

The Arts & Technology Academy Public Charter School is announcing a  
**Request for Proposal**  
For  
**Construction Management Services ("CM")**  
**Arts & Technology Academy Renovation and Addition**

The Arts & Technology Academy Public Charter School is located at 5300 Blaine Street NE, Washington, DC. It serves 615 students in preschool through 6<sup>th</sup> grade. ATA received its charter in the fall of 1999. The Academy was founded on the basis that children are interested in and entitled to an education. The school is dedicated to the incorporation of arts and technology in the learning process. The website is: [www.artsandtechnologyacademy.org](http://www.artsandtechnologyacademy.org)

The Arts & Technology Academy is currently housed in 70,000 square feet of building. The Academy is planning to expand its successful program through 8<sup>th</sup> grade and therefore its enrollment to approximately 1000. Additional space as well as renovated space is needed to accommodate the facility needs of the future operation. The Project is expected to include various classrooms, science labs, computer labs, art and music studios, a library, performing arts spaces, and general administrative space. The amount of new construction is currently estimated in the range of 40,000 gross square feet.

ATA is soliciting proposals for the design of an addition and a renovation of the existing building. The owner has contracted Brailsford & Dunlavy to serve as Project Manger throughout the design and construction process. A copy of the RFP can be obtained on or after Tuesday, July 5<sup>th</sup>, 2005. **All proposals must be submitted by noon Friday, July 22, 2005.**

The RFP can be obtained by contacting Ann Drummie of Brailsford & Dunlavy:  
1140 Connecticut Avenue NW, Suite 400, Washington, DC 20036  
(202) 289-4455  
[adrummie@facilityplanners.com](mailto:adrummie@facilityplanners.com).

**NOTICE FOR SOLICITATION TO PROVIDE  
ACCOUNTING SERVICES FOR  
THE CESAR CHAVEZ PUBLIC CHARTER SCHOOLS  
FOR PUBLIC POLICY**

Cesar Chavez Public Charter Schools for Public Policy hereby solicits contracted accounting services. Call 202.387.6980 ext. 811 for more information/RFP. Proposal, credentials, and fee structure must be submitted by COB July 1, 2005 to 1346 Florida Ave, NW 2<sup>nd</sup> Floor, Washington, DC 20009, Attn: Bryan Patten.

**NOTICE FOR SOLICITATION OF PROPOSALS TO PROVIDE  
FOOD SERVICE FOR**

**THE CESAR CHAVEZ PUBLIC CHARTER SCHOOLS  
FOR PUBLIC POLICY**

The Cesar Chavez Public Charter Schools for Public Policy, in accordance with section 2204 (c) (1)(A) of the DC School Reform Act of 1995 (Public Law 104-134), hereby solicits proposals to run its breakfast, snack, and lunch program for the 120 children enrolled at the school. All meals must meet, but are not restricted to, minimum National School Breakfast and Lunch Program meal pattern requirements. Meals will be served to approximately 800 students between two campuses (3768 Hayes St, NE and 709 12<sup>th</sup> St., SE). Please included price quotes for unitized and bulk meals.

The Cesar Chavez Public Charter Schools will receive bids from July 1, 2005 to COB July 31, 2005 Attn: Alisha Roberts, Business Manager, 1346 Florida Ave, NW 2<sup>nd</sup> Floor, Washington, DC 20009. All necessary forms may be obtained by calling 202.387.6980 ext. \*811

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## **EAGLE ACADEMY PUBLIC CHARTER SCHOOL**

### **NOTICE: FOR PROPOSAL TO CATER SCHOOL BREAKFAST AND LUNCH PROGRAM**

The Eagle Academy Public Charter School in accordance with section 2204© of the District of Columbia School Reform Act of 1995, solicits proposals to provide meals for breakfast, lunch and snack for 130-150 students ages 3, 4, and 5. The meals must meet federal nutrition requirements and all compliance standards of the State Education Office School Breakfast Program, the National School Lunch Program, and the After School Snack Program. Vendor must also provide individualized prepackaged meals and all supplies (i.e. forks, spoons, knives, paper ware, and cabinet for storage of such supplies)

Potential Vendors must state their credentials, providing appropriate licenses and sample menus in accordance with federal nutritional and serving regulations. No proposal will be considered without submitting a completed IFB/Request for the furnishing of meals.

Proposals shall be received no later than 5:00 P.M., Friday, July 8, 2005. Proposals should be sent to, Eagle Academy Public Charter School, ATTN: Jennifer Jenkins, Business Manager, 770 M Street, SE, Washington, DC 20003.

## **EAGLE ACADEMY PUBLIC CHARTER SCHOOL**

### **NOTICE: FOR PROPOSAL TO PROVIDE SPECIAL EDUCATION SERVICES**

Eagle Academy Public Charter School, in accordance with section 2204© of the District of Columbia School Reform Act of 1995, solicits proposals to provide special education services including therapeutic services, evaluation services, I.E.P. services and related services for children ages 3 through 6, ranging from Levels 1 through 4.

Providers must state their credentials, provide appropriate references. No proposal will be considered without fixed prices.

Proposals shall be received no later than 5:00 P.M., July 8, 2005. Proposals should be addressed: Eagle Academy Public Charter School, Attn: Jennifer Jenkins, Business Manager, 770 M Street, SE, Washington, DC 20003.

## EAGLE ACADEMY PUBLIC CHARTER SCHOOL

### EARLY CHILDHOOD PROFESSIONAL OPENINGS:

**Licensed Social Worker**, prefer experience working with ages 3-6. **Teachers** must pass the PRAIXS, prefer B.S. degree in ECH. **Instuotional Aides** must have A.A. Please send letter and resume with three letters of reference to Eagle Academy Public Charter School, Attn: T. Jett-Jones, 770 M Street, SE, Washington, DC 20003.

**EAGLE ACADEMY PUBLIC CHARTER SCHOOL  
OPEN ENROLLMENT**

Eagle Academy Public Charter School is now accepting applications for enrollment in Pre-School, Pre-Kindergarten, and Kindergarten until July 8, 2005. All applications must be completed, including Proof of residency. Applications are to be submitted to Eagle Academy Public Charter School, 770 M Street, SE, Washington, DC 20003 by no later than 3:00 p.m. on July 8, 2005. To obtain registration material, please stop by between 10:00 a.m. and 3:00 p.m. Monday thru Friday.

All students whom have been accepted will be notified no later than July 11, 2004. Parents must return signed letters of acceptance no later than July 22, 2004 to complete the enrollment process.

## FRIENDSHIP PUBLIC CHARTER SCHOOL

## REQUEST FOR PROPOSALS

## FOR DESKTOP AND LAPTOP COMPUTER and MONITOR PURCHASE

Sealed proposal (an original and four (4) legible copies), in an envelope clearly marked "RFP FOR DESKTOP AND LAPTOP COMPUTER and MONITOR PURCHASE", will be received in the office of Friendship Public Charter School, Inc. located at 900 Pennsylvania Ave, SE Washington, DC 20003 marked to the attention of Gunther Ulf Zeitler until 4:00 PM on July 6, 2005 for:

**"PROVIDING Desktop and Laptop Computers and Monitors for the "Technology Refresh" at the Carter G. Woodson Collegiate Academy."**

FPCS reserves the right to reject any and all qualification statements, to cancel this solicitation, and to waive any informalities or irregularities in procedure.

**Introduction**

FPCS is soliciting proposals from offerors having specific interest and qualifications in the areas identified in this solicitation. Qualification statements and proposals for consideration must contain evidence of the offeror's experience and abilities in the specified area and other disciplines directly related to the proposed work. Other information required by FPCS includes the submission of references, illustrative examples of similar work performed, and any other requested information which will clearly demonstrate the offeror's expertise in the area of this solicitation.

A selection committee will review and evaluate all qualification statements and may request offerors to make oral presentations. The selection committee will rely on the qualification statements in selection of finalists and, therefore, offerors should emphasize specific information considered pertinent to this solicitation and submit all information requested.

**Project Description**

Computers at the Collegiate Academy are older than their lifecycle of 5 years and need to be replaced. The project will purchase **119 Desktop Computers, 93 Laptop Computers, 65 Display (Bubble) CTR 15" Monitors, 7 Flat Panel 15" Monitors and 7 Higher Powered Desktop computers as well as Licenses for MS 2003 Prof Licenses only** as well as Carrying Cases and and laptop locking cables etc. Therefore, all offerors are expected to demonstrate that they have the existing capacity to provide the aforementioned services.

FPCS desires to have these services commence by Mid July, 2005.

**Qualification Statement Requirements**

The offeror shall provide the following information organized as follows in their qualification statement:

1. A brief discussion of the firm, its organization, and services offered;
2. Information which demonstrates a history of providing hardware and software to schools and/or Local Education Agencies.
3. Owner/Client's name, contact person, telephone number, project description, project value, and prime contractor's name and address for at least three (3) similar projects during the past three (3) years.

4. Provide proof if LSDBE certified firm as LSDBEs will receive preferential consideration. See <http://olbd.dc.gov/> will receive preference

**Proposal Requirements:**

Offerors shall submit the following in addition to qualifications for the following items:

1. Proposed pricing
2. Estimated Time of Delivery

QTY DESCRIPTION /MFG. PART NUMBER etc...

**Desktop: Quantity (119)**

Specifications:

Pentium 4 3.2Ghz or higher  
 512 Mb DDR RAM  
 3.5" floppy drive  
 80 Gb HD  
 CD ROM  
 Sound card & built in speakers  
 Fast ethernet, GB Ethernet.  
 XP Professional  
 Office 2003 Professional with Publisher  
 Graphic Controller Intel GMA 900  
 Small form factor  
 1Mb L2 cache  
 3year warranty

**Laptop: Quantity 93**

Security Locking cables  
 Laptop carrying case

Laptop: Quantity (93)

Specifications:

Intel Pentium M 1.7 Ghz  
 512 Mb DDR  
 14.1 inch Active 1024x768  
 CD/RW/DVD Combo Drive  
 40GB  
 Wireless adapter b/g Integrated  
 Modem  
 XP Professional  
 Office 2003 Professional with Publisher  
 3year warranty

**Desktop: Quantity (7)**

Specifications:

P4 3.4Ghz or higher  
 1Gb MB RAM  
 3.5" floppy drive  
 80 GB HD  
 CD/RW/DVD Combo Drive  
 Sound card with built in speakers  
 Graphic Controller Intel GMA 900  
 Fast Ethernet, GB Ethernet.

XP Professional  
Office 2003 Professional with Publisher  
Graphic Controller  
Small form factor  
1Mb L2 cache  
3year warranty

**Display: Quantity 7**

Specifications

Up to 16.2 million colors

15" LCD Display

TFT Active Matrix- flat panel display

3 year warranty

**Display: Quantity 63**

Specifications

15" LCD Display CRT

Dim 14.6 x 15.4 x 15.2

Pixel pitch 0.25 mm

Should you have any questions with regard to this solicitation, please contact  
Gunther Ulf Zeitler at 202-359-6287.

**Ideal Academy Public Charter School**

**INVITATION OF BIDS**

**The Ideal Academy Public Charter School will receive bids until Monday, July 18, 2005 at 4pm for the delivery of meals to children enrolled at the school. All meals must meet, but are not restricted to minimum National School Breakfast and Lunch Program meal pattern requirements. Meal pattern requirements and all necessary forms may be obtained from:**

**Trina Ruffin  
100 Peabody Street, NW  
2<sup>nd</sup> Floor  
Washington, DC 20011**

# Lighthouse Academies

## Request for Proposal

Lighthouse Academies, Inc., and Lighthouse Academies of Indiana, Inc., is seeking competitive bids to provide Copiers or, Custodial Services to Lighthouse Academies charter schools in Indianapolis, & Gary, Indiana, and Washington DC.

All bids shall be forwarded to the address listed below:

Attn: Kalman Kopcsandy  
Lighthouse Academies, Inc.  
1661 Worcester Road, Suite 207  
Framingham, MA 01701  
Phone: 267-664-9173  
Fax: 215-689-4327  
kkopcsandy@lighthouse-academies.org

Said bids shall be received by **July 13, 2005, by 11:00 AM**

Proposals shall be submitted according to the specifications in the RFP. In addition all bids shall be submitted in a sealed envelope marked as;  
"School Copier and Equipment Bid 2005 - 2006."

Lighthouse Academies, Inc., and Lighthouse Academies of Indiana, Inc., reserves the right to reject any proposals without limitation. Lighthouse Academies, Inc., and Lighthouse Academies of Indiana, Inc., reserves the right to make said award as it determines to be in the best interest of the Schools. To acquire a copy of the bid specification, please contact the above via Phone or Email.

Lighthouse Academies, Inc., 1661 Worcester Road, Suite 207, Framingham, MA 01701  
phone: 508.626.0901 fax: 508.626.0905  
www.lighthouse-academies.org

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**DISTRICT OF COLUMBIA  
OFFICE OF THE MAYOR  
OFFICE ON AGING**

**PUBLIC NOTICE**

**NOTICE OF FUNDING AVAILABILITY**

**Fiscal Year 2006 Senior Wellness Center Program Grant**

The Government of the District of Columbia, Office on Aging is soliciting applications from qualified applicants to operate District of Columbia Government-owned wellness centers which promote healthy lifestyles, good nutrition, exercise, and general wellness among the District's elderly population, aged 60 and above.

Specifically, this Request for Application (RFA) seeks organizations to operate one or all of the following wellness centers:

- Ward 5 – The Model Cities Senior Wellness Center
- Ward 7 – The Washington Seniors Wellness Center; and
- Ward 8 – The Congress Heights Senior Wellness Center.

The successful organization(s) will be responsible for providing services and activities designed to enhance physical, social and emotional well-being through elements and activities such as physical exercise, nutrition counseling, health education and smoking cessation which are designed to promote good health habits among the target population.

Services for this population should include:

- Wellness/Health Promotion
- Disease Prevention
- Medication Management

and other services which promote healthy lifestyles for seniors.

In addition, operators of the Wellness Centers have the following community responsibilities:

1. Develop and implement a needs assessment to identify the needs in the target community;
2. Work in cooperation with the Office on Aging Lead Agencies;
3. Develop and implement a structured community outreach program; and
4. Establish a Members Advisory Council to serve as an advisor to help develop a coordinated service delivery system.

A total not to exceed \$ 1,037,708 is contingently available for funding successful applicant(s) to serve senior citizens at the Wellness Centers. Funding has been provided to the Office on Aging from both Federal and District appropriated funds.

Applicants who apply to this RFA must design services to meet the complex and ever-changing needs of the elderly, especially older individuals with the greatest economic and/or social needs, with particular emphasis on the low-income minority elderly.

Nonprofit organizations with places of business within the physical boundaries of the District of Columbia are eligible to apply. For profit organizations with places of business within the physical boundaries of the District of Columbia are also eligible to apply, but must not include profit in their grant application.

The RFA will be released on July 11, 2005, and the deadline for submission is August 24, 2005 at 5:00 p.m. A Pre-Application Conference will be held on July 27, 2005 from 10:00 am-12:00 noon at the D.C. Office on Aging Conference Room 940 South. Applications can be obtained from the D.C. Office on Aging, 441 4<sup>th</sup> Street, NW, Suite 900 South, Washington, DC 20001. The RFA will also be available on the Office on Aging's website, [www.dcoa.dc.gov](http://www.dcoa.dc.gov) and on the Office of Partnerships and Grants Development's website, [www.opgd.dc.gov](http://www.opgd.dc.gov) no later than July 11, 2005.

## Options Public Charter School

## Request for Proposal (RFP)

Options Public Charter School is soliciting proposals for the professional food management of its facility located at 1375 E Street, NE, Washington, DC 20002. The population will be approximately 250 students, and the kitchen facility will be shared. We are requesting proposals from qualified companies for the management of our National School Lunch and Breakfast programs. All interested companies must be familiar with and have a successful history in managing the Federal School Lunch Program. All bids must be received by 2:00 PM on July 18, 2005. Copies of the proposal specifications can be obtained after July 1, 2005. Any interested and qualified companies may contact:

Tanya Pearson  
Business Manager  
Options Public Charter School  
800 3<sup>rd</sup> Street, NE  
Washington, DC 20002  
Tel: 202-547-1028, ext 203  
Fax: 202-547-1272  
Email: [tpearson@optionsschool.org](mailto:tpearson@optionsschool.org)

**Public Notice of Funding Availability****National Capital Region Opportunities****National Capital Region Urban Areas Security Initiative Grant Program – Non Profit**

**Allocation.** *The Washington, DC Office of the Deputy Mayor for Public Safety and Justice/Office of Homeland Security* announces the availability of federal grant funds through the 2005 Homeland Security Grant program.

**Purpose:** The purpose of this grant program to provide funds to 501(c)(3) nonprofit organizations located within specific high-threat, high-density urban areas (the National Capital Region) and are determined to be at risk of terrorist attack. Grant funding may only be used for target hardening, which includes the acquisition and installation of security equipment in real property (including buildings and improvements) owned or leased by an eligible nonprofit organization, specifically in response to a risk of terrorist attack. Please note: the maximum grant award is \$100,000 per nonprofit organization.

**Eligibility:** Eligible applicants are limited to nonprofit organizations having current IRS approval as a IRC Section 501 (c) (3) tax-exempt status organization and located within the National Capital Region, defined as the District of Columbia; counties of Montgomery and Prince George's (MD); counties of Arlington, Fairfax, Prince William and Loudon (VA); Cities of Falls Church, Manassas, Manassas Park, Fairfax and Alexandria (VA).

The Request for Applications (RFA) may be found online at the following web addresses: <http://ohs.dmpsj.dc.gov>. The deadline for applications is 5:00 p.m. on Friday, August 19, 2005.

*\*\*\*There will be a RFA information session held on Monday, July 11<sup>th</sup>, 2005 between 9am and 12pm at the Metropolitan Washington Council of Governments Boardroom (777 North Capital Street, NW). If you plan on attending, please send an email to [leeann.turner@dc.gov](mailto:leeann.turner@dc.gov) confirming attendance.\*\*\**

For more information, contact Steve Kral, Administrator for the Office of Homeland Security, Office of the Deputy Mayor for Public Safety and Justice at 202-727-4036 or [Steve.Kral@dc.gov](mailto:Steve.Kral@dc.gov)

Office of the Secretary of the  
District of Columbia

June 10, 2005

Notice is hereby given that the following named persons have been appointed as Notaries Public in and for the District of Columbia, effective on or after July 1, 2005.

Amaro, Susan	New	U P S Store 5185 MacA Blvd, NW20016
Artis, Chandra M.	New	4610 Hilltop Terrace, SE 20019
Barger, T. Ellen	New	Proskauer Rose 1233 20 <sup>th</sup> St, NW#800 20036
Barshay, Anna	New	Piper Rudnick Gray Cary 1200 19 <sup>th</sup> St, NW 20036
Caldwell, Diana	Rpt	3110 35 <sup>th</sup> St, NE 20018
Chatman, Ola R.	Rpt	Gibson Dunn Crutcher 1050 Conn Ave, NW#300 20036
Chin-Lee, Warren	New	3001 Veazey Ter, NW#515 20008
Clarke, Julie E.	New	3317 Cleveland Ave, NW 20008
Davis, Kenneth E.	New	612 Jefferson St, NW 20011
DeFoe, C. Allison	New	Smoot Construction Co 5335 Wis Ave, NW#940 20015

Epps, Gloria Simmons	Rpt	Sughrue Mion 2100 Pa Ave,NW#800 20037
Evans, Marlisa	New	Centex Construction 333 Const Ave,NW 20001
Evans, Onetia J.	Rpt	U S Dept of Labor 200 Const Ave,NW 20210
Ferguson, Teresa E.	Rpt	SunTrust Bank 5000 Conn Ave,NW 20008
Ferrell, Madeline	Rpt	Interfaith Alliance 1331 H St,NW11thFl 20005
Fowlkes,Jr., Earl D.	New	D C Care Consortium 1436 U St,NW#400 20009
Frederick, Jane C.	Rpt	Derenberger&PageReporting 1430 S St,NW 20009
Glover, Shirleeta J.	New	Green Door 1221 Taylor St,NW 20011
Gomez, Diane	Rpt	L A D Reporting 1100 Conn Ave,NW#850 20036
Gordon, Mary L.	Rpt	MiCRA 1155 Conn Ave,NW#900 20036
Hambrook, Alexandra	Rpt	Inter-Amer Invest Co 1350 N Y Ave,NW 20577
Hernandez, Maria E.	Rpt	G T Univ/Internatl Prog 1421 37 <sup>th</sup> St,NW 20057
Hoeft, Holly A.	New	Avenue Settlement Corp 2401 Pa Ave,NW#H&320 20037
Hurd, Emmett P.	New	Doritha Campbell & Assoc 1717 K St,NW#300 20036

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Huss, Dawn M.	New	Robertson Development 1916 12 <sup>th</sup> St,NW#2 20009
Interlandi, Helene D.	Rpt	G W Univ/Office of Pres 2121 I St,NW#801 20052
Johnson, Ray A.	Rpt	Attorney at Law 1717 K St,NW#600 20036
Jones, Gwendolyn B.	Rpt	O F H E O 1700 G St,NW4thFl 20552
Joseff, Barbara	Rpt	Natl Museum/Women in Arts 1250 N Y Ave,NW 20005
Kannon, Leilani C.	Rpt	Venable 575 7 <sup>th</sup> St,NW 20004
Kingwood, Sheila	New	School Without Walls 2130 G St,NW 20037
Laing, Lorna	New	Boies Schiller & Flexner 5301 Wis Ave,NW 20015
Lee, Howard H.	Rpt	I F P R I 2033 K St,NW 20006
Lewis, Janet M.	Rpt	Slover & Loftus 1224 17 <sup>th</sup> St,NE 20036
Mapp, Antonio	Rpt	Bernabei & Katz 1773 T St,NW 20009
Marcoccia, Michelle L.	New	Kriegsfeld Corporation 4301 Conn Ave,NW#132 20008
Massengale, Jack	Rpt	Stokes & Assoc 1712 I St,NW#915 20006
Miller, Jana	New	Boies Schiller & Flexner 5301 Wis Ave,NW#800 20015

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Mitrothanasias, Sharon Lee	New	Deposition Services 2300 M St, NW#800 20037
Newmon, Phyllis M.	Rpt	Squire Sanders Dempsey 1201 Pa Ave, NW#500 20004
Nieves-Oakey, Gidgette	Rpt	Capital Reporting 1000 Conn Ave, NW#505 20006
O'Neill, Erin P.	New	Steptoe & Johnson 1300 Conn Ave, NW 20036
Payonk, Mary Ann	Rpt	Beta Reporting 910 17 <sup>th</sup> St, NW 20006
Price, Annette	New	1328 5 <sup>th</sup> St, NW 20001
Quinn, Jewel A.	Rpt	201 I St, SW 20003
Randolph, Cheryl J.	Rpt	U S Securities & Exch Com 100 F St, NE 20549
Rice, Nichele Y.	Rpt	Cole Raywid Braverman 1919 Pa Ave, NW#200 20006
Sierra, Samuel	Rpt	Natl Church/Nazarene 4401 16 <sup>th</sup> St, NW 20011
Smith, Luceele P.	Rpt	Winston & Strawn 1700 K St, NW 20006
Sugar, Deborah L.	Rpt	DARO Realty 4301 Conn Ave, NW#437 20008
Sutton, Deborah G.	New	Suttons Process Service 1200 G St, NW#800 20005
Tibbs, Latrice R.	New	U S Grains Council 1400K St, NW 20005

Tucker, Deborah M.	New	F T C 601 N J Ave, NW#7244 20001
Tucker, Whitley	New	Natl Gay/Lesbian Task For 1325 Mass Ave, NW#600 20005
Underdue, Keturah A.	New	Affiliated Computer Serv 1800 M St, NW#800 20036

SECRETARY OF THE  
DISTRICT OF COLUMBIAGOVERNMENT OF THE DISTRICT OF COLUMBIA  
EXECUTIVE OFFICE  
OFFICE OF THE SECRETARY  
OF THE DISTRICT OF COLUMBIA  
WASHINGTON, D.C. 20001

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## Final Decision

Appeal of: Billy P. Greer

Matter No: MCU 411893

Date: June 14, 2005

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Arnold R. Finlayson, Esq., Director, Office of Documents and Administrative Issuances, participated in the preparation of this decision.

### I. INTRODUCTION

The above-captioned matter is before the Secretary of the District of Columbia following an appeal to the Mayor of the District of Columbia<sup>1</sup> of the University of the District of Columbia's (hereinafter "UDC" or the "University") denial of a request for information filed by Mr. Billy P. Greer (hereinafter the "appellant") under the provisions of the District of Columbia Freedom of

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<sup>1</sup> Pursuant to Mayor's Order 97-177, dated October 9, 1997, the Secretary of the District of Columbia was delegated the authority vested in the Mayor to render final decisions on certain administrative appeals and petitions for review.

Information Act ("D.C.-FOIA"), D.C. Official Code §§ 2-531 et seq. (2001).<sup>2</sup>

The appellant's D.C.-FOIA request, which sought the disclosure of certain reports prepared by consultants who conducted an assessment of UDC's special police force, was denied by the University based on D.C. Official Code § 2-534(a)(4), which is commonly referred to as D.C.-FOIA Exemption 4 and provides a statutory exception to the D.C. FOIA's broad information disclosure mandate.

Following a brief statement of the background facts, and a general overview of the legal principles underlying the D.C.-FOIA, this decision considers the propriety of UDC's decision to withhold responsive records from disclosure to the appellant pursuant to his D.C.-FOIA request.

## II. BACKGROUND

At the time of the filing of this appeal, the appellant was employed as a police officer at UDC.

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<sup>2</sup> Pursuant to section 207(a) of the D.C.-FOIA, "[a]ny person denied the right to inspect a public record of a public body may petition the Mayor to review the public record to determine whether it may be withheld from public inspection." D.C. Official Code § 2-537(a) (emphasis added).

According to the appellant, "DURING THE SUMMER OF 2002, THE UNIVERSITY (RESPONDENT) HIRED A CONSULTANT FIRM (SECURITY CONSULTING SERVICES, INC) OUT OF CLEVELAND, OHIO TO ASSESS THE RESPONDENT POLICE DEPARTMENT." Appeal Letter p. 1. The appellant further asserts that UDC "SUBSEQUENTLY . . . . RETAINED MR. ROBERT T. ROBINSON TO CONDUCT AN ADDITIONAL ASSESSMENT OF RESPONDENT'S POLICE DEPARTMENT." Id.

The record indicates that by letter dated July 29, 2003, the appellant requested copies of both the Security Consulting Services Report ("SCS Report") and the Robert T. Robinson Report ("Robinson Report") of their respective assessments of UDC's police force.<sup>3</sup>

The University denied the subject request in a letter to the appellant which indicated that it "ha[d] determined that the information . . . . requested [was] privileged from disclosure under FOIA Exemption 4 as deliberative process material." Letter dated August 25, 2003 from C. Martin, Assistant University Counsel/FOIA Officer to Officer Billy Greer, University of the District of Columbia, c/o University of the District of Columbia Special Police.

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<sup>3</sup> A copy of the appellant's D.C.-FOIA request was not a part of the record before the Office of the Secretary.

UDC further advised the appellant in its denial letter as follows:

[T]here is no reasonably segregable nonexempt information, which can be disclosed. In this regard, it was concluded that the factual material is so inextricably intertwined with the privileged material that its disclosure would expose or cause harm to the University's deliberations or decision-making process.

UDC's letter to the appellant then went on to explain as follows:

FOIA Exemption 4 is designed to protect and promote the objectives of fostering frank deliberation and consultation with the University in the pre-decisional stage, and prevent a premature disclosure that could disrupt and harm the University's decision-making process. The protected status of pre-decisional documents is not altered by the subsequent issuance of a decision, by the University opting not to make a decision or by the passage of time.

Id.

Dissatisfied with UDC's response, the appellant filed the instant appeal with the Mayor.

On appeal, the appellant advances two reasons in support of his position that the consultants' reports should be disclosed to him, namely:

- (1) THE OHIO REPORT WAS DONE BY AND [sic] OUTSIDE COMPANY WITH TAX DOLLARS. I'M A TAX PAYER IN THE DISTRICT OF COLUMBIA THEREFORE I HAVE A RIGHT TO SEE WHAT MY TAX DOLLARS IS [sic] PAYING FOR.

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represent them as public officials and employees." D.C. Official Code § 2-531; see Donahue v. Thomas, 618 A.2d 601, 602 n.2 (D.C. 1992); Newspapers, Inc. v. Metropolitan Police Department, 546 A.2d 990, 993 (D.C. 1988); Barry v. Washington Post Company, 529 A.2d 319, 321 (D.C. 1987).

In order to accord full force and effect to the spirit and intent of the D.C.-FOIA, officials of District of Columbia public bodies are required to construe its provisions "with the view toward expansion of public access and the minimization of costs and time delays to persons requesting information." D.C. Official Code § 2-531; see Washington Post, 560 A.2d at 521; Newspapers, Inc., 546 A.2d at 993. Thus, the policy underlying the D.C.-FOIA favors the broad disclosure of official records in the possession, custody or control of public bodies of the government of the District of Columbia, unless such records (or portions thereof) fall squarely within the purview of one or more of the eleven (11) categories of information which are expressly exempted from the disclosure mandate. See Washington Post, supra; Newspapers, Inc., supra. The statutory exemptions enumerated in the D.C.-FOIA, which protect certain types of confidential and/or privileged information from disclosure, "are to be construed narrowly,

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with ambiguities resolved in favor of disclosure."

Washington Post, *supra*.

**B. D.C.-FOIA'S BROAD DISCLOSURE MANDATE  
AND EXEMPTION SCHEME**

Section 202(a) of the D.C.-FOIA provides that "[a]ny person has [the] right to inspect, and at his or her discretion, to copy any public record of a public body, except as otherwise expressly provided by § 2-534." D.C. Official Code § 2-532(a) (emphasis added).

Section § 2-534 of the D.C. Official Code, conspicuously entitled "Exemptions from disclosure," in turn, enumerates eleven (11) categories of information which "may" be exempt from disclosure under the provisions of [the D.C.-FOIA]." D.C. Official Code § 2-534(a)(1)-(11) (emphasis added).<sup>5</sup>

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<sup>4</sup> In the legal sense, the "use of the word 'may' in a statute ordinarily denotes discretion." In re Langon, 663 A.2d 1248 (D.C. 1995). Indeed, the federal FOIA has been interpreted by federal courts to permit agencies to make discretionary disclosures of records otherwise exempt under at least four of the exemptions to the federal FOIA. See Bartholdi Cable Co. v. FCC, 114 F.3d 274, 282 (D.C. Cir. 1997) ("FOIA's exemptions simply permit, but do not require, an agency to withhold exempted information").

<sup>5</sup> Taken together, sections 2-532(a) and 2-534 of the D.C. Official Code clearly mandate full disclosure of all public records maintained by District public bodies, to the extent that such records (or any reasonably segregable portions thereof), do not fall within the ambit of any of the

## C. APPLICABILITY OF D.C.-FOIA EXEMPTION 4

D.C.-FOIA Exemption 4 vests public bodies with discretion to withhold "[i]nter-agency or intra-agency memorandums and letters which would not be available by law to a party other than an agency in litigation with the agency[.]" D.C. Official Code § 2-534(a)(4).

There is a dearth of case authority from the District of Columbia Court of Appeals discussing D.C.-FOIA Exemption 4 and, in the few discoverable published opinions, the court did not set forth the legal framework to be applied in analyzing the propriety of a District public body's decision to withhold records from disclosure in D.C.-FOIA Exemption 4 cases. However, under circumstances where, as here, a "statute is borrowed extensively from a federal statute, as the D.C.-FOIA was from the federal Freedom of Information Act . . . the decisions of the (federal) court of last resort are normally adopted with the statute."

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(footnote 5 continued)

statutory exemptions. See Barry v. Washington Post Co., 529 A.2d 319, 321 (D.C. 1987) ("The [D.C.-FOIA] provides for full disclosure unless the information requested is exempted under a specific statutory provision").

Donahue v. Thomas, 618 A.2d 601, 602 n. 3 (D.C. 1992)

(quoting Lenaetts v. District of Columbia Dep't of Employment Services, 545 A.2d 1234, 1238 n.9 (D.C. 1988)).

Therefore, "except where the two acts differ, . . . case law interpreting the federal FOIA [is] instructive authority with respect to our own Act." Washington Post, supra, 560 A.2d at 521 n.5.

Like D.C.-FOIA Exemption 4, federal FOIA Exemption 5 shields from mandatory disclosure "[i]nter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency[.]" 5 U.S.C. § 552(b)(5) (1994 & Supp. IV 1998).

According to the legislative history accompanying the federal FOIA, the purpose of federal FOIA Exemption 5 is to encourage the "frank discussion of legal and policy issues." S:Rep. No. 813, 89th Cong., 1st Sess. 9 (1965).

In the *Petition of Vera Waltman Mayer*, MCU No. 340126, dated June 26, 2003, 50 D.C. Reg. 5765 (July 18, 2003), this office considered the construction and scope to be given to D.C.-FOIA Exemption 4.

Based on pertinent federal court decisions interpreting the counterpart federal FOIA Exemption, this office concluded in the *Petition of Vera Waltman Mayer* that

D.C.-FOIA Exemption 4 incorporates the well-recognized civil discovery privileges recognized by the U.S. Supreme Court and D.C. Circuit in pertinent federal FOIA Exemption 5 cases, to wit: the deliberative process privilege, the attorney-client privilege, and the attorney work product privilege.

The pretrial civil discovery privilege encompassed under D.C.-FOIA Exemption 4 most often invoked by public bodies to withhold records in their possession, custody, or control from disclosure, and the one that is relied upon by the University here, is the deliberative process privilege.

The deliberative process privilege rests "on the policy of protecting the 'decision making process of government agencies' . . . and focus[es] on documents 'reflecting advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated.'"

NLRB v. Sears, Roebuck & Co., 421 U.S. 132, 150 (1975).

"Manifestly, the ultimate purpose of this long-recognized privilege is to prevent injury to the quality of agency decisions." Id. at 152.

It is well established that an internal letter, memorandum, or other form of written communication is

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protected from disclosure under the deliberative process privilege if it is both "predecisional" in nature and "deliberative" in character. Mapother v. Department of Justice, 3 F.3d 1533, 1537 (D.C. Cir. 1993); Petroleum Information Corporation v. Dep't of the Interior, 976 F.2d 1429, 1433 (D.C. Cir. 1992); Access Reports v. Department of Justice, 926 F.2d 1192, 1194 (D.C. Cir. 1991); Formaldehyde Institute v. Department of Health, 889 F.2d 1118, 1121 (D.C. Cir. 1989); Wolfe v. Department of Health and Human Services, 839 F.2d 768, 774 (D.C. Cir. 1988); Coastal States Gas Corp. v. Department of Energy, 617 F.2d 854, 866 (D.C. Cir. 1980).

A record in the possession, custody, or control of a public body is "predecisional" when it is "prepared in order to assist an agency decision maker in arriving at [a] decision," Renegotiation Board v. Grumman Aircraft Engineering Corp., 421 U.S. 168, 184-85 (1975), such as "recommendations, draft documents, proposals, suggestions, and other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency." Coastal States, 617 F.2d at 866. To the extent that a record maintained by a public body contains information that "reflects the give-and-take of the

consultative process", it is of a "deliberative" character.

Id.

Generally, "[t]he deliberative character of agency documents can often be determined through 'the simple test that factual material must be disclosed but advice and recommendations may be withheld.'" Mapother, 3 F.3d at 1537 (quoting Wolfe, supra, 839 F.2d at 774). Although the fact/opinion distinction "offers a quick, clear, and predictable rule of decision," Mead Data Central Inc. v. Department of Justice, 566 F.2d 242, 256 (D.C. Cir. 1977), it is not by any means a dispositive test. See Mapother, 3 F.3d at 1537 ("fact/ opinion test . . . is not infallible and must not be applied mechanically"); Petroleum Information Corp., 976 F.2d at 1434 ("fact/opinion distinction . . . is not always dispositive"). As the D.C. Circuit has recognized, the "disclosure of even purely factual information may so expose the deliberative process within an agency that it must be deemed exempted" by federal FOIA Exemption 5. Mead Data, 566 F.2d at 256.

The D.C. Circuit's "decisions on the 'deliberative-ness' inquiry have focused on whether the disclosure of the requested material would tend to 'discourage candid discussion within an agency.'" Petroleum Information

Corporation, 976 F.2d at 1434 (citing Access Reports, 926 F.2d at 1195 (quoting Dudman Communications v. Department of Air Force, 815 F.2d 1565, 1567-68 (D.C. Cir. 1987))). Thus, the crucial inquiry in federal FOIA Exemption 5 cases is "whether the disclosure of materials would expose an agency's decisionmaking process in such a way as to discourage candid discussion within the agency and thereby undermine the agency's ability to perform its functions." Id. at 1568. A determination "that the privilege applies 'should therefore rest fundamentally on the conclusion that, unless protected from public disclosure, information of that type would not flow freely within the agency.'" Tax Analysts v. Internal Revenue Service, 117 F.3d at 617 (quoting Mead Data, 566 F.2d at 256).

An internal memorandum or other document drafted by a subordinate employee or outside consultant which is ultimately routed through the chain-of-command to a senior official with decision-making authority is likely to be a part of an agency's deliberative process because it will probably "reflect his or her own subjective opinions and will clearly have no binding effect on the recipient."

Access Reports, 926 F.2d at 1195. Conversely, an internal memorandum or other document which is prepared or approved

by a senior official which flows down the chain-of-command to subordinate employees "is far more likely to manifest decisionmaking authority and to be the denouement of the decisionmaking rather than part of its give-and-take." Id.

Pertinent federal court decisions have recognized that the work product prepared by outside consultants to assist government agencies in their decision-making and formulation of policies is both predecisional and deliberative and, thus, is covered by the deliberative process privilege of federal FOIA Exemption 5. See Tighe v. United States Dep't of Justice, 312 F.3d 70 (2nd Cir. 2002) (memorandum prepared to assist the Webster Commission, a consultant to the IRS which assisted the agency in developing future policy, was protected by federal FOIA Exemption 5 deliberative process privilege); United Steel Workers of America v. Marshall, 647 F.2d 1189 (D.C. Cir. 1980) (federal FOIA Exemption 5 protects from disclosure reports from outside consultants advising OSHA in developing lead standards); Wu v. National Endowment for Humanities, 460 F.2d 1030, 1034 (5th Cir. 1972) (memoranda prepared by consultants on the merits of a proposed project were "internal working papers" involved in the deliberative process which were protected from disclosure by federal

FOIA Exemption 5); see also Dep't of Interior v. Klamath Water Users Protective Ass'n, 532 U.S. 1 (2001)

("consultants whose communications have typically been held exempt have not been communication with the Government in their own interest on or behalf of any person or group whose interests might be affected by the Government action addressed by the consultant."); Ryan v. Dep't of Justice, 617 F.2d 781, 790 (D.C. Cir. 1980) ("When an agency record is submitted by outside consultants as part of the deliberative process, and it was solicited by the agency, [the court] find[s] it entirely reasonable to deem the resulting document to be an 'intra-agency' memorandum for purposes of determining the applicability of [federal] FOIA Exemption 5."); Aviation Consumer Action Project v. Washburn, 535 F.2d 101 (1976).

Based on the federal court decisions cited above, the Secretary of the District of Columbia concludes that both the SCS Report and the Robinson Report, which were prepared by consultants to assistant UDC in its assessment of its special police force, were predecisional in nature and deliberative in character. As such, the aforesaid consultants' reports were intra-agency reports accorded protection under Exemption 4 of the D.C.-FOIA.

The conclusion that the consultants' reports were within an exempt category of records, however, does not end this office's inquiry into the propriety of UDC's decision to deny the appellant's request because the D.C.-FOIA's implementing regulations in existence at the time of this appeal also require public bodies to provide "a statement of the public interest considerations which establish the need for withholding the record." 1 DCMR § 407.2(b) (June 2001).

The apparent purpose of the aforesaid provision is to foster discretionary disclosures of otherwise exempt records as a matter of sound administrative discretion in the absence of a compelling countervailing public interest militating against the disclosure of such information.

Although UDC elaborated upon the policy purposes underlying its decision to withhold copies of the consultants' reports from disclosure to the appellant pursuant to the deliberative process privilege, the University did not specifically address the public interest factors which, in accordance with 1 DCMR § 407.2(b), establish the need for the nondisclosure of the requested records. In the absence thereof, this office must remand this matter to the University to address the public

interest factors which support the withholding of the consultants' reports from disclosure to the appellant.

IV. CONCLUSION

For all the foregoing reasons, this matter is remanded to UDC for a determination as to whether it is in the public interest to withhold copies of the SCS Report and the Robinson Report (or any reasonably segregable portions thereof) from disclosure to the appellant.

On remand, the University is directed to provide a written response to this office, with a courtesy copy to the appellant, within seven (7) working days of its receipt of this decision.

The University is further directed to provide a written certification to the Mayor (via the General Counsel to the Mayor) within ten (10) working days indicating its compliance with this decision or the reasons for noncompliance with the directives herein.

This constitutes the final decision of the Secretary of the District of Columbia in this matter.

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SHERRYL HOBBS NEWMAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

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

**Application No. 17143 of Marquette University**, pursuant to 11 DCMR § 3104.1, for a special exception under Section 206 to continue the use of the premises as a private school for twenty (20) students and two (2) staff persons in the CAP/R-4 District at premises located at 502 East Capitol Street, N.E. (Square 840, Lot 23).

**HEARING DATE: April 20, 2004**

**DECISION DATE: April 20, 2004**

**DECISION AND ORDER**

The application was filed on February 9, 2004, by Marquette University, the owner of the property that is the subject of the application. Following a public hearing on April 20, 2004, the Board of Zoning Adjustment ("Board" or "BZA" ) voted 3-0-2, by bench decision, to grant the application subject to conditions.

**PRELIMINARY MATTERS**

Application. Marquette University filed the application pursuant to §206 of the Zoning Regulations to continue using the basement of the building located at 502 East Capitol Street, N.E.; as a private school for 20 students and two staff persons. The Board had previously approved the use of the basement of the subject property for use as a private school for the student training seminars of the Les Aspin Center for Government (hereinafter "Center) in BZA Order No. 16459, issued on March 17, 2000.<sup>1</sup> That order expired on March 17, 2004. The Applicant filed the current application on February 9, 2004, prior to expiration of the previous Order. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

Notice of Application and the Public Hearing. The Office of Zoning provided proper and timely notice of the public hearing on this application. Notice of the public hearing was published in the D.C. Register. Additionally, notice of the hearing was sent to the District's Office of Planning, Department of Transportation, Department of Housing and Community Development, Advisory Neighborhood Commission 6C, the ANC where the subject property is located, the Single Member District Commissioner, ANC 6C07, the Councilmember for Ward 6, the Architect of the Capitol, and, to owners of property within 200 feet of the site. The Applicant posted the property 15 days prior to the public hearing, and filed an Affidavit of Posting with the Board to this effect. (Exhibit 29)

Applicant's Case. The Applicant sought a special exception to continue using a portion of the premises as a private school for 20 students and two staff persons. Father Timothy

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<sup>1</sup> This Order was a "Corrected Order" which slightly modified one of the conditions for approval in an original Order issued January 18, 2000.

O'Brien, the Director of the Center, testified regarding the history of the Center, its current operations and its relationship with the neighboring community.

Government Reports

OP Report. The Office of Planning (OP) recommended approval of the application for a period of 10 years subject to the conditions of the previous order. (Exhibit 31)

DDOT Report. The District's Department of Transportation (DDOT) submitted a report concluding that the use, subject to the conditions of the previous order, would not create objectionable or dangerous traffic conditions or significantly impact the neighborhood's on-street parking supply. (Exhibit 25)

DHCD Report. The Department of Housing and Community Development (DHCD) submitted a report recommending continued approval of the special exception subject to conditions provided in the previous BZA Order. (Exhibit 26)..

ANC Report. The subject property of this application is located within the jurisdiction of ANC 6C, which is automatically a party to this application. The ANC did not appear at the hearing, but submitted a letter in support of the application with suggested conditions. (Exhibit 32)

Requests for Party Status. There were no requests for party status.

Persons in support of the Application. The Board received letters of support from neighboring property owners and from the Capitol Hill Restoration Society. (Exhibit 27)

Persons in Opposition to the Application. There were no persons in opposition to the Application.

**FINDINGS OF FACT**

**The Property and the Surrounding Area**

1. The subject property is located in Square 840 on Lot 23, at premises 502 East Capitol Street, NE., in the CAP/R-4 zone.
2. The property is improved with a three-story, plus basement, row dwelling.
3. The Applicant modified the building in 1995, prior to opening the Center, to provide a separate entrance to the basement where the Center's activities are conducted.

**Use of the Premises**

4. The application is for the use of a basement of a row dwelling, primarily for student seminars. The seminars are typically conducted two (2) times per week for approximately 3 hours each, for a total of 6 hours per week.
5. The Center, housed in the basement, is also occasionally used for small university-related receptions. Approximately once per quarter the basement is used to host a meeting for approximately 20 persons who contribute to the activities of the Center.
6. The premises are used primarily as the personal residence of the Center's director. No Center activities are permitted on the upper three levels of the dwelling where the director resides.
7. The regulations require that the Center provide one off-street parking space. The Center provides the required parking space in a garage at the rear of the property. The space is used by the Center's director.

**Educational Program.**

8. Marquette University offers a semester program in Washington, D.C. that consists of an internship for college students combined with seminars at the Center with scholars, members of Congress, visiting dignitaries, and Marquette University alumni.
9. Marquette University's main campus is located in Milwaukee, Wisconsin. The University does not have a campus in Washington, D.C.
10. Eighteen to 20 students participate in the program each semester. There is one other full-time staff in addition to the Director.
11. The Center's days and hours of operation are Tuesday and Thursday afternoons, between 1 p.m. and 5 p.m. Infrequently, a lecture may be given to students, in the basement, after 5 p.m.
12. Students enrolled in the program do not reside on the premises. They live in supervised housing elsewhere in the City. The students spend the majority of their time in congressional internships on Capitol Hill.
13. Students who participate in the program are not permitted to have personal vehicles in the District of Columbia.

**History**

14. Initially in 1996, based on the Center's description of the property's proposed use, the Department of Consumer and Regulatory Affairs granted the Applicant a Certificate of Occupancy for use of the basement of the property as a private club,

a matter of right use in the CAP/R-4 District. The remainder of the property was and continues to be used as the personal residence of the Center's director.

15. In 1998, the Applicant voluntarily agreed to file for a special exception under § 206 to accommodate neighborhood concerns. It self-certified the use as a private school use. The initial application was filed and approved prior to December 8, 2000, the date college and university campus review was transferred from the Board to the Zoning Commission. (BZA Case No. 16549)
16. The Board that heard the initial application had the authority to consider the application pursuant to § 210 of the Regulations (colleges and universities) and elected to process the application under the private school standards (§ 206). There has been no change in use between the previous application and the current application.
17. On April 20, 2004, when the public hearing on the subject application was heard, the Center had operated from the site for eight years, commencing in 1996, without incident and in accordance with the terms of the special exception order.
18. The Applicant has the support of all interested parties – Advisory Neighborhood Commission 6C, the immediately adjoining neighbors, the Capitol Hill Restoration Society, the Office of Planning, the Department of Transportation, and the Department of Housing and Community Development. No person presented testimony in opposition to the application at the public hearing.

## CONCLUSIONS OF LAW AND OPINION

The Board initially addressed whether it had jurisdiction over this matter in light of the regulatory scheme that provides the Zoning Commission with jurisdiction over special exceptions for use as a college or university and the Board with jurisdiction over special exceptions for use as private schools. This question arose because the Applicant is a university but is seeking continuation of a special exception for use of the premises as a private school.

### Regulatory Framework

Section 210 of the Zoning Regulations allows for university uses in residential zones as part of a campus plan by special exception. Specifically, § 210 states in relevant part:

- § 210.1 Use as a college or university that is an academic institution of higher learning, including a college or university hospital, dormitory, fraternity, or sorority house proposed to be located on the campus of a college or university, shall be permitted as a special exception.

§ 210.4 As a prerequisite to requesting a special exception for each college or university use, the applicant shall have submitted to the Commission for its approval a plan for developing the campus as a whole, showing the location, height and bulk, where appropriate, of all present and proposed improvements, including, but not limited to the following:

- (a) Buildings and parking and loading facilities;
- (b) Screening, signs, streets, and public utility facilities
- (c) Athletic and other recreational facilities;
- (d) A description of all activities conducted or to be conducted on the campus, and of the capacity of all present and proposed campus development.

§ 210.5 Within a reasonable distance of a college or university campus....the Commission may also permit the interim use of land or improved property with any use that the Commission may determine is a proper college or university function.

Section 3035 provides that all § 210 applications filed after December 8, 2000, are to be heard and decided by the Zoning Commission. It states in relevant part:

§3035.1 Effective December 8, 2000, the Zoning Commission shall hear and decide all applications filed under § 3104 for special exception approval under §§ 210, 302.2, 322.2, 332.2, 352.2, 507, 615, and 916 of a **campus development plan**; the further processing of a **campus development plan** to permit the construction and use of a specific building or structure **within a campus**, whether the **plan** was approved by the Commission or the Board of Zoning Adjustment; and the interim use of land or improved property within a reasonable distance of a campus.

Section 206 of the Zoning Regulations allows private school use in residential zones by special exception. Private school use is not defined except for excluding trade school and residences for teachers and staff.

Based upon the facts in this case as set forth above, the Board found that it had jurisdiction over this application because the application does not fall within the description of use as a college or university as set forth in 11 DCMR § 210.1. 11 DCMR § 210.1 provides for jurisdiction by the Zoning Commission where the use is "as a college or university..." While the application is brought by a University, its actual use is more accurately characterized as a private club, as originally determined by DCRA, or as a private school. 11 DCMR § 210.1 addresses use as a college or university, not use by a college or university, and specifically lists other uses that are included in the definition; i.e., "university hospital, dormitory, fraternity, or sorority house *proposed to be located on the campus of a college or university.*" Because the Board determined that Applicant's use of the basement of the premises for only six hours a week did not

constitute use of the premises as a university under 11 DCMR § 210.1, and is more accurately characterized as a private club or private school use, the Board's jurisdiction over this application pursuant to 11 DCMR § 206 is not precluded by 11 DCMR § 210.1.

In addition, 11 DCMR §§ 210 and 3035.1 provide a regulatory scheme for special exception consideration of colleges and universities in the context of a campus and campus plan. The Board found compelling the basic fact that the application does not involve a campus. Marquette University's campus is located in Milwaukee, Wisconsin. The University offers a Washington program to a very small group of students (18-20) who work in different internships on Capitol Hill, live elsewhere in the city, and only attend the Center for lectures six hours a week. The basement of this residence is only used for these lectures and an occasional reception. Finally, the Board concludes that the regulatory scheme set forth in § 210 which requires submitting a campus plan to the Zoning Commission showing location, height and bulk of all proposed improvements including ...parking and loading facilities, athletic and recreational facilities, etc. was not intended to apply to a small program such as the Applicant's which has no campus, but only minimal use of the basement of a residence.

For these reasons, the Board concludes that while the Applicant is a university in name, its use in this case shares none of the attributes addressed by the zoning regulations governing special exceptions for use as universities. Accordingly, jurisdiction over this application as a special exception for use as a private school pursuant to 11 DCMR §206 is properly before the Board.

### **Merits**

The Board of Zoning Adjustment is authorized under the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §6-641.07 (g)(2) (2001)), to grant special exceptions as provided in the Zoning Regulations. Based upon the record, including the history of operations at the premises, the Board finds that granting the special exception in this case will be in harmony with the general purpose and intent of the zoning regulations and will not tend to adversely affect the use of neighboring property. In particular, the applicant has operated at the premises for 8 years in the same manner as proposed in this application without incident or complaint by neighboring properties. No parties appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. The Office of Planning, the Department of Transportation, the Department of Housing and Community Development, Advisory Neighborhood Commission 6C and residents of the neighborhood recommended approval of the application.

The Board accorded the ANC the "great weight" to which it is entitled and adopted the majority of the ANC's proposed conditions. However, the Board did not adopt the following three recommended conditions: 1) that the Applicant shall not assist students to obtain neighborhood parking stickers; 2) that there shall be no garden parties associated with the Center; and 3) that the Applicant shall use its best efforts to supervise the conduct of its students. The Board finds that these proposed conditions are not warranted

for the following reasons: 1) the record indicates that the Center's policy prohibits students from having personal vehicles in the District.; 2) the use approved by this order is for the basement and the garden is part of the personal residence of the director; and 3) the Center has an 8-year history of operating without any problem or adverse impact associated with the students or the premises in general. In addition, a condition to use "best efforts" is neither measurable nor enforceable.

For the reasons stated above, the Board concludes that the Applicant has met the burden of proof for a special exception under §§ 3104.1 and 206, and it is hereby **ORDERED** that this application be **GRANTED** subject to the following **CONDITIONS**:

1. Approval shall be for **FIFTEEN (15) YEARS**.
2. Enrollment at the School shall be limited to an average of twenty (20) students over the year and two (2) full-time staff persons.
3. The Les Aspin Center shall operate between the hours of 1 p.m. and 5 p.m., Tuesday and Thursday, but shall be permitted on an irregular basis, to have lectures for students in the evenings.
4. The Applicant shall not permit any part of the premises to be used for other than official receptions for the Les Aspin Center or for any functions that are not attended by students and their guests; nothing herein shall be construed to prohibit the resident of the premises from using the residential portions in a manner consistent with such residential use.
5. The Applicant shall establish a liaison with Advisory Neighborhood Commission 6C to maintain a working relationship regarding the school use. Toward this end, a representative of the Applicant shall either attend a meeting of the full ANC or meet with the single member district commissioner for the subject property on an annual basis.

**VOTE:** 3-0-2 (Geoffrey H. Griffis, Ruthanne G. Miller and John A. Mann II to grant; Anthony J. Hood abstaining; Curtis L. Etherly, Jr. not present, not voting.)

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

Each concurring member approved the issuance of this order.

**FINAL DATE OF ORDER:** June 17, 2005

PURSUANT TO 11 DCMR § 3125.6, THIS 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 (10) DAYS AFTER IT BECOMES FINAL.

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.

PURSUANT TO 11 DCMR 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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 § 2-1401.01 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.

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

**Application No. 17332 of JPI Apartment Development LP, on behalf of Larry D. and Carol K. Quillian**, pursuant to 11 DCMR § 3103.2, for a variance from the lot occupancy requirements under section 772, and a variance from the residential recreation space requirements under subsection 773.3, to allow the construction of a 47-unit residential condominium in the CHC/C-2-A District at premises 1230 Pennsylvania Avenue, S.E. (Square 1019, Lot 55).

**Note:** In the original application, the applicant proposed to reduce the amount of residential recreational space from the 20 percent required to 8 percent. However, at the hearing, the applicant amended the application by deleting from the recreational space calculation the entire roof area on the west side of the property as well as a notch at the east side of the site. This change reduced the recreational space to 5.6 percent from the 8 percent originally proposed.

**HEARING DATE:** June 14, 2005  
**DECISION DATE:** June 14, 2005 (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 this application.

Based upon the record before the Board and having given great weight to the ANC and the Office of Planning reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with § 772 and § 773.3 of the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the

intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 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: 3-0-2** (Ruthanne G. Miller, Curtis L. Etherly, Jr. and John A. Mann, II to approve; Geoffrey H. Griffis and the Zoning Commission member not present, not voting).

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

Each concurring member approved the issuance of this order.

**FINAL DATE OF ORDER: JUN 21 2005**

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,

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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. 17324 of DC Department of Housing and Community Development<sup>1</sup>**, pursuant to 11 DCMR §3104.1, for a special exception to extend a use permitted in the lesser restrictive zone into a more restrictive district under §2514 and pursuant to 11 DCMR §3103.2, a variance to extend the lesser restrictive use into the more restrictive zone by more than 35 feet under §2514.2(a), and a variance to allow the construction of two or more principal buildings or structures on a single subdivided lot that is located within 25 feet of a residence district under §2516, to allow the construction of a new shopping center in the C-2-B, R-5-A, and R-3 Districts at premises 1501 Alabama Avenue, S.E. (formerly Camp Simms Military Reservation) (Square 5912, Lot 804).

**HEARING DATE:** May 24, 2005

**DECISION DATE:** June 7, 2005

**SUMMARY ORDER**

**SELF-CERTIFIED**

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

**THE APPLICATION**

The application proposes to create a new shopping center, to be known as the Shops at Park Village, along Alabama Avenue, SE on land that was formerly the Camp Simms Military Reservation. The anchor and centerpiece of the development will be a Giant Food grocery store. The other components of the shopping center will be a building pad site, suitable for a restaurant, and an expansion of an existing strip shopping center.

**Preliminary Matters**

The initial application sought special exception relief from the Board of Zoning Adjustment (the "BZA" or "Board") under Title 11 §2514 of the D.C. Municipal Regulations in order for the proposed Giant Food grocery store structure to cross the Zone District boundary into the R-5-A zoned portion of the property, and variance relief from 11 DCMR §2514.2(a) which limits the extension of the grocery store use to only 35 feet into the R-5-A District. Initially, the proposed grocery store structure was to extend approximately 55 feet into the R-5-A Zone District. Prior to the public hearing, the Applicant, based on consultation with the Office of Planning ("OP"), amended the

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<sup>1</sup> The property owner is the District of Columbia, acting by and through the Department of Housing and Community Development. CHR, LLC is the contract purchaser and Applicant.

application so that the location of the Giant Food grocery store will only extend 33.95 feet into the adjacent R-5-A Zone District. Therefore, variance relief from §2514.2(a) is not necessary.

At the public hearing, the Board determined that the proposed three separate structures of the shopping center (the grocery store, the building pad site, and the strip shopping center) are permitted to be developed as a matter-of-right in accordance with 11 DCMR §3202.3, which states in pertinent part,

A building permit shall not be issued for the proposed erection, construction, or conversion of any principal structure, or for any addition to any principal structure, unless the land for the proposed erection, construction, or conversion has been divided so that each structure will be on a separate lot of record . . .

Any combination of commercial occupancies separated in their entirety, erected, or maintained in a single ownership shall be considered as one (1) structure.

Therefore, the Board determined that variance relief from §2516 was not necessary and that the Applicant only needed special exception relief pursuant to §2514 in order to develop the Shops at Park Village.

#### **Notice of Public Hearing**

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission ("ANC") 8B, OP, and the owners of property within 200 feet of the site. The Applicant posted placards on the property regarding the application and public hearing and submitted an affidavit to the Board to this effect.

#### **Requests for Party Status**

There were no requests for party status in this application.

#### **ANC 8B**

The site of this application is located within the jurisdiction of ANC 8B, which is automatically a party to this case. The Single Member District Commissioner for the property, and the Chairperson of ANC 8B, filed a resolution in support of this application.

#### **Government Reports**

The application was referred to OP and the Department of Transportation ("DDOT") for

BZA APPLICATION NO. 17324

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review and report. OP submitted a report recommending approval of the application. DDOT did not submit a report in this application.

**DECISION**

The Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception pursuant to 11 DCMR §3104.1. Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§3104.1 and 2514, that the proposed extension of the grocery store use into the adjacent R-5-A District will have no adverse effect upon the present character and future development of the neighborhood. The Board finds that the site plan, landscape plan, loading operations plan, and lighting plan submitted by the Applicant into the record of this case, and the conditions of approval noted below, are sufficient to protect adjacent or nearby properties.

Pursuant to 11 DCMR §3100.5, 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. The waiver will not prejudice the rights of any party, and is not prohibited by law. It is therefore **ORDERED** that this application be **GRANTED** subject to the following **CONDITIONS**:

1. Giant Food shall establish a "Quiet Zone" for the loading dock area of the grocery store. The Quiet Zone designation prohibits deliveries between the hours of 10 PM and 6 AM. Trucks will also be prohibited from idling in the loading dock area.
2. The name and telephone number of the Giant Food store's general manager shall be provided to the nearby Advisory Neighborhood Commissioners. The property manager for the property shall provide contact information to the nearby Advisory Neighborhood Commissioners.

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

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

Each concurring member has approved the issuance of this order.

**Final Date of Order:** JUN 17 2005

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.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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.

PT/TWR

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

**Application No. 17334 of Charles Rothfeld**, pursuant to 11 DCMR § 3104.1, for a special exception to allow an addition to an existing single-family detached dwelling under section 223, not meeting the lot occupancy requirements (section 403), the rear yard requirements (section 404), the open court requirements (section 406), and the nonconforming structure provisions (subsection 2001.3), in the R-1-B District at premises 4540 Butterworth Place, N.W. (Square 1567, Lot 5).

**HEARING DATE:** June 21, 2005  
**DECISION DATE:** June 21, 2005 (Bench Decision)

**SUMMARY ORDER**

**REVIEW BY THE ZONING ADMINISTRATOR**

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief.

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) 3E and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3E, which is automatically a party to this application. ANC 3E submitted a report in support of the application. The Office of Planning (OP) 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 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 being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 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:** 3-0-2 (Ruthanne G. Miller, John A. Mann II, and Kevin L. Hildebrand to Approve; Geoffrey H. Griffis and Curtis L. Etherly, Jr. not present, not voting).

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

Each concurring member approved the issuance of this order.

**FINAL DATE OF ORDER:** June 21, 2005

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

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BZA APPLICATION NO. 17334

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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. RSN

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

**Application No. 17336 of Lois F. Keys**, pursuant to 11 DCMR § 3103.2, for a variance from the lot occupancy requirements under section 403, a variance from the rear yard requirements under section 404, a variance from the open court requirements under section 406, and a variance from the nonconforming structure provisions under subsection 2001.3, to allow a rear addition to an existing single-family row dwelling in the R-5-B District at premises 1428 Florida Avenue, N.W. (Square 202, Lot 46).

**HEARING DATE:** June 21, 2005  
**DECISION DATE:** June 21, 2005 (Bench Decision)

**SUMMARY ORDER**

**REVIEW BY THE ZONING ADMINISTRATOR**

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief.

The Board provided proper and timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 1B, the Office of Planning (OP) and to owners of property within 200 feet of the site. The site of the application is located within the jurisdiction of ANC 1B. The ANC submitted a report in support of the application. The OP submitted a report in support to the application.

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance pursuant to 11 DCMR §§ 3103.2. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 403, 404, 406 and 2001.3, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

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. The waiver will not prejudice the rights of any party, and is not prohibited by law. It is therefore **ORDERED** that this application be **GRANTED**.

**VOTE: 3-0-2** (Ruthanne G. Miller, John A. Mann II and Kevin L. Hildebrand to approve; Geoffrey H. Griffis and Curtis L. Etherly, Jr. not present, not voting).

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

Each concurring Board member has approved the issuance of this order.

**FINAL DATE OF ORDER:** June 21, 2005

PURSUANT TO 11 DCMR § 3125.6, THIS 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.

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.

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 § 2-1401.01 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. RSN

**ZONING COMMISSION NOTICE OF FILING****Case No. 05-17****(Consolidated PUDs & Map Amendment – Broadway Atlantic One, LLC)****June 20, 2005****THIS CASE IS OF INTEREST TO ANC 1B**

On June 14, 2005, the Office of Zoning received an application from Broadway Atlantic One, LLC (the "applicant"). The applicant is requesting from the Zoning Commission approval of two consolidated planned unit developments, one of which includes a corresponding amendment to the Zoning Map of the District of Columbia, for property located at 9<sup>th</sup> and V Streets, N.W.

The property that is the subject of this application consists of Square 2875, Lots 1107, 2012, and 2026; Square 2875, Lot 2030; Square 2873, Lot 864; and Square 1875, Lot 1106 in Northwest Washington, D.C. (Ward 1). All of the property is currently zoned CR except for Lot 2030 in Square 2875, which is zoned ARTS/C-2-B.

The applicant proposes to construct four residential buildings with 579 residential units on four separate parcels in the vicinity of 9<sup>th</sup> and V Streets, N.W. In addition, the applicant seeks a related map amendment to rezone Lot 2030 in Square 2875 to the CR District. This request is not inconsistent with the Comprehensive Plan of the District of Columbia.

For additional information, please contact, the Secretary to the Zoning Commission at (202) 727-6311.

**ZONING COMMISSION NOTICE OF FILING**  
**Case No. 05-18**  
**(Consolidated PUD – Hope 7 Monroe Street LP)**  
**June 22, 2005**

**THIS CASE IS OF INTEREST TO ANC 1A**

On June 21, 2005, the Office of Zoning received an application from Hope 7 Monroe Street LP (the “applicant”). The applicant is requesting from the Zoning Commission approval of a consolidated planned unit development for property located at 1020 Monroe Street, N.W.

The property that is the subject of this application consists of Square 2840, Lot 820 in Northwest Washington, D.C. (Ward 1). The property is currently zoned C-2-A.

The applicant proposes to renovate the existing structure to include 27 residential units with ground level retail. The project would also include a recreational floor containing a fitness center and clubroom facility surrounded by a “green” rooftop terrace. This request is not inconsistent with the Comprehensive Plan of the District of Columbia.

For additional information, please contact, the Secretary to the Zoning Commission at (202) 727-6311.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**

**NOTICE OF SPECIAL PUBLIC MEETING**

The Zoning Commission of the District of Columbia, in accordance with § 3005 of the District of Columbia Municipal Regulations, Title 11, Zoning, hereby gives notice that it has scheduled a Special Meeting for Monday, July 25, 2005, at 6:00 P.M., to consider various items.

For additional information, please contact Sharon Schellin, Senior Zoning Specialist for the Zoning Commission at (202) 727-6311.

OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES  
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DISTRICT OF COLUMBIA MUNICIPAL REGULATIONS (DCMR)

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1	DCMR MAYOR AND EXECUTIVE AGENCIES (JUNE 2001).....	\$16.00
3	DCMR ELECTIONS & ETHICS (JUNE 1998).....	\$20.00
4	DCMR HUMAN RIGHTS (MARCH 1995).....	\$13.00
5	DCMR BOARD OF EDUCATION (DECEMBER 2002).....	\$26.00
6A	DCMR POLICE PERSONNEL (MAY 1988).....	\$8.00
7	DCMR EMPLOYMENT BENEFITS (JANUARY 1986).....	\$8.00
8	DCMR UNIVERSITY OF THE DISTRICT OF COLUMBIA (JUNE 1988).....	\$8.00
9	DCMR TAXATION & ASSESSMENTS (APRIL 1998).....	\$20.00
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10	DCMR PLANNING & DEVELOPMENT (PART 2, MARCH 1994) w/1996 SUPPLEMENT*.....	\$26.00
11	DCMR ZONING (FEBRUARY 2003).....	\$35.00
12	DCMR CONSTRUCTION CODES SUPPLEMENT (2003).....	\$25.00
13B	DCMR BOILER & PRESSURE VESSEL CODE (MAY 1984).....	\$7.00
14	DCMR HOUSING (DECEMBER 2004).....	\$25.00
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16	DCMR CONSUMERS, COMMERCIAL PRACTICES & CIVIL INFRACTIONS (JULY 1998) W/DECEMBER 1998 SUPPLEMENT.....	\$20.00
17	DCMR BUSINESS, OCCUPATIONS & PROFESSIONS (MAY 1990).....	\$26.00
18	DCMR VEHICLES & TRAFFIC (APRIL 1995) w/1997 SUPPLEMENT*.....	\$26.00
19	DCMR AMUSEMENTS, PARKS & RECREATION (JUNE 2001).....	\$26.00
20	DCMR ENVIRONMENT - CHAPTERS 1-39 (FEBRUARY 1997).....	\$20.00
20	DCMR ENVIRONMENT - CHAPTERS 40-70 (FEBRUARY 1997).....	\$26.00
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22	DCMR PUBLIC HEALTH & MEDICINE (AUGUST 1986).....	\$26.00
22	DCMR HEALTH CARE & COMMUNITY RESIDENCE FACILITIES SUPPLEMENT (AUGUST 1986 - FEBRUARY 1995).....	\$13.00
23	DCMR ALCOHOLIC BEVERAGES (AUGUST 2004).....	\$10.00
24	DCMR PUBLIC SPACE & SAFETY (DECEMBER 1996).....	\$20.00
25	DCMR FOOD AND FOOD OPERATIONS (AUGUST 2003).....	\$20.00
26	DCMR INSURANCE (FEBRUARY 1985).....	\$9.00
27	DCMR CONTRACTS AND PROCUREMENT (JULY 1988).....	\$22.00
28	DCMR CORRECTIONS, COURTS & CRIMINAL JUSTICE (AUGUST 2004).....	\$10.00
29	DCMR PUBLIC WELFARE (MAY 1987).....	\$8.00
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