

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**

NOTICE OF INTENT TO ESTABLISH A TENANT ADVISORY COUNCIL (TAC)

The Department of Consumer and Regulatory Affairs hereby gives notice of its intention to establish a Tenant Advisory Council (TAC). Pursuant to the FY 2006 Budget Support Act of 2005, a Tenant Advisory Council (TAC) shall be established to review the Office of the Tenant Advocate's (OTA) progress in fulfilling its mandate and to make recommendations for improving Office of the Tenant Advocate services. The TAC will be composed of tenant organizers, representatives of tenant associations, and other tenant advocates with no connections to commercial real estate interests. The TAC will monitor and report on the progress of the Office of the Tenant Advocate.

Nominations for membership on the TAC should be submitted in writing and addressed to:

Timothy R. Handy, Esq., Acting Chief Tenant Advocate
Department of Consumer and Regulatory Affairs
941 North Capitol Street, N.E., Suite 9400
Washington, D.C. 20002
timothy.handy@dc.gov

Telephone: (202) 442-8676

The deadline for submitting nominations is 4:00 p.m., April 14, 2006.

BOARD OF ELECTIONS AND ETHICS
CERTIFICATION OF ANC/SMD VACANCIES

The District of Columbia Board of Elections and Ethics hereby gives notice that there are vacancies in **two (2)** Advisory Neighborhood Commission offices, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed.

VACANT: **3E03**
 6B01

Petition Circulation Period: **Monday, March 6, 2006 thru Monday, March 27, 2006**

Petition Challenge Period: **Thursday, March 30, 2006 thru Wednesday, April 5, 2006**

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 and Ethics
441 - 4th Street, NW, Room 250N

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
OFFICE OF THE DEPUTY MAYOR FOR PUBLIC SAFETY AND JUSTICE

Justice Grants Administration

AVAILABILITY OF TITLE V TRAINING FOR COMMUNITIES

The Office of Justice Grants Administration is pleased to announce the availability of Title V Training for interested applicants. Title V Training is sponsored by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) Title V Community Prevention Grants Program and provided by OJJDP's Title V Training and Technical Assistance Contractor, Development Services Group, Inc. (DSG), of Bethesda Maryland. Included in this document are DSG's Title V Training Announcement and a Community Information Form which applicants are required complete and submit. An electronic copy of the Community Information Form can be found at www.dsgonline.

We hope that qualifying agencies, communities, and community collaboratives are interested in applying for Title V Funds and Training. At present, we have scheduled the first training session, Community Team Orientation Trainings, to be held on March 22nd and 23rd. The second session will be conducted on April 25th and 26th. **Interested District Government Agencies, District Communities, and District Community Based Collaboratives [501(c)(3)] should complete the attached Community Information form and returned to me on or before March 15, 2006 to show their interest in participating in the training.** Once a count for the participants is determined; one of two reserved locations for the training will be communicated. In order to qualify for participation in the competitive process (RFA) for the Title V Grant Funds the Applicants must attend all 4 days of training. The Request for Application (RFA) for Title V Funding will be released upon completion of the training.

While the Government of the District of Columbia is thoroughly committed to juvenile justice delinquency prevention efforts, government agencies cannot alone resolve the issues and behaviors which may lead children to engage in delinquent behavior. A long-range Title V planning and development process is an important factor in reducing the effects of risk factors, while building on protective factors and utilizing the resources already established in the community. In addition, careful, systematic, strategic planning increases the efficacy of prevention efforts and reduces service duplication. It is therefore strongly recommended that your community consider the advantages of these free training sessions conducted by DSG.

Please feel free to contact me at (202 727-3934 or john.hallums@dc.gov)

TITLE V TRAINING ANNOUNCEMENT

Title V Training and Technical Assistance Program

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) administers the Title V Grants Program, which is designed to prevent youth from entering the juvenile justice system. Title V encourages communities to perform multi-disciplinary assessments of the risks and protection *specific to their communities* and then develop community-wide, collaborative, research-based plans to prevent delinquency.

OJJDP encourages the development of community delinquency prevention strategies that are positive in orientation and comprehensive in scope. To enhance the capacity of communities to formulate and implement locally-driven comprehensive delinquency prevention plans, OJJDP makes training and technical assistance available through a contract with Development Services Group, Inc. (DSG). DSG provides a variety of Title V-related training and technical assistance to States, territories and Tribes at no cost to the recipient State and community. OJJDP recommends that each community give careful consideration to attending the full range of training opportunities offered.

DSG provides the following types of training and technical assistance to prospective Title V communities free of charge:

Community Team Orientation Training (CTOT)

This 4-hour training brings together policymakers, high-level agency/organization executives, planners, researchers, and business leaders to familiarize them with the research basis for risk and protection-focused prevention. Up to 20 people can attend this training. An overview of Title V, team building, community mobilization strategies, and risk and prevention-focused data collection is provided. The training is either provided on-site in each community or at a regional location.

Community Data Collection and Analysis Training (DCAT)

This 2-day training focuses on the collection of data on community-specific risks, protective factors, prioritizing risks, conducting a community resource assessment, and writing a community assessment report. Four to six team members should attend this training. It is taught at a regional location in the State.

Plan and Program Development Training (PPDT)

This 1-day training focuses on understanding the elements of a 3-year community delinquency prevention plan and identifying effective and promising programs. Four to six team members should attend this training. It is taught at a regional location in the State.

Proactive and follow-up technical assistance also are available to communities. The Title V Training series offered by DSG is currently available. Training may be requested through your State Juvenile Justice Specialist, as described below.

Who Should Apply for and Attend the Training?

The applicant for Title V funding must be a unit of local government (ULG). The ULG must convene or designate a local Prevention Policy Board of 15 to 21 members. Title V training is designed for representatives from communities interested in competing for Title V at the State level. Examples are community leaders, planners, researchers, program developers and private individuals who are involved in mobilizing the community, maximizing resources, effecting policy changes, and developing programs. Representatives should come from public agencies and private organizations serving children, youth and families, such as:

- \$ Health and mental health
- \$ Education
- \$ Juvenile justice
- \$ Child protection/child welfare
- \$ Employment
- \$ Law enforcement
- \$ Public defenders and prosecutors
- \$ Faith community
- \$ Parent/family/youth associations
- \$ Recreation
- \$ Business sector

The team that attends the training should be made up of the Prevention Policy Board, which should also contain, to the greatest extent possible, one or more members under the age of 21 and parents of children involved in the juvenile justice system. Key community leaders are encouraged to attend the first training. The cross-section of participants should include all of the racial, ethnic, and cultural groups represented within the community.

About the Training and Technical Assistance Provider Development Services Group, Inc. (DSG)

Development Services Group, Inc. (DSG), located in Bethesda, Maryland, is a research, training and management consulting firm that specializes in providing services to Federal, State and local agencies in a range of subject areas, including juvenile justice, delinquency prevention, substance abuse, violence prevention, child welfare, youth employment, criminal justice, corrections, and mental health. DSG is committed to the support of community solutions, balanced by effective utilization of Federal, State, and private resources and expertise. For OJJDP, DSG provides all aspects of technical assistance and training in support of Title V for States and Localities, as well as through the Juvenile Accountability Incentive Block Grants (JAIBG) Training and Technical Assistance Program. DSG is also OJJDP's technical assistance contractor for Federal, State, Local and Private Efforts (Formula Grants). The DSG staff offers extensive experience in training and technical assistance, evaluation and research, curriculum and materials development, and program planning and development.

DEPARTMENT OF MENTAL HEALTH

NOTICE

The Interim Director of the D.C. Department of Mental Health (DMH), pursuant to section 104 of the Department of Mental Health Establishment Amendment Act of 2001 (Act), effective December 18, 2001, D.C. Law 14-56, D.C. Official Code §§ 7-1131.04 (2005 Supp.), hereby gives notice that effective March 1, 2006, DMH will not accept applications from community-based organizations seeking certification as a provider of mental health rehabilitation services. Applications submitted on or after March 1, 2006 will be returned to the provider and will not be reviewed or processed by DMH.

Applications that are currently under review by the Office of Accountability will be processed in accordance with applicable law and regulations.

The Act authorizes DMH to "[p]lan, develop, coordinate, and monitor comprehensive and integrated mental health systems of care for adults and for children, youth, and their families in the District, so as to maximize utilization of mental health services and mental health supports and to assure that services for priority populations identified in the Department's annual plan are funded within the Department's appropriations or authorizations by Congress and are available" See D.C. Official Code § 7-1131.04. In addition, the Act says that "(c) The provisions of this chapter are intended to be construed in a manner consistent with all outstanding orders of the United States District Court in Dixon, et al. v. Williams, et al., including the Final Plan adopted by the District Court in its April 2, 2001 order." See D.C. Official Code § 7-1131.03. The Final Plan specifically required DMH to replace the existing Certificate of Need (CON) process for mental health services with an alternative planning, review, and approval process for all community-based mental health services and programs, which will be licensed or certified by the Department." See Final Plan, Section V.A.4, page 32.

DMH has been certifying community-based organizations to provide mental health rehabilitation services (MHRS) since 2002. MHRS providers are Medicaid providers to the extent that they provide Medicaid covered services to Medicaid beneficiaries/consumers. MHRS providers also provide services to indigent uninsured consumers, and are paid for such services through local appropriations. The community-based mental health system has grown rapidly over the past four (4) years. Currently, there are fifty-one (51) certified providers, with thirteen (13) applications pending review and approval. DMH anticipates that further applications will be submitted before March 1, 2006. Accordingly, given the population of the District of Columbia and the number of consumers enrolled in the mental health system, there does not appear to be any need for continued and unmanaged growth. In addition, the infrastructure required to appropriately manage the community mental health system has not been fully implemented. The moratorium on certification of new community-based MHRS providers will allow DMH the opportunity to review of the community-based system of services and develop a plan for the future. The review will include, but not be limited to overall mental health system needs, the certification process, certification standards, and reimbursement rates. DMH will ask representatives from the community to participate in the review and planning process, which will begin in the next ninety

(90) days. During this moratorium and review period, consumers will continue to have freedom of choice among the ample number of certified providers consistent with federal and local law. See, e.g., 42 U.S.C. § 1396a(a)(23), 42 C.F.R. § 431.51, 22A D.C.M.R. 3402.9. Moreover, consumers will continue to have prompt access to services during this time.

All persons desiring to comment on the subject matter of this notice should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Anne M. Sturtz, General Counsel, Department of Mental Health, 64 New York Ave, N.E., Fourth Floor, Washington, D.C. 20002 or anne.sturtz@dc.gov.

DISTRICT OF COLUMBIA BOARD OF NURSING
ADVISORY OPINION ON
THE PRACTICE OF IV THERAPY
BY LICENSED PRACTICAL NURSES

In response to numerous inquiries concerning the role of the licensed practical nurse (LPN) in the administration of intravenous therapy, the District of Columbia Board of Nursing (BON) provides the following guidance document.

The role of the LPN in providing intravenous therapy is determined by a number of factors including the complexity of the procedure, the degree of direction, the setting, as well as the skill and the competence of the licensee. A Registered Nurse (RN) may delegate these activities based on the RN's professional judgment, the competence of the LPN, policy and procedures of the institution and standards of nursing practice. Regardless of degree of delegation, however, the RN retains the ultimate responsibility for the administration and clinical management of intravenous therapy, including assessment of the patient for symptoms and reactions. The BON does not permit LPNs to make any patient assessments, interpretations or evaluations of clinical data. In the opinion of the Board, the practice of intravenous therapy by LPNs requires RN supervision, that is, the RN responsible for the LPN must be assigned to the patient care unit at all times when intravenous therapy is administered and at least every shift assess the patient's condition relative to the intravenous therapy.

Facilities must ensure that LPNs allowed to perform intravenous therapy procedures have satisfactorily completed an initial training program, received supervised clinical experience, demonstrates competence in the performance of intravenous therapy, are appropriately supervised by RNs and complete an annual IV therapy update. It is appropriate for IV competency evaluation to be included in the annual performance review of each licensee.

The accompanying chart displays select tasks that can be performed by an LPN, under appropriate supervision, who has demonstrated competency in intravenous therapy administration. The chart also includes advanced technical procedures that require assessment and critical analysis skills that are beyond the scope of practice of LPNs and that cannot be performed by an LPN regardless of the degree of education, experience or supervision. A glossary is also provided defining terms used in the chart.

Definition of Terms

Venous Access Device/Line:

Any centrally or peripherally inserted venous infusion device/line.

Central Venous Device/Line:

Any infusion device whose distal end is placed in the central venous system. These devices may be tunneled, non-tunneled, or implanted. Insertion sites may be peripheral, for example, peripherally inserted central catheter (PICC) lines or central. Examples included various ports, triple lumen, "BROVIAC"®, and "HICKMAN"® catheters, etc.

Central Venous Chest Port:

Implanted central venous line devices for long term IV therapy.

Central Venous Arm Port:

Peripherally implanted central venous line devices for 1 term IV therapy.

Midline Catheters:

Long-line peripherally inserted venous access devices.

Such devices do not have their distal end in the central venous system. These devices are used to infuse only isotonic drugs or fluid.

SASH:

Saline administration, saline, heparin flush procedure.

SAS:

Saline administration, saline, flush procedure.

The Practice of IV Therapy by Licensed Practical Nurses

- The provision of IV therapy by an LPN must be under the direct supervision of an RN who is assigned to the patient care unit at all times that the LPN is providing IV therapy.
- LPNs may not independently provide IV therapy in Home Care settings.

An LPN MAY:

Identify and set up equipment and solutions for infusion through any venous access device (peripheral or central line).

An LPN MAY:

Start most peripheral IV lines

Except that:

An LPN MAY NOT:

Start any central venous line including PICC lines.
Start a venous line using a midline catheter.

An LPN MAY:

Monitor and adjust flow rates of any venous access device/line

An LPN MAY:
Administer medicated and unmedicated intravenous solutions through most venous access lines including midline catheters.

Except that:

An LPN MAY NOT:
Administer intravenous solutions through any implanted central venous chest port or implanted central venous arm port access device.
Administer the first dose of any medicated IV solution through an venous access devices.
Administer oncology chemotherapy regimen infusion through venous access devices.

An LPN MAY:
Administer intermittent IV medicated solutions through most venous access lines including midline catheters.

Except that

An LPN MAY NOT:
Administer intermittent IV solutions through a central venous line, including a PICC line, central venous chest ports and central venous arm ports.

An LPN MAY:
Administer ONLY saline and/or heparin flushes through a peripheral IV line by the direct IV push technique.

Except that:

An LPN MAY NOT:
Administer any medication (except saline and/or heparin flushes) by direct IV push.
Administer an IV fluid bolus for plasma volume expansion - except in hemodialysis as defined in the LPN regulations.

An LPN MAY:
Flush venous access lines for patency using the SASH or SAS flush procedure.

Except that:

An LPN MAY NOT:
Flush any central venous line for patency including PICC lines, central venous Arm port devices.

An LPN MAY:
Change dressings on peripheral venous IV lines not directly connected to the central venous system.

Except that:

An LPN MAY NOT:
Change dressings and/or heparin lock caps on any central venous access device/line.

An LPN MAY:

Except that:
1608

An LPN MAY NOT:

Draw blood from peripheral venous lines not directly connected to the central venous system.

Draw blood from any central venous access device/line.

An LPN MAY:
Discontinue and remove peripheral venous lines.

Except that:

An LPN MAY NOT:
Discontinue or remove any central venous access device/line including PICC lines.

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relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED**.

VOTE: 5-0-0 (Geoffrey H. Griffis, Curtis L. Etherly, Jr., John A. Mann II and Ruthanne G. Miller to grant; Gregory N. Jeffries to grant by absentee ballot)

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

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: FEB 21 2006

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 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 PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 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, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

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, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH 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. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

TWR

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

Application No. 17432 of Todd and Helen Cymrot, pursuant to 11 DCMR §§ ANC 3104.1 and 1202.1, for a special exception to allow a rear addition to an existing single-family row dwelling under section 223, not meeting the court width requirements (section 406), in the CAP/R-4 District at premises 514 A Street, S.E. (Square 841, Lot 3).

HEARING DATE: February 21, 2006
DECISION DATE: February 21, 2006 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 6B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. ANC 6B submitted a report in support of the application. The Office of Planning (OP) also submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under section 223. No parties appeared at the public hearing in opposition to this application. Accordingly a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

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Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED**.

VOTE: 5-0-0 (Geoffrey H. Griffis, Curtis L. Etherly, Jr., John A. Mann II,
Ruthanne G. Miller and Anthony J. Hood to approve)

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

Each concurring member approved the issuance of this order.

FEB 23 2006

FINAL DATE OF ORDER: _____

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 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 PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 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, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

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, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION,

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DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH 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. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

TWR

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

Appeal No. 17249 of Advisory Neighborhood Commission 2A, pursuant to 11 DCMR §§ 3100 and 3112, from the administrative decision of the Zoning Administrator, Department of Consumer and Regulatory Affairs. Appellant alleges that the Zoning Administrator erred by issuing a certificate of occupancy permit (No. 81956, dated August 19, 2004) for a 34-seat restaurant (Coggins Sandwich Manufactory) located within a George Washington University dormitory. Appellant argues that the restaurant, and proposed sidewalk cafe, is a commercial use serving the general public. Appellant contends that this use was not contemplated by the Zoning Commission in Order No. 958. The R-5-D zoned subject premise is located at 616 23rd Street, N.W. (Square 43, Lot 26).

HEARING DATE: January 18, 2005

DECISION DATE: January 18, 2005

ORDER

Preliminary Matters

By letter dated October 1, 2004, the commissioner for single-member district 2A05 in Advisory Neighborhood Commission ("ANC") 2A requested review of a decision by the Zoning Administrator regarding a certificate of occupancy "for a commercial restaurant (Coggins Sandwich Shop)" open to the public in a university dormitory in an R-5-D zone. The commissioner asserted that the certificate of occupancy should be revoked because a commercial restaurant is not a use permitted in the R-5-D zone. At a public meeting on October 14, 2004, with a quorum present, ANC 2A unanimously approved a resolution requesting that the BZA "vacate the Zoning Administrator's improperly issued Certificate of Occupancy for Coggins Sandwich Shop, a commercial restaurant improperly operating in a residentially zoned area."

By memoranda dated October 22, 2004, the Office of Zoning mailed notice of the appeal to the Office of Planning, ANC 2A, the single-member district ANC 2A05, and the Councilmember for Ward 2. By letters dated November 22, 2004, the Office of Zoning sent notice of a public hearing on the appeal to ANC 2A; the Zoning Administrator; George Washington University, the owner of the property that is the subject of the appeal; and Coggins Sandwich Corporation, the operator of the restaurant in question. Notice of the hearing was also published in the *D.C. Register* on November 26, 2004 (51 DCR 10778).

The public hearing on the appeal was held January 18, 2005. The Board received testimony and evidence from the parties in this proceeding: ANC 2A, George Washington University, and Coggins Sandwich Manufactory. The Board also heard testimony from the Zoning Administrator.

The ANC argued that commercial operations, open to the public, are not allowed in Residence zones. According to the ANC, the Zoning Commission order that approved the construction and use of the dormitory, including its spaces for food service venues, did not state or imply that the food services would be commercial restaurant facilities serving both students and the public.

George Washington University asserted that the certificate of occupancy was properly issued in conformance with zoning requirements. According to the University, the food service venue at issue is an accessory use customarily incidental to the principal use of the student dormitory, and exists primarily for the benefit of students and employees of the University but is also accessible to visitors. The University noted that similar food service venues, open to the public, exist on its campus and on other university campuses.

DCRA asserted that the certificate of occupancy was not issued in error because the food service venue operates in a dormitory included in the University's campus plan and approved by the Zoning Commission. DCRA noted that a university use is permitted by special exception in Residence zones pursuant to a two-stage application process requiring approval of both a campus plan, describing the university's general intentions for land use over a substantial time, and approval of individual projects that the university proposes to undertake consistent with the campus plan. DCRA testified that the food service venue contained in the dormitory was an accessory use incidental to the principal university use of the property.

Findings of Fact

1. Certificate of Occupancy No. CO81956 was issued August 19, 2004 to Coggins Sandwich Manufactory, permitting a 34-seat restaurant on the first floor of the building located at 616 23rd Street, N.W.
2. The building is owned by George Washington University and is used principally as a dormitory known as the "Ivory Tower." Construction and use of the building was granted special exception approval by the Zoning Commission as further processing of the University's approved campus plan in Z.C. Order No. 958 (Case No. 01-21CP/16553; January 14, 2002). Order No. 958 states that the building would contain dormitory residence rooms for undergraduate students, below-grade parking spaces, and spaces for three or four food service venues on the lower and ground levels (Paragraphs 7, 20).

3. The University contracted with Coggins Sandwich Corporation to provide food services. The food venues close to the public at 10:00 p.m. but remain open for students until 2:00 a.m.
4. The Board credits the University's testimony that approximately 86 percent of persons who use the food service venues in the Ivory Tower are students. Other users include University employees and visitors to the campus, as well as the general public, such as workers from nearby offices.
5. The Board credits the testimony of the Zoning Administrator and the University that the food service venue is customarily incidental and subordinate to the principal university use of the subject property, reasonably related to the University's mission.

Conclusions of Law

Pursuant to the § 8 of the Zoning Act of 1938, D.C. Official Code § 6-641.07(g)(4) (2001), the Board may hear and decide appeals where it is alleged by the appellant that there is error in any decision made by any administrative officer or body in the administration or enforcement of the Zoning Regulations. In an appeal, the Board may reverse or affirm, wholly or partly, or may modify the decision appealed from, or may make any order that may be necessary to carry out its decision or authorization, and to that end shall have all the powers of the officer or body from whom the appeal is taken.
Id.

ANC 2A appeals the administrative decision of the Zoning Administrator to issue a certificate of occupancy for a restaurant located in a university dormitory in the R-5-D zone. According to the ANC, the certificate of occupancy was issued improperly because restaurants, open to the public, are a commercial use not permitted in Residence zones.

The Board is not persuaded by the ANC that the Zoning Administrator erred in issuing the certificate of occupancy. Rather, the Board agrees with the testimony of the Zoning Administrator and the University that the food service venue is accessory to the principal university use of the subject property. The subject property is located within the campus boundaries adopted in the University's approved campus plan, and is improved with a building principally used as a dormitory for undergraduate students, as approved by the Zoning Commission in further processing of the campus plan. The food service venue is an accessory use that overwhelmingly serves the University population, especially students as well as some University employees and visitors to the University, and incidentally offers food service to the public. Access to the food service venue by persons not affiliated with the University does not alter its character as an essentially accessory use incidental and subordinate to the principal university use of the subject property. *See, e.g. Georgetown Residents Alliance v. District of Columbia Bd. of Zoning*

Adjustment, 816 A.2d 41 (D.C. 2003) (child development center permitted as accessory use on university campus); and *Citizens Coalition v. District of Columbia Bd. of Zoning Adjustment*, 619 A.2d 940 (D.C. 1993) (cogeneration facility built on university property would be accessory use subordinate, incidental, and related to principal use of university).

The Zoning Commission order approving construction and use of the dormitory specifically indicated that food service venues would be provided in the building; however, nothing in the order restricted public access to the food service or limited its availability only to students. The Zoning Administrator acted reasonably in issuing the certificate of occupancy for the restaurant use without precluding access by the general public.

Based on the findings of fact, and having given great weight to the issues and concerns of ANC 2A, the Board concludes that the Appellant has not satisfied the burden of proof with respect to the appeal alleging that a certificate of occupancy permit (No. 81956; dated August 19, 2004) was issued in error for a 34-seat restaurant, located within a George Washington University dormitory and open to the general public, in the R-5-D zone at 616 23rd Street, N.W.

Accordingly, it is therefore **ORDERED** that the appeal is **DENIED**.

VOTE: 5-0-0 (Geoffrey H. Griffis, Ruthanne G. Miller, Curtis L. Etherly, Jr., John A. Mann II and Anthony J. Hood to deny).

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

Each concurring Board member approved the issuance of this order.

FINAL DATE OF ORDER: FEB 08 2006

PURSUANT TO 11 DCMR § 3125.6, THIS DECISION AND ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

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DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Housing and Community Development, pursuant to the authority set forth in §5 of the District of Columbia Home Purchase Assistance Act of 1978, as amended, D.C. Law 2-103, D.C. Official Code §42-2604 (2001), and Mayor's Order No. 80-8 (January 14, 1980), hereby gives notice of the intent to amend, in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*, Title 14 of the District of Columbia Municipal Regulations (DCMR), Chapter 25, Home Purchase Assistance Program (HPAP). Specifically, the proposed rulemaking amends subsections 2501.2, 2501.3, 2501.10, 2501.11, 2501.15, 2502.4, 2502.5, 2502.6, 2502.7, 2503.1, 2504.2, 2505.1, 2505.4, 2505.5, 2505.7, 2505.9, 2508.1, 2508.2, 2509.1, 2509.2, 2510.1, 2510.3, 2510.4, and 2599. The amendment deletes subsections 2501.14, 2504.1 and 2504.3.

The purpose of the rulemaking is to (1) change the HPAP eligibility residency requirement to a preference for District residency; (2) establish a single level of applicant contribution toward settlement expenses; (3) permit the DHCD Director to waive an applicant's contribution for certain economically vulnerable households; (4) permit DHCD to establish the maximum level of HPAP financial assistance based on prevailing residential real estate market conditions; (5) replace the three-tiered eligible income levels with a single eligible income category; (6) establish a single set of loan terms for all HPAP assistance; (7) extend the Notice of Eligibility period to a maximum of 180 days; (8) establish a household income eligibility limit equal to 110% of the Area Median Income; (9) allow settlement to proceed for homes that do not fully meet code requirements, subject to completion of code corrections prior to occupancy, and (10) revise the definitions consistent with the amendments to this chapter.

The proposed rulemaking shall be submitted to the Council of the District of Columbia for a 45-day period of review, excluding Saturdays, Sundays, legal holidays and days of Council recess. If the Council does not approve or disapprove the proposed rulemaking during the 45-day review period, the proposed rules shall be deemed approved. Nothing in this section shall affect any requirements imposed upon the Mayor by Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204); D.C. Official Code § 2-501 *et seq.*

Chapter 25 (Home Purchase Assistance Program) of Title 14 DCMR, is amended as follows:

Subsection 2501.2 is amended to read as follows:

2501.2 At the time of application, the applicant shall be the head of a household meeting a District of Columbia residency preference as described in subsection 2501.14 and shall have Gross Household income less than or equal to 110% of the Area Median Income. Applicants who do not meet any of the residency preferences shall not be considered eligible for the Program.

Subsection 2501.10 is amended to read as follows:

2501.10 The applicant shall have available to be applied toward the down payment or settlement costs and shall commit for the purchase of a dwelling unit or cooperative share not less than five hundred dollars (\$500), or fifty percent (50%) of all household assets in excess of three thousand dollars (\$3,000) that are in a form capable of ready conversion into cash, whichever is larger.

Subsection 2501.11 is amended to read as follows:

2501.11 The household contribution under §2501.10, may be waived by the Director where there is demonstrated need, the applicant household is elderly, handicapped, disabled, or a displaced household, and the household income of the applicant is less than or equal to 80% of the Area Median Income.

Subsection 2501.14 is amended to read as follows:

- (a) In considering applications for program eligibility, residency preferences shall be determined in the following manner: First preference shall be given to applicants who have maintained residency for at least one year immediately preceding application. Within this category of applicants, there shall be further priority consideration given to households that have been recently displaced or are facing imminent displacement from existing housing accommodations.
- (b) Second preference shall be given to applicants who have been employed in the District without residency for one year immediately preceding application.
- (c) Third preference shall be given to applicants who neither resided in the District or were employed in the District for one year immediately preceding application, but who can demonstrate prior residency for at least three consecutive years while an adult over the age of eighteen (18).

Subsection 2501.15 is amended to read as follows:

2501.15 To be eligible for purchase or for securing occupancy rights, a property shall be located in the District of Columbia and shall be a single-family, condominium or cooperative dwelling unit, to be used as the applicant's primary residence.

Subsection 2505.5 is amended to read as follows:

2502.5 Settlement may be allowed on a property which does not fully meet code requirements, at that time, if a determination is made by DHCD that adequate, financially feasible provisions have been made by the buyer or the seller to correct all code defects or violations necessary to protect the health and safety of the occupants prior to occupancy of the property and not later than six months after the settlement..

Settlement is also subject to the federal and District lead safe housing regulations, including but not limited to, HUD Disclosure and Notice requirements and the EPA

pamphlet; Visual Assessment; Paint Stabilization, if any required, use of Safe Work Practices and Clearance. Housing built after 1978 is exempt from these regulations. 24 CFR Part 35 Subpart K; DCMR Title 20, Chapter 8, Section 806 (1998).

Subsection 2503.1 is amended to read as follows:

2503.1 The amount of financial assistance available to eligible households at any qualified income level shall be determined by DHCD based on prevailing trends in the residential real estate market. DHCD shall publish financial assistance limits, not less than one time each fiscal year and shall remain in effect until a subsequent notice is published.

Subsection 2504.1 is deleted in its entirety.

Subsection 2504.2 is amended to read as follows:

2504.2 Loans made to any income-eligible household under this Program shall require monthly Principal-Only payments in an amount equal to the loan amount amortized over a four hundred eight (480) month period, and payment shall begin five (5) years from the date of the loan execution.

Subsection 2504.3 is deleted in its entirety.

Subsection 2505.1 is amended to read as follows:

2505.1 Except as provided for in §§ 2505 through 2506, all financial assistance under the Program shall be Principal-Only Loans repayable, after five (5) years, consistent with subsection 2504.2 of this Chapter, secured by a lien or subordinated trust on the property purchased or by other security instrument provided for in this chapter or deemed appropriate by the Department.

Subsection 2505.4 is amended to read as follows:

2505.4 In cases where an applicant is determined to be unable to afford the monthly payments of principal required under a Principal-Only Loan, and where the applicant is a Displacee Household, and would be required to move from the home he or she now occupies if monthly payments of principal were required beginning in the sixth year of the loan, but meets all other requirements of this chapter, the applicant may receive an additional deferral of all payments beyond the initial five-year deferred period, subject to review and approval by the Department for a period not to exceed five (5) years after the date of such additional deferment.

Subsection 2505.7 is amended to read as follows:

2505.7 All Loans under HPAP shall be secured by a recorded lien or subordinated trust on the property purchased unless this requirement is explicitly waived as provided for in § 2500.5 of this chapter.

Subsection 2505.9 is amended to read as follows:

2505.9 The Department may, by determination of the Program Administrator, provide additional HPAP assistance in the form of a grant or an unsecured deferred payment loan in amounts needed to cover all or a portion of closing costs, if required to meet the loan-to-value ratio requirements of the first mortgage, to the extent such costs exceed the requirements of § 2501.9 of this chapter.

Subsection 2508.1 is amended to read as follows:

2508.1 Loans made under the Program shall not bear interest, except as may be established under the provisions of § 2506.6.

Subsection 2508.2 is amended to read as follows:

2508.2 The terms of each loan made under the Program shall provide that the principal amount of the loan shall become due and payable on an amortized basis after five (5) years from the date of the loan or payable in full whenever the loan recipient ceases to occupy the property purchased or secured as his or her principal residence, except as provided for under § 2506.

Subsection 2508.3 is amended to read as follows:

2508.3 The DHCD may establish a time limit during which an eligible applicant shall locate and enter into a contract to purchase or an agreement to occupy an eligible property under the Program. The time limit shall not be less than ninety (90) and not more than one hundred eighty (180) days from the date the applicant is notified in writing of his or her eligibility under the Program.

Subsection 2509.1 is amended to read as follows:

2509.1 A prepayment penalty shall be charged to the loan recipient if the property is sold or transferred at any time during the first five (5) years after settlement of the loan, except as provided in § 2506.

Subsection 2509.2 is amended to read as follows:

2509.2 The prepayment penalty shall be equal to the interest on the principal amount of the loan from the date of settlement to the date of sale or transfer, at the rate of interest on the First Mortgage Loan.

Subsection 2510.1 is amended to read as follows:

2510.1 The Department shall establish a household income eligibility limit equal to 110% of the Area Median Income in accordance with the requirements of this section.

Subsection 2510.3 is amended to read as follows:

2510.3 The Department shall take the median income for the Washington, D.C. Metropolitan Statistical Area established periodically by the Secretary of the U.S. Department of Housing and Urban Development (HUD) and from that median income figure calculate one hundred ten percent (110%) to determine the base median income limit.

Subsection 2510.4 is amended to read as follows:

2510.4 The amount calculated shall be applied to a four (4) person household size, and using this amount as a base number, the following percentage adjustments shall be calculated to adjust the income limit by family size:

PERCENTAGE ADJUSTMENTS

Persons in

Household	1	2	3	4	5	6	7	8
Income	70	80	90	Base	108	116	124	132

Subsection 2599.1 is amended by revising the following terms and definitions to read as follows:

Area Median Income - the current median income for the Washington, D.C., Metropolitan Statistical Area, as determined periodically by DHCD (based on the area median income established by the Secretary of the U.S. Department of Housing and Urban Development (HUD), with adjustments for family size.

Dwelling Unit - a single-unit single family home, a fee simple unit in a condominium, or occupancy rights in a cooperative.

First Time Homebuyer - a real property purchaser who had no ownership interest in his or her principal residence at any time during the three (3) year period ending on the date of his or her application for assistance (but including an applicant who has divorced or separated during the three (3) year period where a formal settlement has been made under which the applicant does not receive an ownership interest in a primary residence which had been jointly owned), and who has no other current ownership interest in residential real property.

Grant - financial assistance provided under the Program which does not require repayment. Grants are not normally made under the Program, except in accordance with the special conditions set forth in this chapter.

Gross Household Income - gross amount of income of all adult household members that is anticipated to be received during the coming 12-month period, as defined in 24 Code of Federal Regulations Section 5.609.

Lower Income Household – this term and definition are deleted in their entirety.

Moderate Income – this term and definition are deleted in their entirety.

Principal-Only Loan - a loan which is repaid in regular monthly installments of principal only. All Principal-Only Loans under HPAP shall be secured by a lien or subordinated trust on the property purchased unless this requirement is explicitly waived as provided for in § 2505.7. The loans may also be secured by financing statements or liens on the stock or other assets of a loan recipient, by an assignment of lease(s) or rent(s), or by other means consistent with District of Columbia law.

Program Administrator – the staff person at the D.C. Department of Housing and Community Development designated to manage the Home Purchase Assistance Program.

Unsecured Loan - a loan which requires repayment, subject to the conditions of the Program's loan agreement and for which the recipient has signed a promissory note, but which is not secured by a lien on the property purchased. Unsecured loans shall be made under the Program only under the special circumstances set forth in § 2505.9.

Very Low Income – this term and definition are deleted in their entirety.

All comments for this Proposed Rulemaking can be sent to 801 North Capital Street, NE, Washington, DC 20002, attention Robert Mulderig, Deputy Direct for Residential and Community Services. Copies of this Proposed Rulemaking can be obtained at the same address between the hours of 8:15 am and 4:45 pm.