

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRSNOTICE OF FINAL RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs (Director), pursuant to the authority set forth in D.C. Official Code § 47-2853.10(a)(12), Mayor's Order 2000-70, dated May 2, 2000, § 7 of the Residential Real Property Seller Disclosure, Funeral Services Date Change and Public Service Commission Independent Procurement Authority Act of 1998 ("Residential Real Property Seller Disclosure Act"), effective April 20, 1999 (D.C. Law 12-263; D.C. Official Code § 42-1305(2)), and Mayor's Order 99-82, dated May 21, 1999, hereby gives notice of final rulemaking for amendment to 17 DCMR Chapter 27, §§ 2701.1 and 2708.13. This rulemaking reinstates a detailed signage requirement and amends the seller's disclosure statement by adding an instruction section and expanding upon specific subject areas.

A Notice of Proposed Rulemaking was published for comment in the *D.C. Register* on December 22, 2006. No comments were received in response to that notice. These final rules will be effective upon publication in the *D.C. Register*.

17 DCMR Chapter 27, Section 2701.1 is amended to read as follows:

2701.1 Each place of business shall have a phone, desk, and pertinent files and shall conspicuously display therein the license of all persons licensed to act as a broker or salesperson and shall likewise conspicuously display on the door or outside of the premises named in the license a sign bearing the word "Real Estate" or where authorized, "Realtor" or "Realtist." The sign shall be visible from a public highway or public hallway, and shall include the licensee's name. Neither a post office box nor an answering service shall satisfy the requirements of D.C. Official Code § 47-2853.184.

17 DCMR Chapter 27, Section 2708.13 is amended to read as follows:

2708.13

SELLER'S DISCLOSURE STATEMENT**Instructions to the Seller for Seller's Disclosure Statement:**

These Instructions are to assist the Seller in completing the required Seller's Disclosure Statement in order to comply with the District of Columbia Residential Real Property Seller Disclosure Act.

1. Who must complete the Seller's Disclosure Statement? The Seller, not the broker and not the management company, condominium association, cooperative association or homeowners association.

2. In what types of transactions must the Seller provide the Seller's Disclosure Statement to the Purchaser? The Act applies to the following types of transfers or sales of District of Columbia real estate:

- (a) where the property consists of one to four residential dwelling units, and,
- (b) the transactions a sale, exchange, installment land contract, lease with an option to purchase, or any other option to purchase, and,
- (c) the purchaser expresses, in writing, an interest to reside in the property to be transferred.

However, the Act does not apply to:

- (a) court ordered transfers;
- (b) transfers to a mortgagee by a mortgagor in default;
- (c) transfers by sale under a power of sale in a deed of trust or mortgage or any foreclosure sale under a decree of foreclosure or deed in lieu of foreclosures;
- (d) transfers by a non-occupant fiduciary administering a decedent's estate, guardianship, conservatorship or trust;
- (e) transfers between co-tenants;
- (f) transfers made to the transferor's spouse, parent, grandparent, child, grandchild or sibling (or any combination of the foregoing);
- (g) transfer between spouses under a divorce judgment incidental to such a judgment;
- (h) transfers or exchanges to or from any governmental entity; and
- (i) transfers made by a person of newly constructed residential property that has not been inhabited.

3. When does the Seller's Disclosure Statement have to be provided to the Purchaser?

In a sale, before or at the time the prospective transferee executes a purchase agreement with the transferor. In an installment sales contract (where a binding purchase contract has not been executed), or in the case of a lease with no option to purchase, before or at the time the prospective transferee executes the installment sales contract or lease with the transferor.

4. What information must the Seller disclose? Answer ALL questions on the Seller's Disclosure Statement. If some items do not apply to your property, check "N/A" (not applicable). If you do not know the facts, check "UNKNOWN". Report actually known conditions referred to in the questions. Each disclosure must be made in "good faith" (honesty in fact in the making of the disclosure). Attach additional pages with your signature if additional space is required.

The Seller of a condominium unit, cooperative unit, or a lot in a homeowners association, is to provide information only as to the Seller's unit or lot, and not as to any common elements, common areas or other areas outside of the unit or lot.

5. What is the remedy if the Seller does not provide the Seller's Disclosure Statement to the Transferee? If the Seller's Disclosure Statement is delivered after the purchaser executes the purchase agreement, installment sales contract or lease with an option to purchase, the purchaser may terminate the transaction by written notice to the seller not more than five (5) calendar days after receipt of the Seller's Disclosure Statement by the purchaser, and the deposit must be returned to the purchaser. The right to terminate is waived if not exercised before the earliest of:

- (a) the making of an application for a mortgage loan (if the lender discloses in writing that the right to rescind terminates on submission of the application);
- (b) settlement or date of occupancy in the case of a sale; or
- (c) occupancy in the case of a lease with an option to purchase.

6. If the Seller finds out different information after providing the Seller's Disclosure Statement to the Purchaser, how does this impact a ratified contract? If information becomes inaccurate after delivery of the disclosure form, the inaccuracy shall not be grounds for terminating the transaction.

7. How must a Seller deliver the Seller's Disclosure Statement to the Transferee? The Seller's Disclosure Statement must be delivered by personal delivery, facsimile delivery, or by registered mail to the transferee. Execution by the transferor of a facsimile is considered execution of the original.

SELLER'S PROPERTY CONDITION STATEMENT

For Washington, DC

Property Address: _____

Is the property included in a:

- | | | |
|--|------------------------------|-----------------------------|
| condominium association? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| cooperative? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| homeowners association with mandatory participation and fee? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

If this is a sale of a condominium unit or cooperative unit, or in a homeowners association, this disclosure form provides information only as to the unit (as defined in the governing documents of the association) or lot (as defined in the covenants applicable to the lot), and not as to any common elements, common areas or other areas outside of the unit or lot.

Purpose of Statement: This Statement is a disclosure by the Seller of the defects or information actually known by the Seller concerning the property, in compliance with the District of Columbia Residential Real Property Seller Disclosure Act. Unless otherwise advised, the Seller does not possess an expertise in construction, architecture, engineering, or any other specific area related to the construction of the improvements on the property or the land. Also, unless otherwise advised, the Seller has not conducted any inspection of generally inaccessible areas such as the foundation or roof. THIS STATEMENT IS NOT A WARRANTY OF ANY KIND BY THE SELLER OR BY ANY AGENT REPRESENTING THE SELLER IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE BUYER MAY WISH TO OBTAIN.

Seller Disclosure: The Seller discloses the following information with the knowledge that, even though this is not a warranty, the Seller specifically makes the following statements based on the seller's actual knowledge at the signing of this document. Upon receiving this statement from the Seller, the Seller's agent is required to provide a copy to the Buyer or the agent of the Buyer. The Seller authorizes its agent (s) to provide a copy of this statement to any prospective buyer or agent of such prospective buyer in connection with any actual or anticipated sale of property. The following are statements made solely by the Seller and are not the statements of the Seller's agent (s), if any. This information is a disclosure only and is not intended to be a part of any contract between Buyer and Seller.

The seller(s) completing this disclosure have owned the property from _____ to _____.

The seller(s) completing this disclosure have occupied the residence from _____ to _____.

A. Structural Conditions

1. **Roof** roof is a common element maintained by condominium or cooperative (no further roof disclosure required).

Age of Roof 0-5 years 5-10 years 10-15 years 15+ years Unknown

Does the seller have actual knowledge of any current leaks or evidence of moisture from roof?

Yes No If yes,

comments: _____

Does the seller have actual knowledge of any existing fire retardant treated plywood?

Yes No If yes,

comments: _____

2. **Fireplace/Chimney(s)**

Does the seller have actual knowledge of any defects in the working order of the fireplaces?

Yes No No fireplace(s)

If yes,

comments: _____

Does the seller know when the chimney(s) and/or flue were last inspected and/or serviced?

Yes No No chimneys or flues

If yes, when were they last serviced or inspected?

3. **Basement**

Does the seller have actual knowledge of any current leaks or evidence of moisture in the basement?

Yes No Not Applicable

If yes,

comments: _____

Does the seller have actual knowledge of any structural defects in the foundation?

Yes No

If yes,

comments: _____

4. **Walls and floors**

Does the seller have actual knowledge of any structural defects in walls or floors?

Yes No

If yes,

comments: _____

5. Insulation

Does the seller have actual knowledge of presence of urea formaldehyde foam insulation?

Yes No

If yes, comments: _____

6. Windows

Does the seller have actual knowledge of any windows not in normal working order?

Yes No

If yes, comments: _____

B. Operating Condition of Property Systems

1. Heating System heating system is a common element maintained by condominium or cooperative (no further disclosure on heating system required).

Type of system Forced Air Radiator Heat Pump
 Electric baseboard Other

Heating Fuel Natural Gas Electric Oil Other

Age of system 0-5 years 5-10 years 10-15 years Unknown

Does the seller have actual knowledge that heat is not supplied to any finished rooms?

Yes No

If yes, comments: _____

Does the seller have actual knowledge of any defects in the heating system?

Yes No

If yes, comments: _____

Does the heating system include:

Humidifier Yes No Unknown
Electronic air filter Yes No Unknown

If installed, does the seller have actual knowledge of any defects with the humidifier and electronic filter?

Yes No Not Applicable

If no, comments: _____

2. Air Conditioning System air conditioning is a common element maintained by condominium or cooperative (no further disclosure on air conditioning system required).

Type of system: Central AC Heat Pump Window/wall units
 Other Not Applicable

Air Conditioning Fuel Natural Gas Electric Oil Other

Age of system 0-5 years 5-10 years 10-15 years Unknown

If central AC, does the seller have actual knowledge that cooling is not supplied to any finished rooms? Yes No Not Applicable

If yes,

comments: _____

Does the seller have actual knowledge of any problems or defects in the cooling system?

Yes No Not Applicable

If yes,

comments: _____

3. Plumbing System

Type of system: Copper Galvanized Plastic Polybutelene Unknown

Water Supply: Public Well

Sewage Disposal Public Well

Water Heater Fuel Natural Gas Electric Oil Other

Does the seller have actual knowledge of any defects with the plumbing system?

Yes No

If yes,

comments: _____

4. Electrical System

Does the seller have actual knowledge of any defects in the electrical system, including the electrical fuses, circuit breakers, outlets, or wiring?

Yes No

If yes,

comments: _____

C. Appliances and Fixtures

Does the seller have actual knowledge of any defects with the following appliances?

- | | | | |
|----------------------|------------------------------|-----------------------------|---|
| Range/Oven | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Applicable |
| Dishwasher | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Applicable |
| Refrigerator | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Applicable |
| Range hood/fan | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Applicable |
| Microwave oven | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Applicable |
| Garbage Disposal | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Applicable |
| Sump Pump | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Applicable |
| Trash compactor | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Applicable |
| TV antenna/controls | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Applicable |
| Central vacuum | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Applicable |
| Ceiling fan | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Applicable |
| Attic fan | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Applicable |
| Sauna/Hot tub | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Applicable |
| Pool heater & equip. | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Applicable |
| Security System | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Applicable |
| Intercom System | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Not Applicable |

- Garage door opener Yes No Not Applicable
- & remote controls Yes No Not Applicable
- Lawn sprinkler system Yes No Not Applicable
- Water treatment system Yes No Not Applicable
- Smoke Detectors Yes No Not Applicable
- Carbon Monoxide detectors Yes No Not Applicable
- Other Fixtures or Appliances Yes No Not Applicable

If yes to any of the above, describe defects: _____

D. Exterior/Environmental Issues

1. Exterior Drainage

Does the seller have actual knowledge of any problem with drainage on the property?

- Yes No

If yes, comments: _____

2. Damage to property

Does the seller have actual knowledge whether the property has previously been damaged by:

- Fire Yes No
- Wind Yes No
- Flooding Yes No

If yes, comments: _____

3. Wood destroying insects or rodents:

Does the seller have actual knowledge of any infestation or treatment for infestations?

- Yes No

If yes, comments: _____

Does the seller have actual knowledge of any prior damage or repairs due to a previous infestation?

- Yes No

If yes, comments: _____

4. Does the seller have actual knowledge of any substances, materials or environmental hazards (including but not limited to asbestos, radon gas, lead based paint, underground storage tanks, formaldehyde, contaminated soil, or other contamination) on or affecting the property?

- Yes No

If yes, comments: _____

5. Does the seller have actual knowledge of any zoning violations, nonconforming uses, violation of building restrictions or setback requirements, or any recorded or unrecorded easement, except for utilities, on or affecting the property?

Yes No

If yes, comments: _____

6. Does the seller have actual knowledge that this property is a D.C. Landmark, included in a designated historic district or is designated a historic property?

Yes No

If yes, comments: _____

7. Has the property been cited for a violation of any historic preservation law or regulation during your ownership?

Yes No

If yes, comments: _____

8. Does the seller have actual knowledge if a façade easement or a conservation easement has been placed on the property?

Yes No

If yes, comments: _____

The seller(s) certifies that the information in this statement is true and correct to the best of their knowledge as known on the date of signature.

Seller

Date

Seller

Date

Buyer(s) have read and acknowledge receipt of this statement and acknowledge that this statement is made based upon the seller's actual knowledge as of the above date. This disclosure is not a substitute for any inspections or warranties which the buyer(s) may wish to obtain. This disclosure is NOT a statement, representation, or warranty by any of the seller's agents or any sub-agents as to the presence or absence of any condition, defect or malfunction or as to the nature of any condition, defect or malfunction.

Buyer

Date

Buyer

Date

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., 2ND Floor, West Tower
WASHINGTON, D.C. 20005

NOTICE OF FINAL RULEMAKING

FORMAL CASE NO. 945, IN THE MATTER OF THE INVESTIGATION INTO
ELECTRIC SERVICE MARKET COMPETITION AND REGULATORY PRACTICES

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Sections 2-505 (a), 34-302, and 34-1516 of the District of Columbia Code,¹ of its final rulemaking action taken on January 26, 2007, in Order No. 14184, approving the proposed tariff revisions ("Tariff Pages") filed by the Potomac Electric Power Company ("PEPCO") in connection with its Net Energy Metering Standard Contract pursuant to Chapter 9 of Title 15 DCMR governing Net Energy Metering ("NEM") in the District of Columbia.

2. On February 10, 2005, the Commission issued Order No. 13501² approving and adopting rules and regulations implementing the net energy metering provisions of the District of Columbia Retail Electric Competition and Consumer Protection Act of 1999, as amended.³ On February 18, 2005, a Notice of Final Rulemaking was published in the D.C. Register.⁴

3. On April 8, 2005, in compliance with Order No. 13501 and the Net Energy Metering Rules, PEPCO filed its proposed Net Metering Service Rider ("Tariff Rider NEM"). On June 24, 2005, the Commission issued Order No. 13623 rejecting PEPCO's Tariff Rider NEM because it was deficient and failed to include certain critical provisions.⁵

4. On July 11, 2005, in compliance with Order No. 13623, PEPCO filed its Proposed NEM Standard Contract that set forth specifications, requirements and standards for the provision of net energy metering services for customer-generators connected to the PEPCO electric network.⁶ On February 23, 2006, the Commission issued Order No. 13890 directing PEPCO to further revise its NEM Standard Contract and inviting comments on PEPCO's revised

¹ D.C. Code, 2001 Ed. §§ 2-505, 34-320, and 34-1516.

² See *F.C. No. 945*, Order No. 13501, rel. February 10, 2005.

³ See Retail Electric Competition and Consumer Protection Act of 1999, D.C. Code §§ 34-1501-1520 (2005).

⁴ See 52 D.C. Reg. 1586-1590 (2005).

⁵ See *F.C. No. 945*, Order No. 13623, rel. June 24, 2005.

⁶ See *F.C. No. 945*, Customer Net Energy Metering Contract of the Potomac Electric Power Company, filed July 11, 2005.

filing.⁷ On March 27, 2006, PEPCO filed its Revised Proposed NEM Standard Contract as directed in Order No. 13890.⁸

5. On June 27, 2006, the Commission issued Order No. 13980 which, among other things, conditionally approved PEPCO's Revised Proposed NEM Standard Contract with modifications.⁹ In accordance with Order No. 13980, PEPCO filed its further revised proposed NEM Standard Contract on July 25, 2006.¹⁰ Specifically, PEPCO proposes to amend the following tariff pages:

Electric--P.S.C. D.C. No.1
Fifth Revised Page No. 1
Fifth revised Page No. 2
First Revised Page No. 8
First Revised Page No. 9

6. The Commission published a Notice of Proposed Rulemaking ("NOPR") on October 27, 2006, at 53 *D.C. Reg.* 8757-8759 (2006). Comments were filed by the Office of People's Counsel, and the Potomac Electric Power Company in response to the NOPR.¹¹ By Order No. 14184, the Commission addressed all comments and approved the proposed Tariff Pages. Although the Commission made clarifying changes to the tariffs; the Commission's changes do not substantially change the intent, meaning, or application of the proposed Tariff Pages or exceed the scope of the Tariff Pages referenced in the NOPR. This tariff amendment will become effective upon the date of publication of this Notice of Final Rulemaking in the *D.C. Register*.

⁷ See *F.C. No. 945*, Order No. 13890, rel. February 23, 2006.

⁸ See *F.C. No. 945*, Customer Net Energy Metering Contract of the Potomac Electric Power Company, filed March 27.

⁹ See *F.C. No. 945*, Order No. 13980, rel. June 27, 2006.

¹⁰ See *F.C. 945*, Customer Net Energy Metering Contract of the Potomac Electric Power Company, filed July 25, 2006.

¹¹ See Comments of the Office of the People's Counsel on Proposed Net Energy Metering Contract, filed November 27, 2006; Reply Comments of Potomac Electric Power Company, filed December 11, 2006.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 17543 of the Kyrgyz Republic, pursuant to 11 DCMR § 1002.1, to allow the location of a chancery in the D/R-3 District at premise 2360 Massachusetts Avenue, N.W. (Square 2507, Lot 50).

NOTICE OF FINAL RULEMAKING
AND
DETERMINATION AND ORDER

The Board of Zoning Adjustment, pursuant to the authority set forth in § 206 of the Foreign Missions Act, approved August 24, 1982 (96 Stat. 283; D.C. Official Code § 6-1306) (“the FMA”) and Chapter 10 of the Zoning Regulations of the District of Columbia, 11 DCMR), hereby gives notice of the adoption of a determination not to disapprove the application of the Kyrgyz Republic (“Applicant”) for the location of a chancery at premise 2360 Massachusetts Avenue, N.W. (Square 2507, Lot 50) (“subject property”).

Procedural Background

On July 24, 2006, the Applicant filed a chancery application with the Board. Pursuant to 11 DCMR § 3134.7, the application was accompanied by a letter from the United States Department of State (“DOS”) certifying that the Applicant had complied with § 205 of the FMA (D.C. Official Code § 6-1305 (2001)), and that the application could be submitted to the Board.

Notice of the filing of the application and notice of the proposed rulemaking were published in the *D.C. Register* on August 11, 2006, at 53 DCR 6659 and 6591, respectively. In accordance with the Zoning Regulations, the Board provided written notice to the public more than 40 days in advance of the public hearing. 11 DCMR §§ 3113.13 and 3134.9(c). Therefore, in compliance with the D.C. Administrative Procedure Act (D.C. Official Code § 2-501 *et seq.*), the Board also provided more than thirty days’ written notice to the public.

On July 27, 2006, the Office of Zoning (“OZ”) provided notice of the filing of the application to the Commission of Fine Arts, the State Historic Preservation Officer for the District of Columbia, the U.S. Department of State, the D.C. Office of Planning (“OP”), the D.C. Department of Transportation (“DDOT”), the D.C. Council Member for Ward 2, Advisory Neighborhood Commission (“ANC”) 2D, the ANC within which the subject property is located, and the Single Member District member for 2D02.

The Office of Zoning subsequently scheduled a hearing on the application for October 24, 2006, and mailed notice of the hearing to the Applicant, ANC 2D, and all owners of property within 200 feet of the subject property. Notice of the hearing was also published

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in the *D.C. Register* on August 11, 2006, at 53 DCR 6518, and posted in the Office of Zoning. In addition, on October 3, 2006, the Applicant posted on the subject property, in plain view of the public, two zoning placards affording notice of the hearing, in accordance with 11 DCMR § 3113. Accordingly, the notice given to the public complied with the requirements set forth in 11 DCMR § 3134.9.

The Subject Property

The property that is the subject of this application is located at 2360 Massachusetts Avenue, N.W., in an R-3 zone district, as well as within the Diplomatic Overlay District and the Sheridan-Kalorama Historic District. The subject property is 2,726 square feet and is developed with a 4,455 square foot, 3-story row dwelling constructed in 1912. The façade of the row dwelling sits on the front property line and includes an entrance to a below-grade parking garage accessed directly from Massachusetts Avenue. This below-grade garage, and the driveway leading to it, which is in public space, can, together, accommodate three vehicles. There is no vehicular access to the rear of the property because it backs onto Rock Creek Park and is heavily wooded.

Although the property is located in a residential zone district, the character of its neighborhood is marked with diplomatic and institutional development. Properties surrounding the subject property include residential uses and many other foreign mission uses, including embassies, chanceries, and related facilities. Within walking distance of the property is the Dupont Circle Metro Station, and numerous bus lines traverse Massachusetts Avenue. There is also usually some street parking available during the daytime.

The Applicant's Proposal

The Embassy of the Kyrgyz Republic purchased the subject property in 2005, intending to use the property as the ambassador's residence. The Applicant, however, decided to expand the use to include the chancery for the Kyrgyz Republic and, due to a misunderstanding, began chancery operations before coming to this Board.

The Applicant intends to retain the third floor of the row dwelling in residential use for diplomats, their families, and guests. The first floor will be used for ceremonial and receiving functions, and the second floor will be used for consular and chancery offices.

The chancery will typically operate from 9:00 a.m. to 5:00 p.m., Monday through Friday. Six diplomats, including the ambassador, currently work in the building, and this number is not anticipated to increase. Three of the diplomats will reside on the third floor, reducing the number of individuals commuting to the site. Of the other three employees,

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two commute to the site using public transportation and one walks. Most chancery business is conducted electronically, or by telephone, mail, or messenger. Most diplomatic meetings occur off-site with an average of three to four small meetings typically occurring on-site per week.

The foreign mission owns only one vehicle, which will be used by the ambassador and her administrative and diplomatic staff. The vehicle will be parked in the on-site below-grade garage, and so will not take up a street parking space. The staff encourages visitors to use public transportation or to use cabs. The embassy may host special events, involving up to approximately 35 people, the maximum number of people who could be accommodated in the first floor rooms. For these events, guests will be informed that there is no parking available, and will be encouraged to use public transportation or cabs. Often, guests are driven to and from such events, with no parking necessary.

Other than the placement of the national flag and coat of arms adjacent to the front entrance to the building, the Applicant has not made, and does not plan to make, any changes to the exterior of the building.

The Hearing

At the October 24, 2006 hearing, the Kyrgyz ambassador and a member of her diplomatic staff testified as to their current and planned future use of the subject property. They expressed their commitment to maintain the upkeep of the row dwelling and to be a "good neighbor" in this residential, albeit heavily diplomatic, neighborhood.

The Office of Planning recommended not disapproving the application, although it also recommended that several conditions be imposed. No other government agencies commented on the application, either orally or in writing, although OP stated in its October 16, 2006 report that the Historic Preservation Office did not express any concerns with the Applicant's proposal. ANC 2D and the Sheridan-Kalorama Neighborhood Council both opposed the application; the latter pointing out that the subject property has always been a residence. There was also opposition by neighbors concerned about the possibility of poor upkeep of the property, noise, general disturbance of the residential area, and increased foot and vehicle traffic.

At the close of the hearing, a decision meeting was scheduled for October 31, 2006.

Evaluation of the Application

D.C. Official Code § 6-1306(d) directs the Board to consider six factors when analyzing a chancery application. These factors are: (1) the international obligation of the United

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States, (2) historic preservation, (3) adequacy of off-street parking and proximity to public transportation, (4) the extent to which the area can be adequately protected, (5) the municipal interest, and (6) the federal interest. At the decision meeting on October 31, 2006, the Board considered all the evidence presented and the six factors enumerated above. The Board discussed the conditions recommended by OP, but having found no likelihood of adverse impacts to be mitigated by such conditions, decided not to impose conditions on the application. The Board then voted not to disapprove the application, as explained below.

First, as recommended by the Secretary of State and the Office of Planning, favorable action on the application will fulfill the international obligation of the United States to facilitate the acquisition of adequate and secure facilities by the Kyrgyz Republic for its diplomatic mission in the Nation's Capital.

Second, the Applicant is not proposing to change the building in any way inconsistent with historic preservation principles or detrimental to the historic district in which it is located. Only a national flag and coat of arms has been added to the exterior of the building and no other changes are contemplated. The Board finds that the historic preservation criterion has been satisfied.

Third, there will be only one vehicle associated with the chancery and the Applicant is providing adequate off-street parking. The Secretary of State has determined that there are no special security requirements relating to such parking.

Fourth, after consultation with federal agencies authorized to perform protective services, the Secretary of State has determined that the subject property and the area are capable of being adequately protected.

Fifth, the Director of the Office of Planning, on behalf of the Mayor of the District of Columbia, has determined that favorable action on this application is in the municipal interest and is generally consistent with the Comprehensive Plan for the National Capital and the Zoning Regulations.

Sixth, the Secretary of State has determined that a favorable decision on this application will serve the federal interest and stated that it has no objection to the use of the property as a chancery.

The Board is required to give "great weight" to issues and concerns raised by the affected ANC and to the recommendations made by the Office of Planning. D.C. Official Code §§ 1-309.10(d) and 6-623.04 (2001). Great weight means acknowledgement of the issues and concerns of these two entities and an explanation of why the Board did or did not

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find their views persuasive. OP recommended that the application be not disapproved and the Board agrees with this recommendation. While OP also proposed certain conditions for this order setting forth the manner in which the chancery would operate, the Board determined that in the absence of likely adverse impacts, conditions were not appropriate. OP stated at the hearing that the rationale for the proposed conditions was primarily for there to be predictability for the community as to how the chancery will operate in the neighborhood. Such predictability is accomplished by the embodiment in this Order of those facts describing Applicant's proposal.

ANC 2D voted not to support the application, but set forth no reasons or concerns in its letter to the Board. The Board has considered the ANC's recommendation, but disagrees with it. The Square within which the proposed chancery use is located is within the Diplomatic Overlay, and therefore has already been designated by the Zoning Commission as appropriate for such use. The chancery use has been found to be in the municipal interest and a past history of residential use is not controlling. Further, the Board found no evidence of likely adverse impacts. For all these reasons and those stated above, the Board is not persuaded by the ANC's recommendation.

Accordingly, it is hereby **ORDERED** that this application is **NOT DISAPPROVED**.

Vote of the Board of Zoning Adjustment taken at its public meeting on October 31, 2006, to **NOT DISAPPROVE** the application: 4-0-1 (Geoffrey H. Griffis, Patricia Gallagher, Ruthanne G. Miller, and John G. Parsons, to not disapprove. Curtis L. Etherly, Jr. not voting, not having participated.)

BY THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: JAN 24 2007

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE §§ 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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