

District of Columbia
BOARD OF ELECTIONS AND ETHICS

Monthly Report
of
Voter Registration Statistics
for the period ending
November 30, 2005

Covering Citywide Totals by:

WARD, PRECINCT, and PARTY

One Judiciary Square
441 - 4th Street, NW, Suite 250N
Washington, DC 20001
(202) 727-2525
<http://www.dcboee.org>

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D.C. BOARD OF ELECTIONS AND ETHICS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

CITYWIDE SUMMARY

Party Totals and Percentages by Ward for the period ending November 30, 2005

WARD	DEM	REP	STG	N-P	OTH	TOTALS
1	29,913	2,724	966	9,169	239	43,011
2	25,006	5,457	506	8,788	189	39,946
3	30,283	8,071	452	9,306	143	48,255
4	41,593	2,866	651	7,802	207	53,119
5	40,749	2,228	646	6,788	226	50,637
6	34,256	4,841	650	7,738	199	47,684
7	38,813	1,739	516	5,749	163	46,980
8	31,663	1,673	570	5,430	184	39,520
TOTALS	272,276	29,599	4,957	60,770	1,550	369,152
<i>TOTAL Percentage (by party)</i>	73.8%	8.0%	1.3%	16.5%	0.4%	100.0%

Wards



D.C. BOARD OF ELECTIONS AND ETHICS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS

PRECINCT STATISTICS

Ward 7

For the Period Ending: November 30, 2005

PRECINCT	DEM	REP	STG	N-P	OTH	TOTALS
80	1,163	58	15	188	8	1,432
92	1,229	67	19	196	9	1,520
93	1,178	58	15	184	5	1,440
94	1,560	80	22	215	5	1,882
95	1,287	45	25	207	2	1,566
96	1,726	76	30	279	4	2,115
97	986	45	18	163	2	1,214
98	1,423	54	16	186	9	1,688
99	1,092	45	16	175	7	1,335
100	1,377	66	24	210	4	1,681
101	1,420	49	13	183	6	1,671
102	1,857	82	26	230	8	2,203
103	2,790	122	40	442	13	3,407
104	1,993	95	31	328	13	2,460
105	1,624	70	29	231	7	1,961
106	2,596	104	32	353	5	3,090
107	1,218	75	14	217	4	1,528
108	1,041	48	7	104	5	1,205
109	937	42	10	98	3	1,090
110	3,412	145	38	443	13	4,051
111	1,740	69	26	325	8	2,168
112	1,754	74	21	280	11	2,140
113	1,845	90	15	275	7	2,232
132	1,565	80	14	237	5	1,901
TOTALS	38,813	1,739	516	5,749	163	46,980

ESCHEATED ESTATES FUND APPLICATION SCREENING COMMITTEE

NOTICE OF APPLICATION DEADLINES

Notice is hereby given of the year 2006 Escheated Estates Fund Application Deadlines and the meeting dates on which the grant/loan applications Screening Committee ("Committee") will consider duly submitted applications.

Pursuant to Mayor's Order 86-128, the Committee accepts applications for grants and loans from the Escheated Estates Fund, as established by Mayor's Order 85-71. The Committee shall review all such applications for compliance with Committee guidelines, 37 DCR 711 (November 9, 1990), and make appropriate recommendations to the Mayor of the District of Columbia.

The application deadline dates and the corresponding Committee meeting dates are as follows:

- | | | |
|----|----------------------|--------------------|
| 1. | Application Deadline | March 31, 2006 |
| | Committee Meeting | May 12, 2006 |
| 2. | Application Deadline | June 30, 2006 |
| | Committee Meeting | August 11, 2006 |
| 3. | Application Deadline | September 29, 2006 |
| | Committee Meeting | November 10, 2006 |
| 4. | Application Deadline | December 28, 2006 |
| | Committee Meeting | February 9, 2007 |

District-based, non-profit organizations interested in applying for a grant or loan of up to \$10,000 should forward their applications and three (3) copies to:

Patricia Elwood, Chairman
Escheated Estates Fund Application Screening Committee
The John A. Wilson Building
1350 Pennsylvania Avenue, NW, Suite 419
Washington, DC 20004

Requests for an application form, applicable regulations, and instructions as well as other relevant inquiries should be directed, in writing, to the above address.

Friendship Public Charter School
701 E Street SE
Washington, DC 20003

**NOTICE FOR PROPOSALS TO PROVIDE
INSTALLATION AND TESTING
OF GREAT PLAINS FINANCIAL MANAGEMENT SYSTEM**

The Friendship Public Charter School (FPCS) in accordance with section 2204(c)(1)(A) of the District of Columbia School Reform Act of 1995 (Public Law 104-134) hereby solicits firm credentials and price lists to provide installation, training and post-installation help support for the financial system Great Plains. The scope of the financial system installation is to include: general ledger, accounts receivable, accounts payable, financial reporting including personnel costs linked to ADP payroll system, asset management, grants management, purchasing and encumbrance management. All modules are to be installed with features that support non-profit finance. Remote access review and selected entry is to be provided. Firm is expected to provide implementation planning, installation and configuration of server and 5 workstations, data transfer from QuikBooks, and training in all modules. Help desk services are to be available for 60 days after installation.

Please send firm credentials, including list of completed projects in schools and/or non-profit organizations, qualifications of key staff, and pricing guidelines to Catherine Sanwo, Chief Financial Officer (contact phone: 202-675-2071) by Friday, December 21, 2005 at the above address.

Health Professional Licensing Administration

SCHEDULED BOARD HEARINGS

DECEMBER 2005

Board **Date** **Time** **Room** **Contact Person** **Phone**

Acupuncture -No Hearings	-	-		Jim Granger/Antoinette Stokes	724-8799
Chiropractic-No Hearings	-	-		Jim Granger/Lisa Robinson	724-8802
Dentistry-No Hearings	-	-		Maulid "Mo" Miskell	724-8745
Dietetics/Nutrition-No Hearings	-	-		Shirley Williams	724-8826
Nursing Home Administrator -No Hearings	-	-		Shirley Williams	724-8826
Marriage/Family-No Hearings	-	-		Graphelia Ramseur	724-8865
Massage Therapy-No Hearings	-	-		Thomasine Pointer	724-8872
Medicine/PA "In Regards" Suena Huang	21	8:00	1009	Jim Granger/Antoinette Stokes	724-8799
Medicine/PA "In Regards" Joseph Liberman	21	9:00	1009	Jim Granger/Antoinette Stokes	724-8799
Nursing "In Regards" Stephanie Dock	7	1:00	1009	Toy Brown/Donna Harris	442-4845
Occupational Therapy- No Hearings	-	-		Maulid "Mo" Miskell	724-8745
Optometry-No Hearings	-	-		Graphelia Ramseur	724-8865
Pharmacy "In Regards" Kenneth Lee	1	11:00	1035	Graphelia Ramseur	724-8865
Physical Therapy-No Hearings	-	-		Maulid "Mo" Miskell	724-8745
Podiatry-No Hearings	-	-		Shelly Wills	724-8831
Professional Counseling- No Hearings	-	-		Graphelia Ramseur	724-8865
Psychology-No Hearings	-	-		Shelly Wills	724-8831
Respiratory Care "In Regards" Julius Alston	12	10:00	1035	Thomasine Pointer	724-8872
Respiratory Care "In Regards" Monica James	12	11:00	1035	Thomasine Pointer	724-8872
Social Work "In Regards" Amy Scinta	14	11:00	1035	Shelly Wills	724-8831

ROOM LOCATIONS

624-6th Floor, Conference Room, 717 14th Street, NW, Washington, DC 20005.

1035 - 10th Floor, Large Conference Room, 717 14th Street, NW, Washington, DC 20005.

1009 - 10th Floor, Small Conference Room, 717 14th Street, NW, Washington, DC 20005.

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DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**PUBLIC NOTICE****NOTICE OF PROPOSED FUNDING AVAILABILITY****Hurricane Katrina Relief Efforts
HOME Investment Partnerships Program**

The District of Columbia Department of Housing and Community Development (DHCD) announces the proposed allocation of funding in the amount of \$980,000 to assist in providing interim housing support for families displaced by Hurricane Katrina. The funding is available through the HOME Investment Partnerships Program (HOME). The guidelines for intended use of HOME funds are set by the United States Department of Housing and Urban Development (HUD).

The general scope of activities relates to the provision of short term interim housing support for families who relocated to the city after Hurricane Katrina.

Amendment of Consolidated Plan

The District of Columbia was declared a state of emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the "Stafford Act") because of the nearly 300 evacuees who relocated to the District. As such, the District is authorized to provide interim assistance for these emergency measures.

Because of this declaration, HUD suspended some requirements regarding the distribution of HOME funds. The District proposes to amend its Consolidated Plan to reflect the above usage of the funds. The necessary amendments will be made to the District of Columbia's Consolidated Plan for Fiscal Year 2006.

The documents are available for a three-day public comment period. Anyone wishing to comment on the proposed allocation of funding and/or to the amendment to the District's Consolidated Plan must do so no later than 4:00 p.m. Thursday, December 22. The agreement can be obtained from 801 North Capitol Street, NE, 8th Floor Reception Desk, Washington, DC 20002. For additional information, please contact the Department of Housing and Community Development, Office of Strategy and Communication, at (202) 442-7200.

Anthony A. Williams, Mayor
Government of the District of Columbia
Stanley Jackson, Deputy Mayor for Planning & Economic Development
Jalal Greene, Director, Department of Housing & Community Development

The Public Charter Schools Center for Student Support Services
1003 K Street, NW
Washington, DC 20001

NOTICE OF REQUEST FOR BIDS

The Public Charter Schools Center for Student Support Service, in accordance with section 2204(c)(1)(A) of the DC School Reform Act of 1995 (Public Law 104-134), and as an administrative agency for an Emergency and Crisis Management Grant from the US Department of Education to Hyde Public Charter School, is seeking proposals for full services over a 15 month period commencing in February 2006. The program will serve 28 charter schools on 31 campuses.

This consultancy should begin February 1, 2006 and be completed no later than March 31, 2006.

How to submit a proposal

Bid documents containing information including location of the campuses and the scope of work and qualifications required can be obtained by contacting Roz Fuller at 202-628-8848 ext 104, PCS Center for Student Support Services, 1003 K Street, NW, Suite 405, Washington, DC 20001, or e-mail rfuller@csss.org. Early bids are encouraged. A firm estimate of fees to be charged is required. Bids will be analyzed on total professional services, qualifications met, recommendations provided, as well as a guaranteed maximum price for specified services. **Final bids are due January 10, 2006.**



SECRETARY OF THE
DISTRICT OF COLUMBIA

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

Final Decision

Appeal of: Williams & Connolly o/b/o
The Washington Post

Matter No: 453347

Date: December 2, 2005

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

Introduction

The above-captioned matter, commenced pursuant to section 207(a) of the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537(a) (2001), is before the Office of the Secretary of the District of Columbia for a final decision¹ on an administrative appeal

¹ By 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.

to the Mayor² filed by Vidya Atre Mirmira, Esq., of the law firm of Williams & Connolly LLP, on behalf of her client, The Washington Post Company.

The present action challenges the propriety of the Department of Human Services' ("DHS") redaction of certain information from documents provided to The Washington Post Company in response to its D.C.-FOIA request for copies of reports of mortality investigations into fatal incidents involving mentally retarded persons who, at the time of their deaths, resided in District of Columbia government-contracted group homes.

Background

The Washington Post Company (hereinafter the "Post"), a major media organization, is a leading publisher of several well-known publications, including *The Washington Post* newspaper and *Newsweek* magazine.

The Washington Post newspaper, an operating division of the Post, publishes a national newspaper of general circulation on a daily basis which reports on Washington,

² Pursuant to section 207(a) of the D.C.-FOIA, "[a]ny person denied the right to inspect a public record 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).

D.C. Metropolitan area, national and international events and occurrences.

By letter dated May 11, 2004, Karlyn Barker, a Post staff writer, submitted a D.C.-FOIA request to the FOIA Officer of DHS which sought the production of the following records for inspection and, at the Post's discretion, copying:

-Any reports reflecting investigations into the deaths of residents at city-contracted group homes for the mentally retarded, dating from January, 2000, to the present. This would include the death investigations done by Columbus Organization as well as any previous investigations conducted by agency or independent investigators.

Letter dated May 11, 2004 from K. Barker, Washington Post, to R. Warren, Esq., FOIA Officer, Office of Legal Counsel, DHS.

In response to the Post's request, DHS's General Counsel sent a letter, dated May 12, 2004, which informed Ms. Barker that "[g]iven the time required for retrieving and reviewing the volume of records, and to ascertain if any limitations on release apply, [DHS] may not be able to respond within the normal ten-day (10) period." Letter dated May 12, 2004 from J. D. Dodge, General Counsel, DHS to K. Barker. The letter further advised that DHS

"anticipates having the documents available for release on or before Tuesday, May 25, 2004." Id.

By letter dated June 3, 2004, DHS advised the Post, in relevant part, as follows:

Please be advised that . . . we have determined that your FOIA request for reports of investigations of deaths of residents at city contracted group homes for the mentally retarded may not be released under the FOIA pursuant to D.C. Official Code § 2-534(a)(6), which prohibits information specifically exempted from disclosure by statute [sic]. For your information, the statute that exempts the requested records from disclosure is D.C. Official Code § 7-1305 (2), and Mayor's Order 2001-27 dated February 14, 2001, also addresses the confidential nature of those records.

Letter dated June 3, 2004 from J. Dodge to K. Barker.

Subsequently, after somewhat lengthy discussions and negotiations, DHS, by letter dated March 29, 2005, provided the Post with heavily redacted copies of records within the scope of its request.

The third paragraph of the March 29, 2005 letter advised the Post, in some detail, as follows:

Please be advised that the redacted portions of the investigative reports that are included with this letter have been redacted in accordance with the strictures of D.C. Official Code § 2-534(a)(2), which authorizes certain matters to be exempt from disclosure if the information is "of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy" and § 2-534(a)(6) if the information is "specifically exempted from disclosure by statute (other than this section) provided that such statute: requires that

the matter be withheld from the public in such a manner as to leave no discretion on the issue." Also, we must rely on the confidentiality provisions of D.C. Official Code § 7-1305.12, which provides that all information in an MRDDA consumer's [sic] records shall be considered privileged and confidential. Further, the Columbus death investigations are covered under the Health Insurance Portability and Accountability Act (HIPPA), specifically 45 CFR § 164.502(F), which accords decedents with the same privacy rights as living persons.

Letter dated March 29, 2005 from R. C. Warren, Esq. to K. Barker.

Dissatisfied with DHS's response, the Post, through its outside counsel, subsequently filed the instant administrative appeal with the Office of Mayor Anthony A. Williams challenging the applicability of the exemptions invoked by DHS to withhold responsive information from disclosure and, in particular, the breadth of the scope and extent of the redactions from the records released pursuant to its D.C.-FOIA request.

On appeal, the Post asserts that "[t]he documents DHS provided in response to [its] request . . . have redactions that are so extensive and overbroad as to render the reports worthless in terms of understanding the circumstances that led to the deaths." Appeal Letter p. 1, ¶ 2. The Post contends that neither of the exemptions cited by DHS (i.e., Exemptions 2 and 6 of the D.C.-FOIA)

"justifies the extensiveness of DHS's redactions, particularly in light of the Act's express policy favoring disclosure and open government and given the high public interest in the issues addressed in the requested records which, at bottom, deal with a matter of paramount importance - the treatment of some of the District's most vulnerable citizens in city-contracted group homes." Appeal Letter p. 4 ¶ 1.

With respect to D.C.-FOIA Exemption 2, commonly referred to as the personal privacy exemption, the Post asserts that there is no substantial privacy interest implicated by the disclosure of the information in the investigatory reports pertaining to the deaths of mentally retarded persons who were wards of the District of Columbia because it is not seeking any personal information which would reveal their identities such as names, social security numbers, dates of birth, and addresses.

In regard to D.C.-FOIA Exemption 6, which prohibits the release of "[i]nformation specifically exempted from disclosure by statute," the Post posits that it is inapplicable because neither D.C. Official Code § 7-1305.12, nor the Health Insurance Portability and Accountability Act of 1996 ("HIPPA"), 42 U.S.C. § 1320d et

seq., "provides any justification for DHS's wholesale redactions." Appeal Letter p. 7 ¶ 3. In support of its position, the Post's primary argument is that the public records it is requesting is not "information in a customers records" that is required to be kept privileged and confidential pursuant to D.C. Official Code § 7-1305.12.

Following the Post's filing of the instant appeal, DHS submitted a written response in opposition thereto to the Office of the Secretary pursuant to 1 DCMR § 412.5. See 52 DCR 52, 60 (Jan. 7, 2005).

In its opposition, DHS's principal argument is that D.C. Official Code § 2-534(a)(6), in conjunction with D.C. Official Code § 7-1305.12, supports its position that the information redacted from the documents provided to the Post was exempt from disclosure as a matter of law because, contrary to the Post's assertion, the subject D.C.-FOIA request sought the disclosure of information contained in customers' records that is required to be kept strictly confidential.

Alternatively, DHS renews the position it took in its initial denial and follow-up partial denial letters to the Post that D.C.-FOIA Exemption 2 justifies the deletion of all items redacted from the subject death investigative reports

because the personal information redacted "could reveal a customer's identity, including, but not limited to, birth and death dates; the name of the facility, the name of hospitals or doctors visited and names and identifying information of family members. Letter dated September 16, 2005 to A. Finlayson, Esq., Director, ODAI, from R. C. Warren, Esq.

Following a general overview of the D.C.-FOIA, a discussion which addresses the merits of the Post's administrative appeal is set forth below.

General Overview of the D.C.-FOIA

The D.C.-FOIA, like the federal FOIA upon which it was modeled, was enacted in 1976 to divest government officials of broad discretion in determining what, if any, government records should be made available to the public upon the receipt of a request for information. See Subcommittee on Administrative Practice & Procedure of the Senate Committee on Judiciary, 95th Cong., 2d. Sess., *Freedom of Information: A Compilation of State Laws* (Comm.Print 1978); see also Washington Post v. Minority Business Opportunity Commission, 560 A.2d 517, 521 (D.C. 1989). In this regard, the D.C.-FOIA was "designed to promote the disclosure of information, not inhibit it." Id.

The D.C.-FOIA embodies "[t]he public policy of the District of Columbia . . . that all persons are entitled to full and complete disclosure of information regarding the affairs of government and the official acts of those who 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, supra, 560 A.2d at 521; Newspapers, Inc., supra, 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 twelve (12) 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, with ambiguities resolved in favor of disclosure." Washington Post, supra.

Discussion

In the instant matter, DHS substantially redacted information from the copies of the mortality investigative reports provided to the Post based on, inter alia, D.C.-FOIA Exemptions 2 and 6.

In the response submitted in opposition to the Post's appeal, DHS, as support for its decision to substantially redact much of the information from the subject reports, argues initially that such information was exempted from disclosure pursuant to D.C.-FOIA Exemption 6 based upon a confidentiality provision contained in D.C. Law 2-137, the "Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, ("MRCCRD Act") (codified at D.C. Official Code §§ 7-1301.01 et seq.).

The MRCCRD Act provision at issue, section 512, which is codified at D.C. Official Code § 7-1305.12,

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provides as follows:

§ 7-1305.12 Maintenance of records; information considered privileged and confidential; access; contents.

Complete records for each customer shall be maintained and shall be readily available to professional persons and to the staff workers who are directly involved with the particular customer and to the Department of Human Services without divulging the identity of the customer. *All information contained in a customer's records shall be considered privileged and confidential.*³

(emphasis added). Section 512 goes on to specify what persons outside of professional persons, staff workers, and the Department of Human Services, are entitled to have access to the privileged and confidential information contained in a customer's records as follows:

The customer's parent or guardian who petitioned for the commitment, the customer's counsel, the customer's mental retardation advocate and any person properly authorized in writing by the customer, if such customer is capable of giving such authorization, shall be permitted access to the customer's records.

D.C. Official Code § 7-1305.12. That section then enumerates sixteen (16) categories of information which are required to be addressed and included in a customer's records. According to section 512, "[t]hese records shall include:

- (1) Identification data, including the customer's legal status;
- (2) The customer's history, including but not limited to:
 - (A) Family data, educational background and employment record;
 - (B) Prior medical history, both physical and mental, including prior institutionalization;
- (3) The customer's grievances, if any;
- (4) An inventory of the customer's life skills;
- (5) A record of each physical examination which describes the results of the record;
- (6) A copy of the individual habilitation plan; and any modifications thereto and an appropriate summary which will guide and assist the professional and staff employees in implementing the customer's program;
- (7) The findings made in periodic reviews of the habilitation plan which findings shall include an analysis of the successes and failures of the habilitation program and shall direct whatever modifications are necessary;
- (8) A medication history and status;
- (9) A summary of each significant contact by a professional person with a customer;
- (10) A summary of the customer's response to his or her program, prepared and recorded at least monthly, by the professional person designated pursuant to § 7-1305.04(c) to supervise the customer's habilitation;
- (11) A monthly summary of the event and nature of the customer's activities and the effect of such activity upon the customer's progress along the habilitation plan;
- (12) A signed order by a professional person, as set forth in § 7-1305.10(b), for any physical restraints;
- (13) A description of any extraordinary incident or accident in the facility involving the customer, to be entered by a staff member noting personal knowledge of the incident or accident or other source of information;
- (14) A summary of family visits and contacts;

- (15) A summary of attendance and leaves from the facility; and
- (16) A record of any seizures, illnesses, treatments thereof, and immunizations."

D.C. Official Code § 7-1305.12(1)-(16).

D.C.-FOIA Exemption 6 shields from disclosure the following:

(6) Information specifically exempted from disclosure by statute (other than this section), provided that such statute:

(A) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(B) Establishes particular criteria for withholding or refers to particular types of matters to be withheld.

D.C. Official Code § 2-534(a)(6)(A)(B) (emphasis added).

As a threshold matter, there is a dearth of case law interpreting D.C.-FOIA Exemption 6 and this office's legal research of the published opinions of the D.C. Court of Appeals has yielded only one discoverable case, Newspapers, Inc., supra, which did not address the issue extant in the instant appeal.⁴ Notwithstanding, binding D.C. Court of Appeals' case precedent instructs that under circumstances

⁴ In Newspapers, Inc., supra, the D.C. Court of Appeals held that the Duncan Ordinance, which prohibited disclosure of arrest records, was not a statute and, consequently, arrest records were not protected from disclosure under D.C.-FOIA Exemption 6.

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." 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.

In determining whether information is "specifically exempted from disclosure by statute" under federal FOIA exemption 3 which is, in all material respects, identical to D.C.-FOIA Exemption 6, the U.S. Court of Appeals for the D.C. Circuit applies a two-part test first enunciated in its decision in Irons & Sears v. Dann, 606 F.2d 1215, 1220 (D.C. Cir. 1979), cert. denied, 444 U.S. 1075 (1980), and subsequently adopted by the United States Supreme Court in Baldrige v. Shapiro, 455 U.S. 345, 353 (1982), to wit: (1) does a provision in the relevant statute constitute a statutory exception to disclosure within the meaning of

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Exemption 3; and, if the answer to the first question is in the affirmative, (2) is the requested information within the protection of the nondisclosure provision. See Association of Retired R.R. Workers, Inc. v. United States R.R. Retirement Board, 830 F.2d 331, 333-334 (D.C. Cir. 1987); Medina-Hincapie v. Department of State, 700 F.2d 739, 740 (1983).

Applying the Irons & Sears test to the instant matter, the crucial inquiry on this appeal is two-fold: first, does section 512 of the MRCCRD Act constitute a statutory exemption from disclosure within the meaning of D.C.-FOIA Exemption 6; and second, does language in the MRCCRD Act mandate the withholding of the information redacted by DHS from records disclosed to the Post.

If the answer to the first part of the two-part test is "No," it obviates the need to address the second part of the inquiry and the decision on the instant appeal must be resolved in favor of the Post.

Well settled principles of statutory construction provide meaningful guidance to this office in determining the proper interpretation to be given to the provisions of the MRCCRD Act. In this regard, it is well established D.C. Circuit case precedent that in determining whether a

provision in a statute constitutes an exemption to the disclosure requirements of the federal FOIA, the plain language of the statute is controlling. Retired R.R. Workers, supra, 830 F.2d at 334 ("The unfolding case law has thus fairly well settled the standards to be applied to the classification of statutes as withholding or non-withholding (i.e., look to plain language of the statute"))).

"When the plain meaning of the statutory language is unambiguous, the intent of the legislature is clear" and further inquiry is not necessary. 1618 Twenty-First Tenants' Association, Inc. v. The Phillips Collection, 829 A.2d 201, 203 (D.C. 2003) (quoting, in part, E.R.B. v. J.H.F., 496 A.2d 607, 609 (D.C. 1985) (quoting Davis v. United States, 397 A.2d 951, 956 (D.C. 1979))).

In the present matter, the relevant language in the MRCCRD Act at issue is the legislative mandate that "[a]ll information contained in a customer's records shall be considered *privileged and confidential*." D.C. Official Code § 7-1305.12 (emphasis added).

The words "privileged" and "confidential" are not expressly defined in the MRCCRD Act. However, it is well settled that in ascertaining the plain and ordinary meaning

of words in a statute, "the use of dictionary definitions is appropriate in interpreting undefined statutory terms."

1618 Twenty-First Street Tenants' Association, supra, 829 A.2d at 203.

Black's Law Dictionary provides the following definition of the word "Confidential": (Of information) *meant to be kept secret*. BLACK'S LAW DICTIONARY 294 7th ed. 1999) (emphasis added); see also WEBSTER'S NINTH NEW COLLEGIATE DICTIONARY 275 (1985) (defining confidential to mean "PRIVATE, SECRET").

Privileged, in turn, is defined to mean "[n]ot subject to the usual rules or liabilities; esp., *not subject to disclosure* during the course of a lawsuit <a privileged document." Id. at 1217 (emphasis added). See also BLACK'S LAW DICTIONARY at 273 (defining "privileged communication" as "[a] communication that is protected by law from forced disclosure.").

Applying the well established plain language rule of statutory construction in interpreting the relevant statutory provision at issue, the clear and unambiguous language of section 512 of the MRCCRD Act, conspicuously entitled "Maintenance of records; information considered privileged and confidential; access; contents," undoubtedly

compels the conclusion that it is a nondisclosure provision and, therefore, provides a statutory exemption to the disclosure mandate of the D.C.-FOIA under the first prong of the two-part test fashioned by the D.C. Circuit in Irons & Sears inasmuch as it refers to the particular types of matters that are privileged and confidential and are to be withheld (i.e., all information in a customer's records).

Accordingly, the Interim Secretary of the District of Columbia concludes that the MRCCRD Act is a withholding statute within the meaning of D.C.-FOIA Exemption 6.

This office's conclusion that the MRCCRD Act "qualifies as a withholding statute under [D.C.-FOIA Exemption 6] is only the first step of the inquiry." CIA v. Sims, supra, 471 U.S. at 168. The second and final step of the two-part test requires a determination as to "whether the information sought after falls within the boundaries of the nondisclosure statute." Retired R.R. Workers, supra, 830 F.2d at 334. Therefore, the remaining, and dispositive, question is whether the information redacted by DHS from the mortality investigation reports provided to the Post falls within the purview of the MRCCRD Act's confidentiality provision.

In apposite cases, the U.S. Court of Appeals for the D.C. Circuit has construed statutory nondisclosure provisions in determining whether federal FOIA Exemption 3 was properly invoked by an agency to withhold information from disclosure to a FOIA requester. As discussed above, these federal court decisions provide instructive authority as to the proper interpretation and application of the nondisclosure mandate of D.C.-FOIA Exemption 6.

For example, in Irons & Sears v. Dann, supra, the D.C. Circuit considered the propriety of the U.S. Patent and Trademark Office's ("PTO") partial denial of a FOIA request for "decisions of the [PTO] disposing of requests by would-be patentees for a filing date earlier than the one initially assigned to their applications." 606 F.2d 1215, 1217 (1979).

In Irons & Sears, the court defined "[t]he key question posed . . . [as] whether patent applications and information concerning them qualify by virtue of 35 U.S.C. § 122 as materials 'specifically exempted from disclosure by statute' for purposes of the third exemption to the FOIA . . . and thus may be kept in confidence by the PTO." Id. at 1219.

Somewhat similar to the confidentiality provision at issue here, 35 U.S.C. § 122 provides:

§ 122. Confidential status of applications

Applications for patents *shall kept in confidence* by the Patent and Trademark Office and no information concerning the same given without authority of the applicant or owner *unless* necessary to carry out the provisions of any Act of Congress or in such special circumstances as may be determined by the Commissioner.

(emphasis added).

The D.C. Circuit concluded that Section 122 was an express statutory exemption from disclosure "because 'it refers to particular types of matters to be withheld'-- namely, patent applications and information concerning them." Id.

The court next considered whether "PTO decisions granting or denying petitions for earlier filing dates" . . . qualify as 'information concerning' patent applications for purposes of Section 122." Id. at 1221. The court determined that they were and held that the PTO's decisions were exempt from disclosure under FOIA Exemption 3 to the extent they related to pending or abandoned patent applications based on its opinion that "Congress seem[ed] to have intended to draw a bright line shielding from

disclosure all information concerning patent applications." Id. at 1222 (emphasis added).

Similarly, in Ryan v. Bureau of Alcohol, Tobacco and Firearms, 715 F.2d 644, 645 (D.C. Cir. 1983), the D.C. Circuit considered the propriety of the Bureau's denial of a federal FOIA request for "the current list of liquor bottle manufacturers who have filed a notice of intent to engage in the manufacture of liquor bottles on [Internal Revenue Service Standard] Form 4328 under 27 C.F.R. § 173.32." Id. at 645. Form 4328 contained, inter alia, "the names and address of the filer, the location of the manufacturing premises, and the material to be used." Id.

The provision cited by the Bureau as statutory authority which specifically exempted Form 4328, and the information provided thereon, from disclosure provides as follows:

§ 6103. Confidentiality and disclosure of return and return information

(a) **General rule.**—Returns and return information shall be confidential, and except as authorized by this title—

- (1) no officer or employee of the United States,
- (2) no officer or employee of any State, any local child support enforcement agency, or any local agency administering a program . . . who has or had access to returns or return information under this section, and

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- (3) no other person (or officer or employee thereof) who has or had access to returns or return information . . .

shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this section.

26 U.S.C. § 6103 (emphasis added).

In Ryan, the dispositive issue framed by the court was "whether material previously furnished on Form 4328 [was] exempt from disclosure under the Freedom of Information Act because it is 'specifically exempted from disclosure' . . . by the confidentiality provisions of the Internal Revenue Code, 26 U.S.C. § 6103." Id.

In the course of reaching its decision, the court keenly observed that, as defined in the Internal Revenue Code, "[a] 'return' is any 'tax or information return . . . required by, or provided for or permitted under, the provisions of [Title 26] which is filed with the Secretary by, on behalf of, or with respect to any person, and any amendment or supplement thereto.'" Id.

The D.C. Circuit, in affirming the lower court's dismissal of the complaint filed by Ryan, concluded that "Form 4328 [was] an information return" and, therefore, "the Bureau [was] prohibited from disclosing any of the

'return information' which it contains" because it was specifically exempted from disclosure under federal FOIA Exemption 3 by way of section 6103 of the Internal Revenue Code. Id. at 647 (emphasis added).

Finally, in Wisconsin Project on Nuclear Arms Control v. U.S. Dep't of Commerce, 317 F.3d 275, 277 (D.C. Cir. 2003), another illustrative case, the D.C. Circuit considered "whether Exemption 3 of the [federal] Freedom of Information Act . . . permits the Department of Commerce to withhold from public disclosure information contained in export license applications."

The provision relied upon by the Commerce Department to deny the Wisconsin Project's request for access to export license applications on the grounds that such applications were specifically exempted from disclosure by statute was section 12(c) of the Export Administration Act which provides that:

Information obtained for the purpose of consideration of, or concerning, license applications . . . shall be withheld from public disclosure unless the release of such information is determined by the Secretary [of Commerce] to be in the national interest.

50 U.S.C. App. § 2411(c).

In its decision, the D.C. Circuit opined that "[a] statute qualifies as a withholding statute under [federal]

FOIA Exemption 3 where 'Congress has itself made the basic decision and has left to the administrator only the task of implementation'" Id. (quoting Am. Jewish Cong. v. Kreps, 574 F.2d 624, 630 (D.C. Cir. 1978).

After observing that "section 12(c) . . . specifies the particular types of matters to be withheld - namely, 'information obtained for the purpose of consideration of, or concerning, license applications under the Act" the D.C. Circuit "ha[d] little difficulty concluding that section 12(c) qualifies as an Exemption 3 statute." Id.

The D.C. Circuit, therefore, affirmed the trial court's grant of summary judgment in favor of the Department of Commerce based on its conclusion that it properly invoked federal FOIA Exemption 3 to withhold from disclosure to the Wisconsin Project the export license applications requested pursuant to its D.C.-FOIA request.

Applying the analytical framework used by the courts in Irons & Sears, Ryan, and Wisconsin Project, in addressing the second part of the relevant two-part test in the instant matter, the dispositive question is whether the information redacted by DHS was within the scope of the information that was required to be kept confidential and privileged under section 512 of the MRCCRD Act.

As stated above, the relevant provision states that "[a]ll information contained in a customer's records shall be considered privileged and confidential." D.C. Official

The MRCCRD Act defines customer to mean "a person admitted to or committed to a facility for habilitation or care." D.C. Official Code § 7-1301.03(8A).⁵

The language of the MRCCRD Act's confidentiality provision is clear and unequivocal. According to a plain reading of the subject confidentiality provision, this office finds the breadth of the language to be sweeping in scope and encompasses all of the information in the records maintained by DHS about its "customers" who are mentally retarded.

Accordingly, the Interim Secretary of the District of Columbia concludes that DHS properly invoked D.C.-FOIA Exemption 6 to withhold from disclosure to the Post all of the information that was redacted from the reports into the death investigations of mentally retarded customers living in District-contracted group homes.⁶

⁵ A facility is defined as a "public facility or private residence, or part thereof, which is licensed by the District as a skilled or intermediate care facility or a community residential facility . . . and also includes any supervised group residence for mental retarded persons

Because Exemption 6 applies to all of the information withheld, this office need not consider whether DHS properly invoked D.C.-FOIA Exemption 2 to withhold any personal information from disclosure to the Post.

However, we do note that one argument advanced by the Post in its written appeal addressing the public interest versus personal privacy interest in disclosure actually, in this office's opinion, supports the withholding of the requested information.

In this regard, the Post points to D.C. Official Code § 5-1412, which it suggests is an example of a D.C. Law which "authorizes the release of 'full and complete records under 18 years of age.'" D.C. Official Code § 7-1301.03(13).

⁶ At least two federal statutes which were enacted by Congress to safeguard the civil, human, and other legal rights of vulnerable persons support the conclusion reached in this appeal that the investigative reports are required to be kept confidential, to wit: the Developmental Disabilities Assistance and Bill of Rights Act ("DABRA"), 42 U.S.C. §§ 15001 et seq. (2005), and the Protection and Advocacy for Mentally Ill Individuals Act ("PAMII"), 42 U.S.C. §§ 10801 et seq. (2005). The aforesaid federal statutes authorize the establishment of protection and advocacy ("P&A") groups in each state and the District to investigate allegations of abuse and neglect of persons in government-owned facilities who are mentally retarded or developmentally disabled if incidents are reported or if there is probable cause to believe that incidents occurred. P&A must keep confidential all information contained in a client's records.

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and files, properly indexed, giving the name, if known, of every person whose death is investigated, the place where the body was found, the date, cause and manner of death and all other relevant information and reports of the medical examiner concerning the death.'" Appeal Letter at 5 (quoting, in part, D.C. Official Code § 5-1412(a)).⁷

The Post's reliance on D.C. Official Code § 5-1412(a) is seriously misplaced because its selective quotation of that paragraph misstates the responsibilities of the Chief Medical Examiner under that provision. A reading of the full text of the aforesaid provision clearly reveals that it does not *authorize* the release of any death records, as the Post suggests, but, instead, mandates that "[t]he CME shall be responsible for *maintaining* full and complete records and files, properly indexed" which contain certain types of information regarding the facts and circumstances surrounding, and other relevant information related to, the deaths of every person investigated by the CME.

⁷ D.C. Law 13-172, the "Establishment of the Office of the Chief Medical Examiner Act of 2000," is codified at §§ 5-1401-5-1417 (2001).

Paragraphs (b)⁸ and (c)⁹ of D.C. Official Code § 5-1412 properly govern who may have access to death records maintained by the CME pursuant to D.C. Official Code § 5-1412(a).

By Mayor's Order 2001-4, dated January 5, 2001, the Chief Medical Examiner was delegated the authority vested in the Mayor to, inter alia, promulgate rulemaking to implement the several provisions of the Office of the Chief Medical Examiner Act of 2000, including §§ 2912(a) and (c). On October 7, 2005, the CME issued a Notice of Final Rulemaking which authorized the disclosure of death

⁸ D.C. Official Code § 5-1412(b) provides that:

(b) The records and files maintained under the provisions of subsection (a) of this section shall be open to inspection by the Mayor, or Mayor's authorized representative, the United States Attorney and the United States Attorney's assistants, the Metropolitan Police Department, or any other law enforcement agency or official; upon request, the CME shall promptly deliver to such persons copies of records relating to the deaths as to which further investigation may be advisable.

⁹ D.C. Official Code § 5-1412(c), in pertinent part, further provides as follows:

(c) Any other person with a legitimate interest may obtain copies of records maintained pursuant to subsection (a) of this section upon such conditions and payment of such fees as may be prescribed by regulation by the Mayor.****

investigation records to persons with a legitimate interest who (1) provide written authorization from the next of kin for the release of the records, (2) serve a subpoena on the custodian of records in OCME commanding disclosure, or (3) obtain a court order compelling disclosure. See 52 DCR 8922, 8926 (Oct. 7, 2005).

Therefore, like section 512 of the MRCCRD Act, D.C. Official Code § 5-1412 and its implementing regulations are quite specific as to whom the death reports maintained by the Office of the Chief Medical Examiner may be given access, and does not authorize disclosure to the public as the Post represents in its appeal letter.

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



PATRICIA ELWOOD

INTERIM SECRETARY OF THE DISTRICT OF COLUMBIA

**DISTRICT OF COLUMBIA
SPORTS AND ENTERTAINMENT COMMISSION**

PUBLIC ANNOUNCEMENT

The Board of Directors of the District of Columbia Sports and Entertainment Commission hereby announce that it will be meeting on the following dates for calendar year 2006:

January 4, 2006
February 1, 2006
March 1, 2006
April 5, 2006
May 3, 2006
June 7, 2006
July 5, 2006
August 2, 2006
September 6, 2006
October 4, 2006
November 1, 2006
December 6, 2006

The meetings will be held in the Media Room at RFK Stadium, 2400 East Capitol Street, S.E., Washington, D.C., 20003 at 8:30 a.m.

**Washington Mathematics Science Technology Public Charter High School
770 M Street, S.E., Suite1B
Washington, D.C. 20003**

REQUEST FOR PROPOSAL

The Washington Mathematics Science Technology Public Charter High School, in accordance with section 2204(c)(1)(A) of the District of Columbia School Reform Act of 1995, hereby solicits proposals to provide meals for lunch for 370 students. The meals must meet federal nutrition requirements and all compliance standards of the National School Lunch Program.

Interested providers will state their credentials, provide appropriate licenses and sample menus, made in accordance with federal nutritional and serving requirements. No proposal will be considered without an estimate cost.

For further information contact Ms. Elena Dobson at the school (202) 488-1996. Full proposals are due at the above address by 2:00 p.m. on January 4, 2006.

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

Application No. 17377 of BHI International* pursuant to 11 DCMR § 3103.2, for a variance from the nonconforming structure provisions under subsection 2001.3, to allow the renovation and addition to an existing apartment house, not meeting the lot occupancy requirements (section 403), and open court requirements (section 406) in the R-4 District at premises 5401-5407 9th Street, N.W. (Square 2994, Lots 23, 24, and 25).

**Note: The name of the property owner is "BHI International" rather than "Jefferson, LLC", as originally advertised.*

HEARING DATE: November 8, 2005
DECISION DATE: November 29, 2005

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) 4D and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4D, which is automatically a party to this application. ANC 4D submitted a report in support of the application. However, the Office of Planning (OP) submitted a report recommending denial 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 § 3103.2, for variances from sections 2001.3, 403 and 406.

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 §§ 2001.3, 403 and 406 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.

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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, John A. Mann, II, Ruthanne G. Miller, Curtis L. Etherly, Jr. and Gregory N. Jeffries to approve)

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

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: DEC 01 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.

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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. 17388 of Taylor Property Development LLC*, pursuant to 11 DCMR § 3103.2, for a variance from the nonconforming structure provisions under subsection 2001.3, to permit the renovation and addition to an existing apartment house, not meeting the lot occupancy requirements (section 403) in the R-4 District at premises 1360 Kenyon Street, N.W. (Square 2848, Lot 44).

**Note: The application was amended to eliminate the request for a variance from the open court requirements under § 406.*

HEARING DATE: November 15, 2005
DECISION DATE: December 6, 2005

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) 1A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1A, which is automatically a party to this application. ANC 1A did not submit a report or participate in this application.

The Office of Planning (OP) submitted a report in opposition to 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 for variance relief pursuant to § 3103.2. 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 Office of Planning report filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 2001.3 and 403 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

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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: 4-1-0 (Ruthanne G. Miller, Curtis L. Etherly, Jr., John A. Mann, II to grant; Anthony J. Hood to grant by absentee ballot; Geoffrey H. Griffis opposed to the motion)

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

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: DEC 08 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

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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. 17393 of Ellis Denning Properties LLC on behalf of Ernest Murphy, pursuant to 11 DCMR § 3103.2, for a variance from the residential recreation space requirement under section 773, and a variance to permit alley access (less than 10 feet in width) to required parking spaces under subsection 2117.4, to allow the construction of a twenty (28) unit apartment addition in the C-2-A District at premises 1425 11th Street, N.W. (Square 338, Lots 37, 38, 39, 40, 800, 801, 802 and 803).

Note: The applicant revised the original application to include a request for variance relief under subsection 2117.4 as noted in the underlined portion of the advertisement above.

HEARING DATE: November 22, 2005
DECISION DATE: December 6, 2005

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) 2F and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2F, which is automatically a party to this application. ANC 2F 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 § 3103.2, for variance relief. 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 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, 773, and 2117.4, 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. It is therefore **ORDERED** that this application be **GRANTED**.

VOTE: 3-0-2 (Curtis L. Etherly, Jr., John A. Mann, II and Ruthanne G. Miller to approve; Geoffrey H. Griffis recused; Carol J. Mitten participating, 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: DEC 08 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,

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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. 17396 of Jeff Howard and Nancy Nickel, pursuant to 11 DCMR § 3104.1, for a special exception to allow a two-story rear addition to a single-family detached dwelling under section 223, not meeting the side yard requirements (section 405), in the R-1-B District at premises 5906 32nd Street, N.W. (Square 2021, Lot 13).

HEARING DATE: November 29, 2005
DECISION DATE: November 29, 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) 3/4G and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3/4G, which is automatically a party to this application. ANC 3/4G 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.

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**.

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

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

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: DEC 01 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 DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY

DEC 16 2005

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. 17397 of David N. Jackson, pursuant to 11 DCMR § 3103.2, for variances from the lot occupancy requirements under section 403, and nonconforming structure provisions under subsection 2001.3, to construct an addition to an existing flat (two-family dwelling) in the R-4 District at premises 1008 South Carolina Avenue, S.E. (Square 970, Lot 23).

HEARING DATE: November 29, 2005
DECISION DATE: November 29, 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 public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 6B, 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 6B. The ANC submitted a report in support of the application. The OP also submitted a report in support of 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, 403 and 2001.3. 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 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. It is therefore **ORDERED** that this application be **GRANTED**.

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

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: December 1, 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. 05-37

(Consolidated PUD & Related Map Amendment -

Square 752, Lots 30, 39-41, 45, 48, 801, 804-806, 811, 813, 814, 856, and 857)

December 1, 2005

THIS CASE IS OF INTEREST TO ANC 6C

On November 22, 2005, the Office of Zoning received an application from Station Holdings LLC (the "applicant") for approval of a consolidated PUD and related map amendment for the above-referenced property.

The property that is the subject of this application consists of Square 752, Lots 30, 39-41, 45, 48, 801, 804-806, 811, 813, 814, 856, and 857 in Northeast Washington, D.C. (Ward 6) and is located between 2nd and 3rd Streets, N.E. and G and H Streets, N.E.. The property is currently zoned C-2-A.

The applicant proposes to construct a mixed-use developing having a combined gross floor area of approximately 432,353 square feet, and three levels of underground parking (known as "Capitol Place"). Approximately 367,797 square feet will be residential providing 305 dwelling units and 64,556 square feet will be for office and retail use. The project will have an approximate FAR of 5.73 and a maximum height of ninety feet on 2nd Street, with portions of the building stepping down to approximately 70 feet and 68 feet along the eastern side of the site. The project will provide 403 parking spaces; an additional 42 tandem spaces will be made available to residents. The applicant also proposes to widen the alley in the center of the square from ten feet to twenty feet by dedicating an easement. The easement will allow a straight line of access for all property owners abutting the alley which currently is only ten feet wide and has two ninety-degree angles near the entrance off G Street, N.E. In addition, the applicant seeks a related map amendment to the C-2-B District. This request is not inconsistent with the Comprehensive Plan of the District of Columbia.

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

ZONING COMMISSION NOTICE OF FILING

Case No. 05-38

**(Consolidated PUD & Related Map Amendment –
Square 499, Lots 50 and 853)****December 1, 2005****THIS CASE IS OF INTEREST TO ANC 6D**

On November 30, 2005, the Office of Zoning received an application from Marina View Partners LLC (the "applicant") for approval of a consolidated PUD and related map amendment for the above-referenced property.

The property that is the subject of this application consists of Square 499, Lots 50 and 853 in Southwest Washington, D.C. (Ward 6) and is located at 1100 6th Street, S.W. The property is currently zoned R-5-D.

The applicant proposes to develop two new buildings on the subject property, which will include approximately 560-590 new residential units; 15% of the bonus density achieved through the PUD will be reserved for workforce affordable housing. The project will also include 9,205 square feet of ground floor retail space. The buildings will rise to 110 feet, with an additional top floor set back at one to one along M and K Streets, for a total building height of 120 feet. The project will have a density of 4.89 FAR and 51% lot occupancy. The project will contain approximately 477 residential parking spaces and nine retail parking spaces. In addition, the applicant seeks a related map amendment to the C-3-C District. This request is not inconsistent with the Comprehensive Plan of the District of Columbia.

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

ZONING COMMISSION NOTICE OF FILING
Case No. 05-39
(Consolidated PUD & Related Map Amendment --
Square 3531, Lots 114 & 115)
December 6, 2005

THIS CASE IS OF INTEREST TO ANC 5C

On December 2, 2005, the Office of Zoning received an application from Archdiocese of Washington & Catholic Community Services (the "applicant") for approval of a consolidated PUD and related map amendment for the above-referenced property.

The property that is the subject of this application consists of Square 3531, Lots 114 & 115 in Northwest Washington, D.C. (Ward 5) and is located at 116 T Street, N.W. The property is currently zoned R-4.

The applicant proposes to replace the existing building, Quonset hut, and surface parking lot with 184 affordable rental housing units. The building will contain approximately 246,484 square feet of gross floor area, which equates to a 2.7 FAR. The apartment building will include community service and recreational space, consisting of a library, computer room, a café and lounge, game rooms, two interior courtyards, and passive recreational space on two roof terraces. The building will have 1,200 square feet of space that will be used by the adjacent City Lights Charter School as a shop and storage space. Approximately 120-140 parking spaces will be provided in a partially below-grade garage, which exceeds the minimum requirement of 92 spaces, one for every two units. The height of the building will be 55 feet, measured from Todd Place. In addition, the applicant seeks a related map amendment to the R-5-B District. This request is not inconsistent with the Comprehensive Plan of the District of Columbia.

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

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