the following criteria:
 - (1) *An inability to obtain sufficient project financing for the development, following an applicant’s diligent good faith efforts to obtain such financing because of changes in economic and market conditions beyond the applicant’s reasonable control;*
 - (2) *An inability to secure all required governmental agency approvals for a development by the expiration date of the PUD order because of delays in the governmental agency approval process that are beyond the applicant’s reasonable control; or*
 - (3) *The existence of pending litigation or such other condition, circumstance, or factor beyond the applicant’s reasonable control that renders the applicant unable to comply with the time limits of the order.*

8. The Commission concludes that the Application met the standard of Subtitle Z § 705.2(c)(3) because the PUD is subject to pending litigation in the D.C. Court of Appeals that is beyond the Applicant's reasonable control.

“Great Weight” to the Recommendations of OP

9. D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Z § 405.8 require the Commission to give “great weight” to the recommendations contained in the OP Report.
10. The Commission found OP's recommendation to approve the Application persuasive and concurred in that judgment.

“Great Weight” to the Written Report of the ANC

11. The Commission must give “great weight” to the issues and concerns raised in a written report of the 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 the great weight requirement, the Commission 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).)
12. Since ANC 8A did not submit a formal written report in this matter, there is nothing to which the Commission can give “great weight.” Nonetheless, the Commission notes that the SMD supported the Application.

DECISION

In consideration of the case record and Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application's request to extend the deadline established by Z.C. Order Nos. 08-07 and 08-07A, to file second-stage PUD applications for Buildings 2 and 5 in Phase II by two years, to May 22, 2021.

VOTE (June 24, 2019): **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to **APPROVE**).

In accordance with the provisions of Subtitle Z § 604.9, this Order 08-07E shall become final and effective upon publication in the *D.C. Register*; that is, on January 17, 2020.

BY ORDER OF THE D.C. ZONING COMMISSION

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

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE §§ 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

ZONING COMMISSION ORDER NO. 18-13**Z.C. Case No. 18-13****TM Jacob, LLC****(CG Zone Design Review @ Square 656, Lot 53 [1530 First Street, S.W.]****March 11, 2019**

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on November 15, 2018, to consider the application (the "Application") of TM Jacob, LLC (the "Applicant") for design review approval of a new 100% affordable residential building in Lot 53 in Square 656 (the "Property") in the CG-4 zone. The Applicant requested design review with variance and special exception relief pursuant to Subtitle K §§ 512.1, 512.2, and 512.7 and Subtitle X § 604 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) The public hearing was conducted in accordance with the provisions of Subtitles X and Y. For the reasons stated below, the Commission hereby **APPROVES** the Application.

FINDINGS OF FACT**Notice**

1. On June 19, 2018, the Applicant filed a notice of intent to file a design review application pursuant to Subtitle Z § 301.6. (Exhibit ["Ex."] 2E)
2. On August 10, 2018, the Applicant filed the Application. (Ex. 1-5.)
3. OZ referred the application to the National Capital Planning Commission ("NCPC"), and gave notice of the November 15, 2018 public hearing (the "Hearing") by mail to:
 - Advisory Neighborhood Commission ("ANC") 6D, the "affected ANC" per Subtitle Z § 101.8;
 - The Office of Planning ("OP");
 - The District Department of Transportation ("DDOT");
 - The D.C. Council;
 - The Department of Consumer and Regulatory Affairs ("DCRA");
 - The Office of the Attorney General;
 - The Department of Energy and Environment ("DOEE");
 - The District of Columbia Housing Authority; and
 - The owners of property within 200 feet of the Property and in the *D.C. Register*.
4. The Applicant provided evidence that notice of the Hearing was posted on the Property on October 5, 2018. (Ex. 7, 12, 17.)

Parties

5. The Applicant and the ANC were automatically parties pursuant to Subtitle Z §§ 101.8, 403.5, and 404.1.

6. On September 6, 2018, Hosea McClain, *et al.* (“McClain”) submitted an application for party status in opposition with a request for advanced consideration (“Original Party Status Request”). (Ex. 9.)
7. On October 19, 2018, McClain withdrew the Original Party Status Request, prior to Commission consideration of the request. (Ex. 9A.)
8. On November 1, 2018, McClain submitted a revised application for party status in opposition (“Revised Party Status Request”). (Ex. 23.)
9. On November 4, 2018, McClain withdrew the Revised Party Status Request, prior to the Commission’s consideration of the request. (Ex. 32.)
10. No other party status requests were filed; the only parties to the case were the Applicant and the ANC. (Ex. 32, 37.)

The Property

11. The Property is located at 1530 First Street, S.W. (Square 656, Lot 53), approximately mid-block on the east side of First Street, S.W. between P Street, S.W. to the north, and Q Street S.W. to the south. (Ex. 2, 2B.)
12. The Property has a land area of approximately 13,265.53 square feet. (Ex. 38.)
13. The Property is presently improved with a former private school building, which is currently vacant. (Ex. 2, 29.)
14. The Property is located two blocks west of South Capitol Street. To the north is a series of three-story apartment buildings. Fort McNair is located approximately two blocks to the west of the Property. Nationals Stadium is also approximately two blocks northeast of the Property, and the area in between the stadium and the Property includes a mix of commercial and residential uses. The area south of Q Street includes numerous industrial uses, vacant properties, single-family row houses, the Pepco Waterfront Substation, and Audi Field. (Ex. 2, 29.)
15. To the south is 1542-1550 First Street, S.W., which was approved in 2017 under ZC Case No. 17-13 for construction of a mixed-use building of 100 feet in height (“Phase I Building”). The Phase I Building shares a lot line with the Property. The Application is a companion project to the Phase I Building. (Ex. 2.)
16. The Property is located within 0.5 miles of the Waterfront-SEU Metrorail Station, serviced by the green line, Metrobus service stops in close proximity, and two Capitol Bikeshare stations within 0.2 miles. (Ex. 18.)
17. The Property is located in the Capitol Gateway, CG-4 zone. (Ex. 2B, 29.)

18. The CG-4 zone “is intended to permit medium- to high-density mixed-use development with a balance of uses conducive to a higher quality of life and environment for residents, businesses, employees, and institutions; encourage provision of active pedestrian-oriented streets with active ground floor uses, particularly along specified primary streets; and promote pedestrian safety by separating pedestrian and vehicular circulation patterns.” (Subtitle K § 504.1; Ex. 2, 29.)

Application - Initial Submission

19. The Application proposed to construct a mixed-use building (the “Building”) that includes approximately 96,968 square feet of residential uses, approximately 7,698 square feet of ground-floor commercial uses, and the remainder as building service areas (the “Project”). (Ex. 2D2.)
20. The ground-floor will contain neighborhood-serving commercial uses from one or more of the following commercial use groups:
- (a) Office (Subtitle B § 200.2(x));
 - (b) Retail (Subtitle B § 200.2(cc));
 - (c) Services, General (Subtitle B § 200.2(dd));
 - (d) Services, Financial (Subtitle B § 200.2(ee)); and
 - (e) Eating and Drinking Establishments (Subtitle B § 200.2(j)).
- (Ex. 21, 29, 38C1-C2.)
21. The Building would include approximately 101 residential units, comprised of 46 one-bedroom units, 37 two-bedroom units, 10 three-bedroom units, and 8 four-bedroom units. (Ex. 2, 38C.)
22. Eighty of the units will be reserved for households with incomes not exceeding 50% of median family income (“MFI”) and 21 of the units will be reserved for households with incomes not exceeding 30% MFI. (Ex. 2, 21, 26, 29.)
23. The residents of the 21 units reserved for households with incomes not exceeding 30% MFI will be referred through the District’s Coordinated Entry System. These residents will be provided with Permanent Supportive Housing (“PSH”) services and will receive on-site case management services designed to help them attain self-sufficiency. Case management will be provided according to the Department of Human Services (“DHS”) PSH standards. United Planning Organization’s Community Development Corporation (“UPO CDC”) will conduct monthly home visits to ensure residents are following their specified plan and are living in a safe environment. (Ex. 21, 26, 29.)

24. The Project is proposed to be exempt from the Inclusionary Zoning (“IZ”) requirements based on anticipated Housing Production Trust Fund (“HPTF”) funding and would be exempt for the 40-year HPTF affordability period. (Ex. 21, 26, 29.) The Project would be required to remain IZ-compliant after the 40-year HPTF affordability period expires, as the Applicant is taking advantage of bonus density available to IZ projects in the CG-4 zone (Subtitle K § 504.3). The exemptions will be determined at building permit issuance.
25. The Application is proposed to pursue LEED-Silver certification for the Building under LEED v4, consistent with the Green Building Act and the Department of Housing and Community Development’s funding requirements. The Building includes a green roof and potentially, solar panels on the Building’s roof. (Ex. 26, 29.)
26. The Building is proposed to have 18 below-grade parking spaces and one ADA-compliant van space, which will be accessible from an existing public alley to the rear of the Property. Two of the parking spaces will be reserved for car-sharing services, each of which may count as three required parking spaces, per Subtitle C § 708.2, resulting in a total of 23 parking spaces, including one ADA-compliant space. No curb cuts are proposed. (Ex. 18, 38C1-C2.)
27. The Project will have a maximum building height of 100 feet and an overall floor area ratio (“FAR”) of 7.77. (Ex. 38C1-C2.) The CG-4 zone permits a maximum height of 100 feet and 8.2 FAR with IZ on the Property. (Subtitle K §§ 504.4, 504.3.)
28. The Application is proposed to have a penthouse with the maximum height of 17 feet, as measured to the top of the mechanical screening. The penthouse will be set back at least 1:1 to the front (10’3”), rear (10’3”), and northern side (10’8”) of the Project. (Subtitle C § 1502.1.) No penthouse setback is required on the southern side of the Project. The proposed 3-foot, 6-inch railing along the front of the penthouse will be set back 4 feet, 8 inches from the front building wall of the roof on which it is located, in conformance with the front setback requirements. (Ex. 38C1-C2.)
29. The Application is proposed to have one 21-foot, 6-inch-service/delivery space and a 100-square-foot loading platform, accessed from the alley to the rear of the Property. This design allows vehicles to access the loading area without traversing the adjacent property at 1515 Half Street, S.W. (Ex. 38A1-A2, 38C1-C2.)
30. One 30-foot loading berth, one 100-square-foot loading platform, and one 20-foot service/delivery space are required for the residential portion of the Project. (Subtitle C § 901.1.)
31. The Application proposed no plaza for the Project due to site constraints. (Ex. 26.)
32. The Applicant is required to provide a plaza immediately adjacent to the main entrance to the Building, comprising eight percent of the lot area because the Property is more than 10,000 square feet. (Subtitle K § 504.13, Subtitle C § 1701.)

33. The Application is proposed to comply with the lot occupancy requirements of Subtitle K § 504.6 that limit lot occupancy to 80%, except for the third floor which has a lot occupancy of 80.67%. (Ex. 38C1-C2.)
34. The Project is proposed to include three closed courts:
- (a) The North Court is 99.58 feet in height, measures approximately 89 feet in width, and contains 534 square feet in area. Based on the height of the court, the minimum width required is 33.2 feet, and the requirement is satisfied. However, the area of the closed court is less than twice the square of the required width of court dimension; (Ex. 2, 38C1-C2.)
 - (b) The lower court of the South Courts is 99.58 feet in height, 27.66 feet in width, and contains approximately 226 square feet of area; and (Ex. 2, 38C1-C2.)
 - (c) The upper court of the South Courts begins on the third floor, and has a height of 89.58 feet, a width of 37.66 feet, and an area of 369 square feet. While the upper court meets the required width, the area is less than twice the square of the required width of court dimension. (Ex. 2, 38C1-C2.)
35. The minimum width of a closed court for a residential use must equal 4 inches per foot of building height, but not less than 15 feet. The minimum area of a closed court for a residential use must equal twice the square of the required court width dimension, but not less than 350 square feet. (Subtitle K § 504.10.)
36. The Application provided a Comprehensive Transportation Review (“CTR”) dated September 27, 2018, prepared by Gorove/Slade Associates, Inc. which found that the Project and requested relief would not have a detrimental impact to the surrounding transportation network as long as the Project implemented the Transportation Demand Management Plan (“TDM”) and the Loading Demand Management Plan (“LDM”) detailed below: (Ex. 18.)¹
- (a) Applicant’s TDM Plan:
 - The Applicant shall identify a TDM Leader (for planning, construction, and operations) at the building, who will act as a point of contact with DDOT/Zoning Enforcement and shall provide annual updates to residents, and other interested individuals. The TDM Leader shall work with residents to distribute and market various transportation alternatives and options;
 - The Applicant shall provide TDM materials to new residents in the Residential Welcome Package materials;

¹ The Applicant’s CTR noted that it was based on the Applicant’s adjusted LDM Plan and would be able to provide the required 20-foot service/delivery space and 100-square-foot loading platform instead of the previously proposed 30-foot loading space but would still require loading relief due to the inability to provide a separate 30-foot dedicated loading space. (Ex. 18.)

- The Applicant shall meet zoning requirements by providing approximately 45 long-term bicycle parking spaces in the building garage;
- Eight short-term bicycle parking spaces shall be provided along First Street, meeting zoning requirements;
- All parking on site shall be priced at market rates, at minimum, defined as the average cost for parking in a quarter-mile radius from the site;
- The Applicant shall unbundle the cost of residential parking from the cost of lease or purchase of each unit;
- The Applicant shall provide each unit's incoming residents with a \$100 SmarTrip Card. A proactive marketing strategy will be provided to ensure residents are aware of this benefit;
- The Applicant shall provide a bicycle repair station to be located in the secure long-term bicycle storage room;
- The Applicant shall provide an on-site business center to residents with access to copier, fax, and internet services; and
- The Applicant shall install a Transportation Information Center Display (electronic screen) within the residential lobbies containing information related to local transportation alternatives.

(b) Applicant's Loading Management Plan:

- A loading manager shall be designated by the building management. The manager shall coordinate with residents to schedule deliveries and will be on duty during delivery hours. The loading manager shall oversee both the rear loading area and any loading that would need to occur on First Street;
- Trucks utilizing the loading area shall be restricted to 23 feet in length. The few trucks longer than 23 feet shall be required to load curbside utilizing the metered spaces on First Street;
- Residents shall be required to schedule move-ins and move-outs with the loading manager through leasing regulations;
- The loading manager shall coordinate with trash pick-up to minimize the time trash trucks need to use the loading area. Trash services shall be serviced by a private company that utilizes trash trucks able to be accommodated in the loading area provided on site;
- All trucks accessing the property shall not idle and must follow all District guidelines for heavy vehicle operation including but not limited to the Air Quality Regulations (Chapter 9 § 900 of Title 20 of the District of Columbia Municipal Regulations), the recommendations set forth in DDOT's Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route System; and
- The loading manager shall be responsible for disseminating DDOT's Freight Management and Commercial Vehicle Operations document to drivers as needed to encourage compliance with District laws and DDOT's truck routes. The loading manager shall also post these documents in a prominent location.

Application - First Revision

37. On October 26, 2018, the Applicant submitted its 20-Day Supplemental Statement, including: (Ex. 21A1-21A2.)
- (a) Revised architectural drawings showing updated gross floor area calculations of approximately 96,942 square feet of gross floor area for residential use and 7,052 square feet of gross floor area for ground-floor commercial uses, and updated number of parking spaces provided to 23 spaces;
 - (b) Explanation of the revised loading variance relief noting that the Project would provide one 21-foot, 6-inch-service space and one 100-square-foot loading platform at the rear of the Building but would still require relief from the requirement to provide one 30-foot-loading berth; and
 - (c) An update on the Applicant's community outreach efforts.

Application - Second Revision

38. On November 2, 2018, the Applicant submitted a Supplemental Statement, including: (Ex. 26, 26A1-A2.)
- (a) Variance request from the plaza requirements; and
 - (b) Revised architectural drawings including:
 - IZ analysis sheet;
 - Clarifications of the north elevation showing 'at-risk' windows;
 - Zoning information sheet;
 - Building signage details;
 - Revisions and clarifications to the First Street, S.W. Streetscape Improvements; and
 - A LEED scorecard tabulation sheet for the proposed LEED-Silver certification.

Application - Third Revision

39. On December 3, 2018, as requested by OP and the Commission at the Hearing, the Applicant submitted a set of revised plans, which included a revised lot area calculation of 13,266 square feet. (Ex. 38, 38C1-38C2.) The revised plans also showed updated gross floor area calculations of approximately 96,927 square feet of gross floor area for residential use and 7,085 square feet for ground-floor commercial uses.

Zoning Relief Requested

40. The Applicant seeks variance and special exception relief pursuant to Subtitle K § 512.7 and Subtitle X §§ 902.1 and 1002.1 from the following sections:

Variance from Residential Loading Requirements (Subtitle C § 901.1)

41. The Application asserts that it meets the variance requirements for the loading relief because:

- (a) The Property is relatively narrow and provides limited street frontage on First Street. The Applicant has also indicated that DDOT would be unlikely to approve a curb cut on the front of the Property. In addition, the public alley at the rear of the property only extends along approximately 25% of the rear of the Building;
- (b) Given the current configuration of the Property, the Applicant would be unable to provide the required rear loading access in a manner that would comply with DDOT standards. Providing access from the front of the property would necessitate the redesign of the Building and would limit the space available for commercial uses; and
- (c) The proposed loading/service area will be sufficient to serve the needs of the residential use and notes that loading is not required for the proposed commercial uses. Further, the application asserts that the proposed design will minimize pedestrian-vehicular conflicts.

(Ex. 1, 2, 29.)

Variance from the Plaza Requirements (Subtitle K § 504.13)

42. The Application asserts that it meets the variance criteria for the plaza relief because: (Ex. 26, 29.)

- (a) The combination of the Property's narrow street frontage and the existing wide public space/sidewalk area – approximately 28 feet from the curb to the property line – would necessitate pulling the ground floor in an additional 14 feet from the property line in order to provide a plaza space comprising eight percent of the total lot area;
- (b) Providing this plaza area would both restrict the Applicant's ability to provide successful commercial space on the ground floor and would also result in an excessively wide 42-foot open area in front of the Building which would result in a jagged and uninviting streetscape; and.
- (c) The Building as currently designed does not impair the intent or purpose of the Zoning regulations and will provide a considerable amount of attractive and usable public space in front of the Building.

Special Exception from the Lot Occupancy Requirements (Subtitle K § 504.6)

43. The Application asserts that it meets the special exception requirements for the lot occupancy relief because: (Ex. 1, 2, 29.)

- (a) The Building is being constructed in accordance with the purpose and intent of the Capitol Gateway Zone, and the Citywide and Area elements of the Comprehensive Plan ("CP," Title 10-A of the District of Columbia Municipal Regulations); and

- (b) The additional bulk will not result in any adverse impacts on the neighboring properties because the Building has staggered the façade through bays, projections, and recesses to incorporate the Building with the surrounding structures.

Special Exception from the Court Requirements (Subtitle K § 504.10)

44. The Applicant asserts that it meets the special exception requirements for the court requirement relief because: (Ex. 1, 2, 29.)

- (a) The Building is being constructed in accordance with the purpose and intent of the Capitol Gateway Zone, and the CP's Citywide and Area elements; and
- (b) The non-compliant courts will not adversely impact the neighboring properties in terms of privacy, light, air, or noise.

45. The Application also seeks design flexibility from the Final Plans. (Ex. 2.)

Responses to the Application

OP Report

46. By report dated November 8, 2018 (the "OP Report"), OP recommended approval of the Application including the requested variance and special exception relief pending the Applicant's provision of: (Ex. 29.)

- (a) Detailed building signage plan, including the residential lobby entrance and retail areas;
- (b) Revision of the First Street, S.W. streetscape improvements to conform to the Buzzard Point Streetscape Design Guidelines, including revisions to the sidewalk treatment and brick planters and seating in public space;
- (c) Examination of whether the green features of the building can be enhanced, including LEED-Gold and rooftop solar; and
- (d) A color and materials board.

DDOT Report

47. By report dated November 1, 2018 (the "DDOT Report"), DDOT stated that it has no objection to the Application including the requested zoning relief provided the Applicant implement the proposed TDM Plan and LDM Plan contained in the Applicant's CTR, subject to proposed revisions by DDOT in its report. (Ex. 18, 22.)

48. DDOT's proposed revisions included the installation of at least one electric vehicle charging station in the parking garage and the following regarding the Applicant's proposed TDM plan:

- (a) Work with DDOT and goDCgo, DDOT's TDM program to implement TDM measures at the site;

- (b) Share the full contact information of the TDM coordinator for the site with DDOT and goDCgo;
 - (c) Provide at least two shopping carts for residential use; and
 - (d) Offer residents either an annual carshare or Capital Bikeshare membership for a period of three years.
49. DDOT's Report also proposed the following revisions to the Applicant's proposed Loading Management Plan:
- (a) Schedule deliveries such that the dock's capacity is not exceeded. In the event that an unscheduled delivery vehicle arrives while the dock is full, that driver will be directed to return at a later time when a berth will be available so as not to compromise safety or impede street or intersection function;
 - (b) Schedule residential loading activities so as not to conflict with retail deliveries. All residential loading will need to be scheduled with the dock manager;
 - (c) Monitor inbound and outbound truck maneuvers and will ensure that trucks accessing the loading dock do not block vehicular, bike, or pedestrian traffic except during those times when a truck is actively entering or exiting a loading berth; and
 - (d) Prohibit the scheduling of residential move-ins/move-outs within three hours of a scheduled event at Audi Field of at least 10,000 attendees.

ANC Report

50. ANC 6D submitted a resolution in support of the Project dated November 12, 2018 (the "ANC Report"), indicating that at its regularly scheduled and duly noticed public meeting of October 15, 2018, at which a quorum of commissioners was present, the ANC voted to support the Application, subject to submission of certain documents: (Ex. 30.)
- (a) A signed neighbor agreement with the ANC;
 - (b) A parking plan;
 - (c) A Dust and Air Quality Plan; and
 - (d) A neighbor agreement with 69 Q Street, S.W.
51. The ANC Report stated that "[t]he ANC is extremely impressed with the Applicant's proposal for a 100% affordable housing project at 1530 1st Street SW. Affordable housing options are desperately needed in our community and throughout the city as the demand for affordable housing far exceeds the existing supply. The creation of 101 affordable housing units at this site is greatly appreciated by the ANC." (Ex. 30.)

52. On November 13, 2018, prior to the Hearing, the Applicant submitted a signed Memorandum of Agreement (“MOA”) between the ANC and the Applicant, for the benefit of neighbors listed therein, addressing a number of issues related to the project. (Ex. 31.) In response to the specific concerns raised by the ANC, the Applicant agreed to the following:
- (a) The Applicant will use all commercially reasonable efforts to minimize the generation of dust during the razing of the existing building and during construction;
 - (b) The Applicant will clean the exterior windows of adjoining properties semi-annually during construction and clean the exterior of adjoining properties at the end of construction; and
 - (c) The Applicant will coordinate with the developer of 69 Q Street, S.W. to provide air quality monitoring and implementation of an air quality monitoring process during the construction process.
53. On November 15, 2018, ANC Commissioner Moffatt submitted written testimony on behalf of the ANC reiterating the ANC’s support for the Application and authorizing him to testify in the place of Commissioner Rhonda Hamilton. Commissioner Moffatt noted that the Applicant and the ANC had entered into a MOA regarding the Project but noted that the Parking Plan address the limited amount of on-site parking was still outstanding. (Ex. 36.)

Hearing of November 15, 2018

54. At the Hearing, the Commission accepted Sean Pichon of PGN Architects as an expert in Architecture, Erwin Andres of Gorove Slade Associates as an expert in Transportation, and Stephen Varga of Cozen O’Connor as an expert in Land Use. Neil Mutreja of T.M. Associates and Wendell Smith of UPO were available for questions. (November 15, 2018 Public Hearing Transcript [“Nov. Tr.”], at 6.)
55. At the Hearing, the Applicant provided a presentation containing a detailed building signage plan and a revision of the streetscape provisions demonstrating conformance with the Buzzard Point Streetscape Design Guidelines. (Ex. 33A1-33A3.) The Applicant also brought a color and materials board for the Zoning Commission’s inspection. (Nov. Tr. at 10.)
56. The Applicant presented evidence of its prior discussions with DOEE on the viability of green building enhancements, provision of rooftop solar and funding options. (Nov. Tr. at 16-17.)
57. At the Hearing and in its post-hearing submissions, the Applicant provided an updated zoning tabulation, which reconciled the inconsistent project details OP noted in its November 8, 2018 report regarding the changes in lot area, gross floor area, the square footage for the residential and commercial areas, FAR, lot occupancy, the square footage

- of the public plaza, and the number of long-term bicycle spaces provided. (Ex. 29, 38; Nov. Tr. at 27.)
58. Elisa Vitale of OP testified in support of the Application. Ms. Vitale noted that the Applicant had provided responses to the requests for additional information raised in the OP Report. Ms. Vitale also noted that OP recommended that the Applicant continue to work with DOEE on the potential for rooftop solar and with DDOT on the public space process. (Nov. Tr. at 26-27.)
59. Jonathan Rogers of DDOT also testified in support of the application at the Hearing but noted that DDOT had some outstanding comments and questions for the Applicant, including: (Nov. Tr. 29-30.)
- (a) Mr. Rogers noted that the Project was largely consistent with DDOT's public space standards but that the public space permitting process was still ongoing;
 - (b) Mr. Rogers sought confirmation from the Applicant as to whether it would accept DDOT's recommended changes and additions to the proposed TDM Plan;
 - (c) Mr. Rogers sought confirmation as to the number of long-term bicycle spaces that were proposed; and
 - (d) Finally, Mr. Rogers noted that DDOT intended to continue working with the Applicant to refine the proposed LDM Plan and loading maneuvers.
60. ANC Commissioner Roger Moffatt testified in support of the Application at the Hearing and noted that the MOU satisfied the majority of the ANC's concerns, but that the Applicant still needed to work with the ANC on the parking plan. (Nov. Tr. at 34.) The MOA fulfills ANC 6D's request that the Applicant submit and sign a neighbor agreement as confirmed by ANC 6D during the public hearing on November 15, 2018. (Nov. Tr. at 37.)
61. No persons testified in opposition to the Application at the Hearing.
62. The Commission determined that there were three remaining issues that the Applicant needed to address:
- (a) The Commission determined that trucks would need to cross the adjacent property line to access the loading area to the rear of the Project. Accordingly, the Commission requested that the Applicant obtain an easement from the adjacent neighbor to allow access over that property line or, alternatively, update the loading design to obviate the need to cross the lot line; (Nov. Tr. at 24.)
 - (b) The Commission also directed the Applicant to finalize the Parking Plan with the ANC; and (Nov. Tr. at 43.)

- (c) Finally, the Commission requested clarification on the viability of enhanced environmental improvements recommended by DOEE. (Nov. Tr. at 45.)
63. The record was closed at the conclusion of the Hearing, except to receive additional submissions from the Applicant, as requested by the Commission, and responses thereto from DDOT, OP, and ANC 6D, if desired. (Nov. Tr. at 46-48.)

Post-Hearing Submissions

64. On December 3, 2018, the Applicant submitted its post-hearing submission addressing the comments from the Commission, OP, and the ANC. (Ex. 38-38C2.)
65. As directed by the Commission, the Applicant contacted the adjacent property owner to determine whether the Applicant could secure an easement over the adjacent property's lot line. (Ex. 38.) The Applicant stated that it was unable to come to an agreement with the neighboring property owner regarding an easement for access to the Project's loading area. Accordingly, the Applicant stated that it will incorporate the adjusted loading design, which does not require traversing the adjacent property. (Ex. 38A1-38A2.)
66. The Applicant also supplied a Supplemental Statement from Gorove/Slade agreeing to and incorporating the additional TDM and LDM Plan measures identified in the DDOT report. Specifically, the Applicant added the following measures to its TDM and Loading Management Plans: (Ex. 22, 38B.)
- (a) Applicant's TDM Plan Additions:
- The Applicant will work with DDOT and goDCgo, DDOT's TDM program to implement TDM measures at the site;
 - The Applicant will share the full contact information of the TDM coordinator for the site with DDOT and goDCgo;
 - The Applicant will provide at least two shopping carts for residential use; and
 - The Applicant will offer residents either an annual carshare or Capital Bikeshare membership for a period of three years; and
- (b) Applicant's LDM Plan Additions:
- Schedule deliveries such that the dock's capacity is not exceeded. In the event that an unscheduled delivery vehicle arrives while the dock is full, that driver will be directed to return at a later time when a berth will be available so as to compromise safety or impede street or intersection function;
 - Schedule residential loading activities so as not to conflict with retail deliveries. All residential loading will need to be scheduled with the dock manager;
 - Monitor inbound and outbound truck maneuvers and ensure that trucks accessing the loading dock do not block vehicular, bike, or pedestrian traffic except during those times when a truck is actively entering or exiting a loading berth; and
 - Prohibit the scheduling of residential move-in/move-outs within three hours of a scheduled event at Audi Field of at least 10,000 attendees.

67. The Applicant also requested flexibility to the Final Plans to accommodate DDOT's loading access requirements. (Ex. 38.)
68. The Applicant also detailed discussions with the ANC concerning the requested parking plan. The Applicant asserted that it had reached a verbal agreement with the ANC to exclude the Project from DDOT's Residential Parking Permit ("RPP") program in satisfaction of the requested parking plan. The ANC was served with the Applicant's December 3, 2018 post-hearing filings and did not submit a response. (Ex. 38.)
69. The Applicant met with DOEE on November 13, 2018 to discuss the potential for adding solar energy panels to the Project. (Ex. 38.) Subsequently, DCSEU prepared an analysis of the energy savings available to the Project. The Applicant reached out to several solar companies and conducted meetings to determine the feasibility of the use of solar energy for the Project. The Applicant noted that discussions on the feasibility of incorporating solar energy remain ongoing. (Ex. 38.)
70. On March 4, 2019, DDOT submitted a supplemental report ("DDOT Supplemental Report") responding to the Applicant's post hearing submissions. The DDOT Supplemental Report concluded that the Application's adjusted loading designs were acceptable and also noted that while the District is unable to restrict individual properties from the RPP program, the Applicant would be able to institute this restriction through a lease provision. (Ex. 43.)

CONCLUSIONS OF LAW

Design Approval

1. Due to the Property's location in the Capitol Gateway Zone, it is subject to design review by the Commission pursuant to the general design review criteria of Subtitle X § 604 and the Capitol Gateway Zone specific criteria of Subtitle K § 512.
2. Pursuant to Subtitle X § 600.1, the purpose of the design review process is to:
 - (a) *Allow for special projects to be approved by the Zoning Commission after a public hearing and a finding of no adverse impact;*
 - (b) *Recognize that some areas of the District of Columbia warrant special attention due to particular or unique characteristics of an area or project;*
 - (c) *Permit some projects to voluntarily submit themselves for design review under this chapter in exchange for flexibility because the project is superior in design but does not need extra density;*
 - (d) *Promote high-quality, contextual design; and*

- (e) *Provide for flexibility in building bulk control, design, and site placement without an increase in density or a map amendment.*

General Design Review Criteria (Subtitle X § 604)

3. Subtitle X § 604 requires that in order for the Commission to approve a design review application it must:
- (a) Find that the proposed design review development is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site; (§ 604.5.)
 - (b) Find that the proposed design review development will not tend to affect adversely the use of neighboring property and meets the general special exception criteria of Subtitle X, Chapter 9; (§ 604.6)
 - (c) Review the urban design of the site and the building according to the design criteria in § 604.7; and
 - (d) Find that the criteria of Subtitle X § 604.7 are met in a way that is superior to any matter-of-right development possible on the site. (§ 604.8.)
4. The Commission concludes that the Application meets the general design review criteria as elaborated below.

Subtitle X § 604.5(a) - Development is Not Inconsistent with the Comprehensive Plan (CP) & Public Policies and Programs

Land Use Element (CP § 300.1)

5. The Commission concludes that the Project is not inconsistent with the Land Use Element because:
- (a) It will advance this element by redeveloping the vacant building into a new mixed-use project containing market-rate ground floor commercial use and affordable housing for low and very low-income households, including families, in a rapidly revitalizing area of the District that is close to Metrorail. Currently, the existing improvements on the Property do not take advantage of the potential for the site and are not compatible with the future vision for the neighborhood put forth by the District in the Buzzard Point Vision Framework and Design Guide (the “Buzzard Point Plan”);
 - (b) The proposed Project design will blend with the designs of market-rate projects that are underway or planned for the surrounding neighborhood, including the immediately adjacent Phase I Building. The Project is consistent with the CG-4 zoning of the Property, and the Medium Density Residential land use designation of the Comprehensive Plan (Policy LU-2.1.1: Multi-Family Neighborhoods) The height and massing of the Project will complement and be compatible with new

development that is contemplated to the south of the Property near the new Audi Field (Policy LU-1.4.1: Infill Development); and

- (c) The Application has taken steps to reduce the massing of the proposed building through projections, bays, recesses, and material changes to help soften the juxtaposition between the proposed building, the existing immediate context, and the adjacent property to the north which is zoned RF-1. In addition, the existing apartment building on adjacent lot to the north is set back from the Property's northern lot line by 29 feet.

Transportation Element (CP § 401.1)

6. The Commission concludes that the Project is not inconsistent with the policies contained within the Transportation Element of the Comprehensive Plan because of its close proximity to Metrorail and several Metrobus routes, and through the substantial pedestrian improvements that will be made to the public realm adjacent to the Property. (Policy T-1.1.4: Transit-Oriented Development, Policy T-2.4.1: Pedestrian Network, and Policy T-2.4.2: Pedestrian Safety.) The Project will also provide secure bicycle parking as required under the Zoning Regulations. (Action T-2.3.A: Bicycle Facilities.) Finally, the Project will encourage the expansion of car-sharing by devoting two parking spaces within the below-grade garage of the building to car share spaces. (Policy T-3.1.3: Car-Sharing.)

Housing Element (CP § 501.1)

7. The Commission concludes that the Project is not only "not inconsistent" with the policies of the Housing Element, but it will directly and substantially advance several policies that are aimed at addressing the District's affordable housing crisis. The Application will help the District achieve these policies by providing a mixed-use development that includes ground-floor commercial use and 101 units of low- and very-low income affordable housing, including larger family-sized 3- and 4-bedroom units, in a rapidly revitalizing area of the District that is close to public transportation. (Policy H-1.1.1: Private Sector Support, Policy H-1.1.3: Balanced Growth, Policy H-1.1.4: Mixed Use Development, Policy H-1.1.7: New Neighborhoods, Policy H-1.2.3: Mixed-Income Housing, and Policy H-1.3.1: Housing for Families.)

Environmental Protection Element (CP § 601.1)

8. The Commission concludes that the Project is not inconsistent with the policies of the Environmental Protection Element because:
 - (a) The Application will also improve environmental sustainability and storm water management on the Property by achieving a LEED-Silver designation under the LEED v.4 checklist for the Project;
 - (b) The Project will incorporate a large green roof system and, depending on feasibility, roof-mounted solar panels; and (Policy E-3.1.2: Using Landscaping and Green Roofs to Reduce Runoff and Policy E-3.2.1: Support for Green Building.)

- (c) The Project will help achieve these policies, in part, through the improvements that will be made to the public space surrounding the Property including adding several new street trees and planters. (Policy E-1.1.1: Street Tree Planting and Maintenance.)

Economic Development Element

9. The Commission concludes that the Project is not inconsistent with the policies of the Economic Development Element because the Project will provide positive economic benefit both through the ground floor commercial use that is proposed, and the on-site services that will be provided to the residents of the building, including monthly on-site financial education classes. In addition, UPO CDC will provide access to offsite services including various construction, culinary arts, hospitality, and emergency medical technician training classes at UPO CDC facilities within the District. (Policy ED-4.1.4: Adult Education, Policy ED-4.2.3: Focus on Economically Disadvantaged Populations, Policy ED-4.2.4: Neighborhood-Level Service Delivery).

Urban Design Element (CP § 901.1)

10. The Commission concludes that the Project will improve the urban design quality of First Street, S.W., a historic L'Enfant Plan street, by strengthening the street wall and respecting the right-of-way. (UD-1.1: Protecting the Integrity of Washington's Historic Plans and Policy, UD-1.1.2: Reinforcing the L'Enfant and McMillan Plans.) The Project will also improve the sense of identity for the Buzzard Point neighborhood which, as stated in the Buzzard Point Plan, is envisioned as an environmentally sustainable, vibrant, mixed-use neighborhood with improved pedestrian circulation, continuous access to the water, and new development opportunities that could increase the inventory of mixed-use development and affordable housing. (Buzzard Point Plan at 6-7.) The Project will advance this vision through the ground-floor retail and substantial affordable housing that is proposed, as well as its façade design and significant improvements to adjacent public space. (Policy UD-2.2.5: Creating Attractive Facades, Policy UD-3 .1.1: Improving Streetscape Design, Policy UD-3.1.7: Improving the Street Environment.) In addition, as addressed above, because the lot to the north is zoned RF-1 and improved with an existing apartment building set back from the Property's northern lot line by 29 feet, the Applicant has taken steps to design and articulate the building in a way that orients the tallest part of the Project to the south, thereby reducing the overall scale. (Policy UD-2.2.4: Transitions in Building Intensity.)

Historic Preservation Element (CP § 1001.1)

11. The Commission finds that the Project is not inconsistent with the policies contained within the Historic Preservation Element. The site of the Project is not a historic landmark, nor is it located within the boundaries of a historic district. Nonetheless, the Project will improve the spatial character and urban design quality of First Street, S.W., a L'Enfant Plan street, by strengthening the street wall, and respecting the right-of-way. (Policy HP-2.3.1: The Plan of the City of Washington, Policy HP-2.3.3: Spatial Character of L'Enfant Plan Streets, and Policy HP-2.3.4: Public Space Design in the L'Enfant Plan.)

Lower Anacostia Waterfront/Near Southwest Area Element (CP § 1900.1)

12. The Commission finds that the Project is not inconsistent with the policies of the Lower Anacostia Waterfront / Near Southwest Area Element because the Project will support the revitalization of the Buzzard Point neighborhood into a mixed-use neighborhood by adding new commercial uses and a substantial amount of affordable housing. (Policy AW-1.1.2: New Waterfront Neighborhoods, Policy AW-1.1.3: Waterfront Area Commercial Development, and Policy AW-2.2.7: Buzzard Point.)
13. Due to the wide range of topics addressed in the Comprehensive Plan, some Citywide Elements oftentimes are not necessarily applicable to a development project or are applicable to only a minor degree. Such is the case for the Project where the Parks, Open Space, and Recreation; Community Services and Facilities; Infrastructure; and the Arts and Culture Elements have little to no applicability. However, the Commission concludes that the project is not inconsistent with these elements because while the project does not enhance these elements it also does not contradict their intent. (CP §§ 800.1, 801.1, 1100.1, 1101.1, 1200.1, 1201.1, 1300.1, 1301.1, 1400.1, 1401.1.)

Subtitle X § 604.5(b) – Satisfaction of the General Special Exception Criteria*Subtitle X § 901.2(a) – In Harmony with the Purpose and Intent of the Zoning Regulations*

14. The Commission concludes that the Project will be harmonious with the general purpose and intent of the Zoning Regulations and Zoning Maps and generally comply with the Zoning Regulations in terms of development standards. The Applicant is only requesting zoning relief from the requirements for loading, lot occupancy (third story only), court, and the plaza.

Subtitle X § 901.2(b) – No Adverse Effects on Neighboring Properties:

15. The Commission also concludes that the Project will not adversely affect the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps because:
 - (a) The additional building bulk allowed by the requested relief is minimal;
 - (b) The Applicant has worked to stagger the building facades through projections, bays and recesses to vary and reduce the interplay between the Project and adjacent properties; and
 - (c) As shown in the Applicant's final architectural plans, the Project will be constructed of high-quality building materials and the Project will satisfy Buzzard Point streetscape guidelines ensuring that the Project is in harmony with the neighboring property and surrounding neighborhood.
16. The Commission accepts the Application's argument that the design mitigates the impacts of the non-conforming lot occupancy, plaza, and courts, and the approved TDM and LDM Plans will mitigate the loading relief.

Subtitle X § 604.5(c) – Consistency with the Urban Design Criteria

17. The Commission concludes that the Project meets the third prong of the general design review criteria because it is consistent with each of the urban design criteria listed in Subtitle X § 604.7 as follows.

X § 604.7(a) – Street frontages are designed to be safe, comfortable, and encourage pedestrian activity, including:

- (1) Multiple pedestrian entrances for large developments;*
- (2) Direct driveway or garage access to the street is discouraged;*
- (3) Commercial ground floors contain active uses with clear, inviting windows;*
- (4) Blank facades are prevented or minimized; and*
- (5) Wide sidewalks are provided:*

18. The street frontage along First Street, S.W. has been designed to be safe, comfortable, and encourage pedestrian activity. The Project includes access to the below-grade parking garage via a 16-foot-wide public alley located to the rear of the Property so pedestrian movements across the frontage of the Property will be protected. The Project includes ground floor commercial uses with a distinct entryway along First Street, S.W. The Project's ground floor includes active uses with clear, inviting windows. The Project's design has minimized blank façades. The Project's design also includes projections that help animate and enhance the building's design. The Project includes streetscape improvements such as new sidewalk paving and landscaping, which complement the improvements that are part of the Phase I Building, even absent the plaza space. The streetscape generally complies with the Buzzard Point Streetscape Design Guidelines. All public space improvements, including the width of the sidewalks, will comply with DDOT requirements.

X § 604.7(b) – Public gathering spaces and open spaces are encouraged, especially in the following situations:

- (1) Where neighborhood open space is lacking;*
- (2) Near transit stations or hubs; and*
- (3) When they can enhance existing parks and the waterfront:*

19. Outdoor seating is proposed in public space along First Street, S.W. in front of the building for use by the building's residential tenants, commercial tenants, and the surrounding community. The Project is not a waterfront development.

X § 604.7(c) - New development respects the historic character of Washington's neighborhoods, including:

- (1) Developments near the District's major boulevards and public spaces should reinforce the existing urban form;*
- (2) Infill development should respect, though need not imitate, the continuity of neighborhood architectural character; and*
- (3) Development should respect and protect key landscape vistas and axial views of landmarks and important places.*

20. Though the Property is not located along the District's major boulevards the proposed public space improvements still respect the existing urban form. The building's materials include red and ironspot brick, fiber cement, wood, and metal paneling, which are compatible with the neighborhood architecture in the surrounding Capitol Gateway Zone Districts, without imitating the architecture. The Project does not infringe on any key landscape vistas or axial views of landmarks and important places.

X § 604.7(d) - Buildings strive for attractive and inspired façade design that:

- (1) Reinforces the pedestrian realm with elevated detailing and design of first and second stories; and*
- (2) Incorporates contextual and quality building materials and fenestration.*

21. As shown on the Applicant's architectural plans, the ground floor includes active uses with inviting windows, and the upper stories are designed with numerous windows and a varied façade composed of high-quality materials. (Ex. 38C1-38C2.) The pedestrian area along First Street, S.W. will have outdoor seating and will be in line with the Buzzard Point streetscape guidelines, which will reinforce the pedestrian realm.

X § 604.7(e) – Sites are designed with sustainable landscaping:

22. As shown on the Applicant's architectural plans, the Project will include a green roof and a courtyard for residents, both designed with sustainable landscaping. (Ex. 38C1-38C2.) In addition, the streetscape along First Street will be designed with sustainable landscaping.

X § 604.7(f) – Sites are developed to promote connectivity both internally and with surrounding neighborhoods, including:

- (1) Pedestrian pathways through developments increase mobility and link neighborhoods to transit;*
- (2) The development incorporates transit and bicycle facilities and amenities;*
- (3) Streets, easements, and open spaces are designed to be safe and pedestrian friendly;*
- (4) Large sites are integrated into the surrounding community through street and pedestrian connections; and*
- (5) Waterfront development contains high quality trail and shoreline design as well as ensuring access and view corridors to the waterfront.*

23. Forty-five long-term bicycle parking spaces will be located in the below-grade parking garage, and a compliant number of short-term bicycle parking spaces will be provided along the front of the Project. A new Capital Bikeshare station is proposed to be constructed near the corner of First Street, S.W. and Q Street, S.W. (as part of the zoning approval of the Phase I Building in Z.C. Order 17-13), offering convenient access for residents and patrons of the Project who wish to bike to and from the Property. The Project is not a waterfront development.

Capital Gateway Zone Design Review

24. Pursuant to Subtitle K §§ 512.1©, 512.2, the proposed development at the Property is subject to design review and approval by the Commission since it is located in Square 656.

25. The Applicant must show that the proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will meet the requirements of Subtitle K § 512.3 which include:
- (a) *Help achieve the objectives of the Capitol Gateway defined in Subtitle K § 500.1;*
 - (b) *Help achieve the desired use mix, with the identified preferred uses specifically being residential, hotel or inn, cultural, entertainment, retail, or service uses;*
 - (c) *Be in context with the surrounding neighborhood and street patterns;*
 - (d) *Minimize conflict between vehicles and pedestrians;*
 - (e) *Minimize unarticulated blank walls adjacent to public spaces through facade articulation; and*
 - (f) *Minimize impact on the environment, as demonstrated through the provision of an evaluation of the proposal against LEED certification standards.*

Subtitle K § 512.3(a) – Achieve the Objectives of the Capitol Gateway:

26. The Commission concludes that the Project meets the objectives of the Capitol Gateway District because the Project will be a mixed-use development, with all 101 residential units being designated as “affordable.” In addition to the residential units and related amenity space, there will be neighborhood-serving commercial uses on the ground floor.
27. The Property is also located within the boundaries of the Buzzard Point Plan. The Buzzard Point Plan specifically designates the Property for multifamily residential development. (*Id.* At 4.) Moreover, one of the overarching goals of the Buzzard Point Plan is to protect the existing public housing within the study area and create additional residential development. (*Id.* At 7.)

Subtitle K § 512.3(b) – Achieve the Desired Mix of Uses:

28. The Commission concludes that the Project helps achieve the desired mix of uses because in addition to the residential units, the Project also includes approximately 7,038 square feet on the ground floor devoted to neighborhood-serving commercial uses.

Subtitle K § 512.3© – In Context with Surrounding Neighborhood and Street Patterns:

29. The Commission concludes that the Project is in context with the surrounding neighborhood because:
- (a) The massing of the Project has been reduced through projections, bays, recesses, and material changes to help soften the juxtaposition between the proposed building, the existing immediate context, and the adjacent property to the north;
 - (b) The Project’s proposed penthouse is setback approximately 20 feet from the northern property line, resulting in a separation of approximately 50 linear feet from the tallest part of the Project to the adjacent building;
 - (c) The distinct façade articulations at each elevation create a design that connects the building to the street frontage and complements nearby buildings; and

- (d) The existing apartment building is located 29 feet from the Property's northern lot line. This space includes an approximately 18-foot-wide open drive aisle separating the buildings.

Subtitle K § 512.3(d) – Minimize Vehicular-Pedestrian Conflicts:

30. The Commission concludes that the Project will minimize vehicular-pedestrian conflicts because there is no curb cut along the Property's frontage, thereby preventing potential pedestrian and vehicle conflicts. Instead, access to the loading area and below-grade parking will be provided via the 16-foot-wide rear alley network to the Property. The Applicant revised the Project design to ensure that access to the loading area can be accomplished without traversing the adjacent property.

Subtitle K § 512.3© – Minimize Unarticulated Blank Walls Adjacent to Public Spaces:

31. The Commission concludes that the Project meets this criterion because the building offers extensive façade articulation across all its elevations abutting public space. The facades are distinctly and extensively conveyed through irregular patterns and the building's materials, which include red and ironspot brick, fiber cement, wood, and metal paneling. On the Project's frontage there is wood detailing at the ground level and bay projections beginning at the third story.

Subtitle K § 512.3(f) – Minimize Environmental Impacts:

32. The Commission concludes that the Project will minimize environmental impacts because the Applicant is providing an expansive green roof and is pursuing LEED-Silver certification for the Project under LEED v4, which is consistent with the Green Building Act and DHCD's funding requirements. The Applicant is also exploring providing solar panels on the Project's roof.

Zoning Relief

33. Pursuant to Subtitle K § 512.7, the Commission may hear and decide any additional requests for variance relief needed for the Property together with the application for design review approval. The Applicant is seeking variance and special exception relief residential loading, lot occupancy, court, and plaza requirements.

Variance Relief

34. Pursuant to Subtitle K § 512.7, the Applicant is seeking area variances from the residential loading requirements of Subtitle C § 901.1 and the plaza requirements of Subtitle K § 504.13.
35. The Commission is authorized to grant an area variance where it finds that three conditions exist:
- (a) The property is affected by exceptional size, shape, or topography or other extraordinary or exceptional situation or condition;

- (b) The owner would encounter practical difficulties if the Zoning Regulations were strictly applied; and
- (c) The variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map. (*See French v. District of Columbia Board of Zoning Adjustment*, 658 A.2d 1023, 1035 (D.C. 1995) (quoting *Roumel v. District of Columbia Board of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); *see also, Capitol Hill Restoration Society, Inc. v. District of Columbia Board of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987).)

Exceptional Condition or Situation

36. The Commission accepts the Applicant's argument that the site conditions of the Property, including: a relatively narrow lot, limited street frontage on First Street, and an existing wide public sidewalk, constitute an exceptional condition that restricts the Applicant's ability to meet both the loading and plaza requirements. (Findings of Fact ["FF"] 38-39.)

Practical Difficulty – Loading:

37. The Commission finds that strict application of the Zoning Regulations would result in a practical difficulty to the Applicant because providing the required dedicated loading bay would require the Applicant to reduce the amount of ground-floor commercial space. The Commission accepts the Applicant's statements that the design of the residential lobby cannot be substantially altered, and therefore, the Applicant would need to remove one of the commercial leasing bays in order to provide the loading facilities.
38. In order to provide a 30-foot loading berth, the Applicant would also be required to install a curb cut along the Property's frontage because the required loading cannot be accommodated adjacent to the alley or in the below-grade parking garage. The Commission concludes that the Property has limited street frontage along First Street and that DDOT has indicated that it would be unlikely to approve a curb cut.
39. Accordingly, the required loading berth would significantly constrain the Applicant's ability to provide ground floor, neighborhood-serving commercial uses and minimize conflicts between vehicles and pedestrians as specified in Subtitle K § 512.3. Moreover, the provision of a curb cut along First Street, S.W. is specifically discouraged by Subtitle X § 604.7(a)(2).

Practical Difficulty – Plaza

40. As to the requested plaza relief, the Commission finds that the narrow frontage of the lot would require a plaza to be set back an additional 14 feet into the ground floor of the building. The Commission finds that a redesign to include the required plaza would compromise the design standards for general lobby uses, and/or require the removal of one of the leasing bays. The redesign would likely result in a jagged, cantilevered design, creating a dark, cavernous condition along the ground floor streetscape, subverting the design requirements of Subtitles K and X of the Zoning Regulations.

No Harm to Public Good or Zone Plan – Loading

41. The Commission finds that the requested loading variance will not result in harm to the public good or zone plan. The Applicant anticipates that the proposed 21-foot,6-inch-service/delivery space to the rear of the Project will adequately serve the loading needs of the proposed residential and commercial uses. The Project's two uses will share the loading facilities with no detriment to the public good or zone plan since no loading is required for the ground floor commercial use and the loading provided is adequate to serve the residential use.
42. The Applicant revised the Project design to ensure that vehicles can access the loading area without encroaching on neighboring properties.
43. As detailed in the CTR report, the Commission finds that the proposed LDM plan will adequately serve the loading needs for the Project. (Ex. 18.) The Applicant will implement a loading management plan for the Project, which will include the following elements:
 - (a) A loading manager shall be designated by the building management. The manager shall coordinate with residents to schedule deliveries and shall be on duty during delivery hours. The loading manager shall oversee both the rear loading area and any loading that would need to occur on First Street;
 - (b) Trucks utilizing the loading area shall be restricted to 23 feet in length. The few trucks longer than 23 feet shall be required to load curbside utilizing the metered spaces on First Street;
 - (c) Residents shall be required to schedule move-in and move-outs with the loading manager through leasing regulations;
 - (d) The loading manager shall coordinate with trash pick-up to minimize the time trash trucks need to use the loading area. Trash services shall be serviced by a private company that utilizes trash trucks able to be accommodated in the loading area provided on site;
 - (e) All trucks accessing the Project shall not idle and must follow all District guidelines for heavy vehicle operation including but not limited to the Air Quality Regulations (Chapter 9 § 900 of Title 20 of the District of Columbia Municipal Regulations), the recommendations set forth in DDOT's Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route System; and
 - (f) The loading manager shall be responsible for disseminating DDOT's Freight Management and Commercial Vehicle Operations document to drivers as needed to encourage compliance with District laws and DDOT's truck routes. The loading manager shall also post these documents in a prominent location.

44. The Applicant will also incorporate the additional loading management plan elements as recommended by DDOT in their report: (Ex. 22.)
- (a) Schedule deliveries such that the dock's capacity is not exceeded. In the event that an unscheduled delivery vehicle arrives while the dock is full, that driver shall be directed to return at a later time when a berth will be available so as to not compromise safety or impede street or intersection function;
 - (b) Schedule residential loading activities so as not to conflict with retail deliveries. All residential loading shall be scheduled with the dock manager;
 - (c) Monitor inbound and outbound truck maneuvers and ensure that trucks accessing the loading dock do not block vehicular, bike, or pedestrian traffic except during those times when a truck is actively entering or exiting a loading berth;
 - (d) Prohibit the scheduling of residential move-in/move-outs within three hours of a scheduled event at Audi Field of at least 10,000 attendees; and
 - (e) Install at least one electric vehicle charging station in the parking garage.

No Harm to Public Good or Zone Plan – Plaza

45. The Commission finds that the requested plaza variance will not result in harm to the public good or zone plan. The Commission notes that the existing public space is already substantial, and that the Applicant proposes outdoor seating in public space along First Street, S.W. and other improvements to the surrounding streetscape, which will serve to activate the public space in a manner which supports the intent of the Zoning Regulations.

Special Exception Relief

46. The Applicant seeks special exception relief from the lot occupancy requirements of Subtitle K § 504.6 and the court requirements of Subtitle K § 504.10.
47. The Commission is authorized to grant special exception relief where it finds that the special exception:
- (a) *Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;*
 - (b) *Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and*
 - (c) *Subject in specific cases to special conditions specified in the Zoning Regulations.² (See Subtitle X § 901.2; see *Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1085 (D.C. 2016).)*

² There are no special conditions for lot occupancy or court relief in the CG-4 zone.

Harmony with Purpose and Intent of Zoning Regulations and Maps

48. The Commission finds that the Project is generally in harmony with the purpose of the Zoning Regulations and the Comprehensive Plan. The Project's design and requested relief are in harmony with the purpose of the Capital Gateway Zone as the Project will provide both new affordable multi-family housing and commercial space in line with the Comprehensive Plan as detailed above. Further, the additional bulk requested is minimal and will facilitate the Project's ability to provide additional housing and retail space to the surrounding neighborhood. In furtherance of the goals of the Capital Gateway Zone, the Project will also be in context with the surrounding neighborhood and street patterns as it will be built with high quality materials and will have a varied façade compatible with the surrounding development. Further, the Project will satisfy the Buzzard Point streetscape guidelines, which will help provide the neighborhood with a continuous and welcoming street pattern.

No Adverse Effects

49. The Commission notes that the Applicant is only proposing additional building bulk on the third floor and the third floor only exceeds the permitted lot occupancy by .67%.
50. The Commission concludes that the effect of the additional lot occupancy has been mitigated by the staggered building façades which reduce the interplay between the Project and adjacent properties.
51. With regards to the courts, the Commission concludes that the closed courts will not unduly affect the light and air available to residents of the Project and will not impact the privacy or unduly increase the level of noise emanating from the Property.
52. Accordingly, the Commission finds that the Project meets the criteria for special exception relief pursuant to Subtitle K § 504.6 and Subtitle K § 504.10 and that the Project will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map.

“Great Weight” to the Recommendations of OP

53. The Commission must give “great weight” to the recommendations of OP under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001); *see* Subtitle Z § 405.8.)
54. The Commission carefully considered the OP Report and OP's testimony, and, as explained in this decision, finds its recommendation to grant the Application persuasive.

“Great Weight” to the Written Report of the ANC

55. The Commission must give “great weight” to the issues and concerns raised in a written report of the 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.); *see* Subtitle Y § 406.2.) To satisfy the great weight requirement, the Commission 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).)

56. The Commission carefully considered the issues and concerns stated in ANC 6D’s report and finds that the Applicant has satisfied the ANC’s concerns. The Commission notes that the ANC did not submit a formal response regarding the parking plan but provided a verbal agreement per the Applicant.

DECISION

In consideration of the case record and Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application’s request for design review approval and special exceptions, subject to the following guidelines, standards, and conditions.

1. The Project shall be built in accordance with the architectural drawings submitted to the Commission on December 3, 2018 (the “Final Plans”) at Exhibits 38C1-38C2, the modified loading design at Exhibits 38A1-38A2, and the guidelines, conditions, and standards below.
2. Transportation Demand Measures: **Prior to the issuance of the First Certificate of Occupancy for the Building**, the Applicant, and successors in title, shall demonstrate that it has implemented the following TDM measures **and shall adhere to such measures for the life of the Project**:
 - (a) The Applicant will identify a TDM Leader (for planning, construction, and operations) at the building, who shall act as a point of contact with DDOT/Zoning Enforcement and shall provide annual updates to the residents and other interested individuals. The TDM Leader shall work with residents to distribute and market various transportation alternatives and options;
 - (b) The Applicant shall provide TDM materials to new residents in the Residential Welcome Package materials;
 - (c) The Applicant shall meet zoning requirements by providing approximately 45 long-term bicycle parking spaces in the building garage;
 - (d) Eight short-term bicycle parking spaces shall be provided along First Street, S.W., meeting zoning requirements;

- (e) All parking on site shall be priced at market rates, at minimum, defined as the average cost for parking in a quarter-mile radius from the site;
- (f) The Applicant shall unbundle the cost of residential parking from the cost of lease or purchase of each unit;
- (g) The Applicant shall provide each unit's incoming residents with an \$100 SmarTrip Card. A proactive marketing strategy shall be provided to ensure residents are aware of this benefit;
- (h) The Applicant shall provide a bicycle repair station to be located in the secure long-term bicycle storage room;
- (i) The Applicant shall provide an on-site business center to residents with access to copier, fax, and internet services;
- (j) The Applicant shall install a Transportation Information Center Display (electronic screen) within the residential lobbies containing information related to local transportation alternative;
- (k) The Applicant shall work with DDOT and goDCgo, DDOT's TDM program to implement TDM measures at the site;
- (l) The Applicant shall share the full contact information of the TDM coordinator for the site with DDOT and goDCgo;
- (m) The Applicant shall provide at least two shopping carts for residential use; and
- (n) The Applicant shall offer residents either an annual carshare or Capital Bikeshare membership for a period of three years.

3. **Loading Management: Prior to the issuance of the First Certificate of Occupancy for the Building**, the Applicant, and successors in title, shall demonstrate that it has implemented the following Loading Management Plan **and shall adhere to the plan for the life of the Project:**

- (a) A loading manager shall be designated by the building management. The manager shall coordinate with residents to schedule deliveries and shall be on duty during delivery hours. The loading manager shall oversee both the rear loading area and any loading that would need to occur on First Street;
- (b) Trucks utilizing the loading area shall be restricted to 23 feet in length. The few trucks longer than 23 feet shall be required to load curbside utilizing the metered spaces on First Street;

- (c) Residents shall be required to schedule move-in and move-outs with the loading manager through leasing regulations;
 - (d) The loading manager shall coordinate with trash pick-up to minimize the time trash trucks need to use the loading area. Trash services shall be serviced by a private company that utilizes trash trucks able to be accommodated in the loading area provided on site;
 - (e) All trucks accessing the property shall not idle and must follow all District guidelines for heavy vehicle operation including but not limited to the Air Quality Regulations (Chapter 9 § 900 of Title 20 of the District of Columbia Municipal Regulations), the recommendations set forth in DDOT's Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route System;
 - (f) The loading manager shall be responsible for disseminating DDOT's Freight Management and Commercial Vehicle Operations document to drivers as needed to encourage compliance with District laws and DDOT's truck routes. The loading manager shall also post these documents in a prominent location;
 - (g) Deliveries shall be scheduled such that the dock's capacity is not exceeded. In the event that an unscheduled delivery vehicle arrives while the dock is full, that driver shall be directed to return at a later time when a berth will be available so as not to compromise safety or impede street or intersection function;
 - (h) Residential loading activities shall be scheduled so as not to conflict with retail deliveries. All residential loading shall be scheduled with the dock manager;
 - (i) Inbound and outbound truck maneuvers shall be monitored and trucks accessing the loading dock shall not block vehicular, bike, or pedestrian traffic except during those times when a truck is actively entering or exiting a loading berth; and
 - (j) Scheduling of residential move-in/move-outs within three hours of a scheduled event at Audi Field of at least 10,000 attendees shall be prohibited.
4. The Applicant shall install at least one electric vehicle charging station in the parking garage.
5. LEED:
- (a) **The Applicant shall submit with its building permit application**, a LEED checklist indicating that the Project includes design features such that the building achieves LEED-Silver certification; and
 - (b) **Within 12 months after the issuance of the Certificate of Occupancy for the Building**, the Applicant shall provide evidence to the Zoning Administrator that it has

secured Silver Certification from the U.S. Green Building Council under the LEED-v.2009 rating system.

6. The Project shall be excluded from DDOT's Residential Parking Permit program.
7. The Applicant shall have design flexibility from the Final Plans in the following areas:
 - (a) To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atria and mechanical rooms, provided that the variations do not change the exterior configuration or appearance of the building;
 - (b) To vary the final selection of the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges proposed in the Final Plans;
 - (c) To increase the final number of residential units by no more than 10% above the total number approved to respond to program demand, or to decrease the final gross square footage, or the number of residential units within the gross floor area, in order to accommodate demand for larger units or permitting issues;
 - (d) To make minor variations to the location, attributes and general design of the streetscape within public space to comply with the requirements of and the approval by the District Department of Transportation Public Space Division, without changing the overall design intent, the general location and dimensions of landscaping and hardscaping, or the quality of materials;
 - (e) To make refinements to the garage configuration, including layout, parking spaces and other elements, so long as the number of parking spaces provided is at least the minimum number of spaces required by the Zoning Regulations;
 - (f) To make minor refinements to the building's details and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylight, architectural embellishments and trim, window mullions and spacing, or any other changes that otherwise do not significantly alter the exterior design as shown on the final plans to comply with the District of Columbia Building Code. Any refinements may not substantially change the buildings' external configurations, appearance, proportions, or general design intent;
 - (g) To locate retail entrances in accordance with the needs of the retail tenants; and to vary the façades as necessary within the general design parameters proposed for the Project; and to vary the types of uses designated as "retail" use on the Plans to include the following use categories:
 - (i) Office (Subtitle B § 200.2(x));
 - (ii) Retail (Subtitle B § 200.2(cc));

- (iii) Services, General (Subtitle B § 200.2(dd));
 - (iv) Services, Financial (Subtitle B § 200.2(ee)); and
 - (v) Eating and Drinking Establishments (Subtitle B § 200.2(j));
- (h) To vary the font, message, logo, and color of the proposed signage, provided that the maximum overall dimensions and signage materials do not change from those shown on the approved architectural drawings; and
- (i) To add solar panels to the roof, provided they comply with all applicable zoning regulations and building code requirements, and do not diminish the size of or interfere with the green roof shown on the plans.
8. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.1 et seq. (the "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 that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violations will be subject to disciplinary action.

VOTE (March 11, 2019): 5-0-0 (Peter A. Shapiro, Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to **APPROVE**)

In accordance with the provisions of Subtitle Z § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on January 17, 2020.

BY THE ORDER OF THE D.C. ZONING COMMISSION

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

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 74-10A**

Z.C. Case No. 74-10A

TMG 1333 New Hampshire Avenue, NW

(PUD Modification of Consequence @ Square 115, Lot 85

[1333 New Hampshire Avenue, N.W.]

October 21, 2019

Pursuant to notice, at a public meeting held on October 21, 2019, the Zoning Commission for the District of Columbia (the “Commission”) considered the application (the “Application”) of TMG 1333 New Hampshire Ave LLC (the “Applicant”) for a Modification of Consequence to Condition Nos. 6 and 14, and to the approved plans for a planned unit development (“PUD”) approved by Z.C. Order No. 101 (the “Original Order”), as further processed by BZA Appeal Nos. 11875 and 11901, and as modified by Z.C. Order No. 101-A, for property at 1333 New Hampshire Avenue, N.W. (Lot 85 in Square 115) (the “Property”). The Commission reviewed the Application pursuant to the Commission’s Rules of Practice and Procedures, which are codified in Subtitle Z of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission APPROVES the Application.

FINDINGS OF FACT

Background

1. Pursuant to the Original Order, the Commission approved a PUD and a related Zoning Map amendment from the SP/C-3-B Zone Districts to the C-3-B Zone District (the “Approved PUD”) for the entire area encompassing Square 115 (the “PUD Site”).¹
2. The PUD Site has a land area of approximately 66,854 square feet and is bounded by Dupont Circle to the north, 19th Street, N.W. to the east, Sunderland Place, N.W. to the south, and New Hampshire Avenue, N.W. to the west.
3. The Approved PUD authorized development of a 12-story building (the “1333 Building”) with a height of 130 feet, not including the penthouse, with retail space on the first floor and part of the first cellar level, and with four below-grade levels of parking.
4. In addition to the 1333 Building, the Approved PUD included four other existing buildings, including the historic Heurich Mansion and Carriage House (collectively the “Heurich Mansion”), the Euram Building, and the Sunderland Building, all of which continue to exist and remain part of the Approved PUD.

¹ Z.C. Order No. 101 was approved under the 1958 Zoning Regulations. Under the 2016 Zoning Regulations, which repealed and replaced the 1958 Zoning Regulations effective September 6, 2016, the SP zone, which had been divided into the SP-1 and SP-2 Zone Districts, was designated as the MU-1 and MU-2 zones, and the C-3-B Zone District was re-designated to MU-8.

5. The Heurich Mansion and Euram Building exist as they did at the time of the Approved PUD, the Sunderland Building was subsequently modified as permitted under the Original Order, as further processed pursuant to BZA Appeal No. 11875.
6. Pursuant to Z.C. Order No. 101-A (dated August 3, 1992), the Commission approved a modification to the Approved PUD. The approved modification made changes to Condition No. 7 of the Original Order to restrict certain uses in the first cellar level of the 1333 Building.

Parties

7. The only party to the Approved PUD other than the Applicant was the Dupont Circle Citizens Association (“DCCA”).
8. For purposes of the subject Application, the parties included DCCA and ANC 2B, the ANC within which the PUD Site is located.²

The Application

9. On July 30, 2019, the Applicant filed the Application requesting a Modification of Consequence of the approved plans and Conditions Nos. 6 and 14 to permit modifications of the 1333 Building’s ground-floor storefront, building façade, and penthouse level to address maintenance issues and meet current market expectations for office and retail space, and to make improvements to adjacent public space. (Exhibit [“Ex.”] 1- 2G2.)

Penthouse Height (Condition No. 6)

10. Condition No. 6 in the Original Order states that “[t]he new building shall not exceed 130 feet in height. Any roof structures in the [*sic*] excess of that limit, as normally permitted by the Regulations, shall not exceed 17 feet in height.” In order to accommodate the proposed modifications to the penthouse, the Applicant requested to modify Condition No. 6 to affirm the current 17’-2” penthouse height and allow the proposed elevator override height of 20 feet.
11. The height of the penthouse structure will remain at 17’-2,” with the elevator overrun extending an additional 2’-10,” for a maximum overall height of 20’-0.”

Plans (Condition No. 14):

12. Condition No. 14 in the Original Order states that the final design of the 1333 Building will be based primarily on the plans approved by the Original Order, dated May 15, 1974. The Application proposed to modify Condition No. 14 to incorporate the new plans which included the following changes: (Ex. 2G1-2G2.)

²The Approved PUD predates the formation of the District’s Advisory Neighborhood Commissions (“ANC”), which were established under the 1975 Home Rule Act and Advisory Neighborhood Commission Act of 1975 and formally began operating in 1976.

- a. Replace the existing recessed storefront system with a new storefront system that is installed in line with the main building façade at the property line to provide a more contemporary aesthetic and allow greater light penetration into the building lobby and ground-floor retail spaces;
 - b. Infill an existing 10th floor balcony by installing new windows that are closer to the outside face of the building, approximately two feet back from the property line, and consistent with the rest of the building;
 - c. Renovate the existing penthouse level to include new office space, shared amenity and storage space, and mechanical space, including refurbishment of existing elevators and two new elevators;
 - d. Patch and reinforce the existing precast façade, as necessary, and apply a light-colored elastomeric coating to the entire façade of the 1333 Building; and
 - e. Reconfigure and reduce the size of the stairways and light wells located within adjacent public space that lead down to the 1333 Building's first cellar level.
13. The Application provided evidence that on July 30, 2019, it served the Application on the parties to the Approved PUD - DCCA and ANC 2B - and the Office of Planning ("OP"), as attested by the Certificate of Service submitted with the Application. (Ex. 2, p. 6.)

Responses to the Application

OP

14. On September 10, 2019, the Applicant submitted supplemental information in response to questions received from OP. The supplemental information included additional renderings of the proposed penthouse improvements, information on building signage, and an estimate of the affordable housing trust fund contribution that will be required as a result of the proposed penthouse habitable space. (Ex. 5, 5A.)
15. OP submitted a report dated September 13, 2019 (the "OP Report"), that suggested changes to the language of Condition No. 6 of the Original Order and recommended approval of the Application. (Ex. 6.)
16. The OP Report concluded that the proposed modifications do not change the material facts on which the Approved PUD was based. The OP Report also noted that the proposed modifications would permit limited changes to certain façade materials and coatings, color ranges, cladding, ground-floor and lobby space, public space and signage, which OP found would not modify the size or significantly alter the overall design of the 1333 Building.

Heurich House Foundation (the "Foundation")

17. On August 1, 2019, the Commission received a request from the Foundation, the current owner and operator of the Heurich Mansion, to open the record to include testimony or

comments from the Foundation. (Ex. 4.) On August 5, 2019, the Foundation's request was denied since the Foundation was not a party to the Approved PUD.

18. On September 23, 2019, the Applicant submitted a letter of support from the Foundation. (Ex. 7.) The letter from the Foundation states that the Applicant and the Foundation have established an agreement that addresses, among other things, construction monitoring, construction hours and site management, and communications during construction. The agreement also includes a commitment by the Applicant to make a \$50,000 contribution to the Foundation to assist with efforts to preserve the Museum.

ANC 2B

19. On September 23, 2019, ANC 2B submitted a resolution in support of the Application (the "ANC Report"). (Ex. 8.) The ANC Report requested that the Application be processed as a Modification of Consequence provided the Applicant met the following conditions concerning the Foundation:
 - The Applicant executed a construction management agreement to the satisfaction of the Foundation; and
 - The Applicant committed to a \$50,000 contribution to the Foundation to assist with efforts to preserve the Museum in recognition of the additional habitable space in the penthouse, consistent with the Original Order.
20. Based upon the letter of support from the Foundation, the Applicant has agreed to satisfy both conditions contained in the ANC Resolution.

DCCA

21. On October 3, 2019, DCCA submitted a letter in support of the Application. (Ex. 9.)

CONCLUSIONS OF LAW

1. Subtitle Z § 703.1 authorizes the Commission, in the interest of efficiency, to make Modifications of Consequence to final orders and plans without a public hearing.
2. Subtitle Z § 703.3 defines a Modification of Consequence as "a modification to a contested case order or the approved plans that is neither a minor modification nor a modification of significance."
3. Subtitle Z § 703.4 includes "a proposed change to a condition in the final order" and "a redesign or relocation of architectural elements" as examples of Modifications of Consequence.
4. The Commission concludes that the Applicant satisfied the requirement of Subtitle Z § 703.13 to serve the Application on all parties to the Approved PUD, in this case ANC 2A and DCCA.

5. The Commission concludes that the Application qualifies as a Modification of Consequence within the meaning of Subtitle Z §§ 703.3 and 703.4, as a request to modify the architectural elements and Condition Nos. 6 and 14 approved by the Original Order. Therefore, the Application can be granted without a public hearing pursuant to Subtitle Z § 703.17(c)(2).
6. The Commission finds that the Application is consistent with the Approved PUD, as authorized by the Original Order, because it does not involve the change of any use, nor does it modify the size or significantly alter the overall design of the 1333 Building.

“Great Weight” to the Recommendations of OP

7. The Commission must give “great weight” to the recommendations of OP, pursuant to § 13(d) 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 (2001) and Subtitle Z § 405.8.)
8. The Commission notes OP’s lack of objection to the Application being considered as a Modification of Consequence and finds persuasive OP’s recommendation that the Commission approve the Application and therefore concurs in that judgment.

“Great Weight” to the Written Report of the ANC

9. The Commission must give “great weight” to the issues and concerns raised in a written report of the 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 the great weight requirement, the Commission 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).)
10. The Commission finds the ANC Report in support of the Application persuasive and concurs in that judgement. The Commission notes that the conditions contained in the ANC Report are not factors that are taken into consideration by the Commission when determining whether an application should be reviewed as a Modification of Consequence or a Modification of Significance, and thus had no bearing on the Commission’s determination to process this Application as a Modification of Consequence.

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Applicant’s request for a Modification of Consequence to modify Condition Nos.

6 and 14 of Z.C. Order No. 101, and the plans approved thereby, as further processed pursuant to BZA Appeal Nos. 11875 and 11901 and as modified by Z.C. Order No. 101-A, with the conditions in Z.C. Order No. 101 remaining unchanged and in effect, except that Condition Nos. 6 and 14 are hereby revised to read (additions in **bold/underlined**; deletions in **~~bold/strikethrough~~**):

6. The ~~new~~ building at **1333 New Hampshire Avenue, NW** shall not exceed 130 feet in height. Any roof structures in the excess of that limit, as normally permitted by the Regulations, shall not exceed ~~17~~ **17'-2"** in height, **except that the elevator override may extend to a maximum of 20 feet, as shown in Exhibits 2G1, 2G2, and 5A in Z.C. Case No. 74-10A.**
14. The final design of the building shall be based primarily on the plans **dated July 23, 2019 at Exhibit 2G1-2G2 in Z.C. Case No. 74-10A to the degree they modify the plans approved by Z.C. Order No. 101** ~~submitted with this final application and~~ designated as follows:

Titled: Proposed Twelve Story Office Building
1333 New Hampshire Avenue, N.W.
Washington, D. C.
Architect: Vlastimil Koubek, AIA
Sheets dated May 15, 1974, A-1 through A-12

VOTE (October 21, 2019): 5-0-0 (Robert E. Miller, Peter A. Shapiro, Anthony J. Hood, Peter G. May (by absentee ballot, and Michael G. Turnbull (by absentee ballot) to **APPROVE**).

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 74-10A shall become final and effective upon publication in the *D.C. Register*; that is, on January 17, 2020.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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