

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18474 of Wagtime LLC, pursuant to 11 DCMR § 3104.2, for a special exception under § 735 for animal boarding, a special exception under § 736 for pet grooming, and a special exception under § 739 for an animal shelter in the C-2-A District at premises 1232 9th Street, N.W. (Square 398, Lot 911).¹

HEARING DATE: March 5, 2013
DECISION DATE: April 23, 2013

DECISION AND ORDER

This self-certified application was submitted on September 7, 2012 by Wagtime LLC (“Applicant”) on behalf of Lesron LLC, the owner of the property that is the subject of the application. The application originally requested special exceptions under §§ 735, 736, and 739 of the Zoning Regulations to allow “pet grooming, animal boarding/daycare, and animal shelter uses” in the C-2-A District at 1232 9th Street, N.W. (Square 368, Lot 911). Subsequently, the Applicant sought to amend the application to request variance relief, pursuant to 11 DCMR § 3103.2, from the requirements of §§ 735.3, 735.6, and 739.6 to allow use of an outdoor deck to provide recreational space for dogs at the subject property. Following a public hearing, the Board voted to approve the application, subject to conditions.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. By memoranda dated September 12, 2012, the Office of Zoning provided notice of the application to the Office of Planning (“OP”); the District Department of Transportation; the Councilmember for Ward 2; Advisory Neighborhood Commission (“ANC”) 2F, the ANC in which the subject property is located; and Single Member District/ANC 2F06. Pursuant to 11 DCMR § 3112.14, on October 18, 2012 the Office of Zoning mailed letters providing notice of the hearing to the Applicant, ANC 2F, and the owners of all

¹ This caption reflects the relief initially requested and ultimately approved by the Board in this application. While the application was pending, the Applicant requested variance relief, pursuant to 11 DCMR § 3103.2, from the requirements of §§ 735.3, 735.6, and 739.6 concerning the “keeping” of animals in exterior facilities. As discussed in this order, the Board found that the variance relief was not needed in this case.

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property within 200 feet of the subject property. Notice was published in the *D.C. Register* on October 19, 2012 (59 DCR 12129).²

Party Status. The Applicant and ANC 2F were automatically parties in this proceeding. The Board granted a request for party status in opposition to the application submitted by Nayereh Sahrapour, who owns the property abutting the subject property at 1230 9th Street, N.W. and was represented by her husband George Behestian.

Applicant's Case. The Applicant provided evidence and testimony describing the proposed uses, and asserted that the application satisfied all requirements for approval of the requested zoning relief. The Applicant also asserted that no animals would be "kept" in any outdoor space within the meaning proscribed by the Zoning Regulations; rather, the Applicant plans to use an outdoor deck on the second floor of the building incidental to the main use of the inside of the building. The Applicant indicated its agreement with conditions proposed by the ANC with respect to the limited use of the deck during specified times and by a limited number of dogs at any one time, subject to the supervision of the Applicant's employees.

OP Report. By memorandum dated December 11, 2012, the Office of Planning recommended approval of the requested special exceptions. (Exhibit 30.) By supplemental report dated February 26, 2013, OP reiterated its support for the application, and recommended six conditions of approval. The conditions provided for a five-year term of approval for the requested zoning relief, limits on the use of the outdoor deck, and the establishment of a liaison committee "to address neighborhood concerns regarding the operation of the site." (Exhibit 46.)

DDOT Report. By memorandum dated October 18, 2012, the District Department of Transportation indicated no objection to the application. According to DDOT, approval of the requested zoning relief might lead to more vehicular, transit, pedestrian, and bicycle trips but the additional trips were not expected to create adverse impacts on the travel conditions of the District's transportation network. (Exhibit 24.)

ANC Report. By letter dated December 12, 2012, ANC 2F indicated that, at a regular monthly public meeting, held December 5, 2012 with a quorum present, the ANC voted unanimously to adopt a resolution in support of the application. According to ANC 2F, "the Applicant meets the standards for the requested special exception approvals," citing the C-2-A zoning classification of the subject property, the nature of the Applicant's building and attributes of its current operations, including disposal of animal waste, and the absence of exterior facilities used for animal boarding. The ANC noted the objection to the application raised by the owner of a neighboring property, but also indicated that "ANC 2F heard significant support for the special exceptions from community members residing in the immediate area and Logan Circle more broadly, both in person and in writing." (Exhibit 31.)

² The hearing was originally scheduled for December 18, 2012 but was postponed, at the Applicant's request, until March 5, 2013.

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By letter dated February 14, 2013, ANC 2F indicated that, at a regular monthly public meeting, held February 6, 2013 with a quorum present, the ANC voted unanimously (8-0) to adopt a resolution in support of the application, which had been revised to include a request for variance relief so as to permit use of the outdoor deck at the subject property. The ANC's support was made subject to six conditions identical to those recommended by the Office of Planning.

Persons in support. The Board received letters in support of the application, which generally stated that the Applicant's current business did not adversely impact properties in its immediate vicinity, and did not create noise, odor, or other objectionable conditions but contributed to the vitality of the area. The Board also heard testimony in support of the application from a person who formerly lived in close proximity to the subject property and testified that the Applicant's current operations had not created any objectionable conditions, including with respect to odors and noise.

Party in opposition. The party in opposition asserted that the Applicant had not satisfied the requirements for the special exceptions, in part because approval of the requested zoning relief would cause adverse environmental, economic, and social impacts on neighboring properties as a result of the odor, noise, and sanitary concerns associated with the Applicant's proposed use, especially with respect to the use of the outdoor deck. The party in opposition also contended that the Applicant's proposed uses of the subject property required additional zoning relief not requested by the Applicant, including variances related to off-street parking and floor area ratio.

FINDINGS OF FACT

The Subject Property

1. The subject property is located at 1232 9th Street, N.W., a lot midblock on the west side of 9th Street between M and N Streets (Square 368, Lot 911).
2. The subject property is a generally rectangular parcel 20 feet wide along its 9th Street frontage and 138.75 feet deep. A portion at the rear of the parcel, 49.5 feet deep, is 15.69 feet wide. The narrow portion abuts a public alley, 30 feet wide, along the rear lot line. The subject property has an area of approximately 2,475 square feet.
3. The subject property is improved with a three-story building that is attached to abutting buildings on both sides. The first floor of the building extends approximately 133 feet toward the rear lot line, and contains approximately 2,092 square feet of space. The second floor extends approximately 66 feet (with a court provided on the south side of the building), and contains approximately 1,000 square feet. Third floor extends approximately 33 feet toward the rear lot line, and provides approximately 602 square feet of space, while the cellar has a length of approximately 66 feet and contains 1,110 square feet. Separate entrances from 9th Street serve the first and second floors, the third floor, and the cellar.

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4. The Applicant leases the building from the owner, and on May 9, 2005 was issued a certificate of occupancy authorizing use of the first floor as a pet store. The third floor of the building contains a residential unit with a kitchen and bathroom; the apartment was formerly leased but is currently vacant. The Applicant indicated that the third floor is used by its employees; for example, as a place to take showers and eat lunch.
5. The Applicant's business was established in 2001 and began operations at the subject property in 2005.³
6. The subject property is zoned C-2-A, which allows a maximum floor area ratio ("FAR") of 2.5, provided that no more than 1.5 FAR may be devoted to non-residential uses. (11 DCMR § 771.2.)
7. Consistent with the limit on non-residential FAR, the Applicant may devote up to 3,712.5 square feet (1.5 FAR) of the building to non-residential uses. The first and second floors of the building contain a total of approximately 3,092 square feet of space, within the 1.5 FAR limit on nonresidential use of the subject property.
8. Properties in the vicinity of the subject property are also zoned C-2-A. The closest Residence districts to the subject property are R-4 zones that are located approximately 82 feet to the north, fronting on N Street; approximately 170 feet to the south, fronting on M Street; and more than 200 feet to the west. The subject property does not abut an existing residence.
9. The Applicant's masonry building is capable of being soundproofed.
10. The subject property does not contain any external yards. However, in 2009 the Applicant constructed an outdoor deck located over the roof of the first floor at the rear of the building and accessible from the second floor.
11. The building to the north of the subject property is currently used as an art gallery. The building to the south is vacant; the building was acquired by the party in opposition in 2006 for use as a restaurant once the necessary renovations were completed. A restaurant is located across the rear alley to the west of the subject property, while the convention center is located to the east across 9th Street. The surrounding area contains a mixture of residential, commercial, office, and government uses.

³ The Applicant also plans to operate an animal boarding and animal shelter use at 900 M Street, S.E., for which the Board granted zoning relief, subject to conditions, in Application No. 18346 (order issued May 15, 2012).

The Applicant's Project

12. The Applicant seeks to expand operations at the subject property by operating animal boarding, pet grooming, and animal shelter uses in the cellar and on the first and second floors of the building in addition to continuing the existing retail use on the first floor. As proposed, the first floor will continue to house the retail space in the front of the building and the animal shelter use in the center portion of the building; the animal grooming use will be located in the cellar; and the remainder of the first floor and the entire second floor will be devoted to the animal boarding use.
13. The animal boarding, pet grooming, and animal shelter uses will take place primarily inside the Applicant's building, with windows and doors kept closed. The Applicant will utilize industry standard sound-absorbing materials, such as acoustical floor and ceiling panels, acoustical concrete and masonry, and acoustical landscaping in connection with the animal shelter use. The Applicant will also use industry-standard flooring sealants to help eliminate bacteria and minimize odors by preventing animal waste from penetrating into the concrete floor.
14. The Applicant will place all animal waste in closed waste disposal containers and will utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly. For its current operations, the Applicant has animal waste collected three times per week by a qualified waste disposal company. Animal wastes are collected in biodegradable bags and placed into a trash chute, which is made of wood and lined with metal and is affixed to the building. The chute conveys the bags to an enclosed container that prevents odors from escaping until the contents are collected for disposal.
15. Odors at the subject property will be controlled by means of an air filtration system, such as HEPA filtration, or an equivalent effective odor control system. The Applicant will wash all indoor floors with a water/chemical mixture that breaks down urine odor, with the liquid mixture captured by a drainage system. An air filtration system is used on air conditioner units in the building to control odors, and the units and vents are cleaned and maintained professionally.
16. The Applicant proposes to use the outdoor space on the second-floor deck on a limited basis primarily in conjunction with the animal boarding use. The deck contains no cages or other facilities for the long-term keeping of animals. Dogs will be permitted to go out on the deck subject to conditions on its use, which were proposed by the ANC and by OP, and agreed to by the Applicant. The conditions will limit the number of dogs on the outdoor deck at any one time as well as the length of time any dog is permitted to remain on the outdoor deck, and require supervision of the dogs by the Applicant's employees while using the outdoor deck.

Harmony with Zoning

17. The subject property is zoned C-2-A, a Community Business Center zone district. The C-2-A District is designed to provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core. Located in low and medium density residential areas with access to main highways or rapid transit stops, and including office employment centers, shopping centers, and medium-bulk mixed use centers, the C-2-A District permits development to medium proportions. (11 DCMR §§ 720.2 – 720.4.)

CONCLUSIONS OF LAW AND OPINION

The Applicant requests special exception relief to allow use of property for animal boarding pursuant to § 735, pet grooming pursuant to § 736, and an animal shelter pursuant to § 739 in the C-2-A Zone District at 1232 9th Street, N.W. (Square 398, Lot 911). The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (2008) to grant special exceptions, as provided in the Zoning Regulations, where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, subject to specific conditions. *See* 11 DCMR § 3104.1.

Pursuant to § 735, an animal boarding use may be permitted as a special exception if approved by the Board subject to certain requirements, including that the animal boarding use must not abut a Residence zone (§ 735.2). The use must take place entirely within an enclosed and soundproof building in such a way so as to produce no noise or odor objectionable to nearby properties, with windows and doors kept closed and no animals permitted in an external yard on the premises (§ 735.3). The operator of the animal boarding use must place all animal waste in closed waste disposal containers and utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly, and must control odors by means of an effective air filtration system, such as high efficiency particulate air (“HEPA”) filtration or the equivalent (§ 735.4). External yards and other exterior facilities for the keeping of animals are not permitted (§ 735.6).

Based on the findings of fact, the Board concludes that the requested special exception for animal boarding, subject to the conditions of approval adopted in this order to mitigate any potential adverse impacts, satisfies the requirements of §§ 735 and 3104.1. The animal boarding use will occur in a masonry building that can be made soundproof, where windows and doors will be kept closed, and which lacks an external yard on the premises. The building is located in a Commercial zone and does not abut a Residence zone. The Applicant will utilize primarily a portion of the first floor and the second floor of the building for the animal boarding use. With respect to the indoor space, the Applicant will utilize sound-absorbing materials as well as an

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odor control system, and will dispose of animal waste appropriately, consistent with the requirements of the Zoning Regulations.

The Applicant proposes to permit dogs to use the outdoor deck on the second floor of the building, subject to limits on the number of dogs at a time and duration of outdoor activity so as to prevent any objectionable conditions associated with its use. While the Applicant sought to amend the application to seek variance relief from § 735.6, as discussed more fully below, the Board concludes that a variance is not needed under the circumstances because the Applicant's proposed use of the outdoor deck would not constitute the "keeping" of animals. The Applicant will use the deck to provide limited outdoor exercise for small groups of dogs, and does not propose to install cages or other facilities for the keeping of animals overnight or for other extended periods. The Board concurs with the Applicant that the limited use of the outdoor deck will be incidental to the animal boarding use.

Pursuant to § 736, a pet grooming establishment may be permitted as a special exception if approved by the Board subject to certain requirements, which are similar to the requirements for an animal boarding use set forth in § 735. A pet grooming establishment cannot abut an existing residential use or a Residence district (§ 736.4), and must be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste (§ 736.2). Animal waste must be placed in closed waste disposal containers and collected by a qualified company at least weekly, while odors must be controlled by an air filtration system or other effective odor control system (§ 736.3). The sale of pet supplies is permitted as an accessory use (§ 736.5), but external yards or other external facilities for the keeping of animals are not permitted (§ 736.5).

Based on the findings of fact and for the reasons discussed above, the Board concludes that the requested special exception for a pet grooming establishment, subject to the conditions of approval adopted in this order to mitigate any potential adverse impacts, satisfies the requirements of §§ 736 and 3104.1. The pet grooming establishment use will occur primarily in the building's cellar, while the Applicant plans to continue the existing retail use on the first floor. The subject property is located in a Commercial zone and does not abut a Residence zone or an existing residential use. Neighboring buildings, including those immediately abutting the subject property, are currently used for commercial purposes or are vacant.

Pursuant to § 739, an animal shelter may be permitted as a special exception if approved by the Board subject to certain requirements, which are similar to the requirements for an animal boarding use set forth in § 735 and the requirements for a pet grooming establishment contained in § 736. An animal shelter cannot abut an existing residential use or a Residence district (§ 739.5), and must be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste (§ 739.2). An animal shelter must utilize industry standard sound-absorbing materials (§ 739.3) as well as appropriate means to dispose of animal waste and to control odor (§ 739.4). External yards or other external facilities for the

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keeping of animals are not permitted unless the entire yard is located at least 200 feet from an existing residential use or Residence district (§ 739.6).

Based on the findings of fact and for the reasons discussed above, the Board concludes that the requested special exception for an animal shelter, subject to the conditions of approval adopted in this order to mitigate any potential adverse impacts, satisfies the requirements of §§ 739 and 3104.1. The animal shelter use will be located within the building at the subject property, utilizing portions of the cellar and first and second floors. Measures to be implemented by the Applicant to avoid adverse impacts related to animal noise, odor, or waste potentially associated with the animal boarding and pet grooming operations will apply equally to the planned animal shelter use.

Accordingly, the Board concludes that approval of the requested special exceptions, subject to the conditions adopted in this order, will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map. The Board also concludes that the requested special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map. The subject property is located in a Commercial zone that is intended in part to provide facilities for shopping and business needs outside of the central core, with development to medium proportions. The Board received letters in support of the application that demonstrated a desire for the services to be provided by the Applicant at the subject property. In addition, ANC 2F noted “significant support for the special exceptions from community members residing in the immediate area and Logan Circle more broadly.”

With regard to the requested variance relief, the Board notes that the Applicant proposes to use the outdoor deck, located at the second-floor level on the roof over a portion of the first floor, to provide an exercise space for dogs in conjunction with the uses conducted at the subject property. The Applicant has agreed to conditions recommended by the Office of Planning and by ANC 2F,⁴ including conditions that will limit the use of the outdoor deck to a maximum of five dogs at a time, prohibit animals on the deck between 6:00 p.m. and 9:00 a.m., and require the presence of an employee to supervise the animals using the outdoor deck.⁵

The Zoning Regulations do not define “keeping.” Various definitions are provided by *Webster’s Unabridged Dictionary*,⁶ including “the act of one that keeps,” as custody, guard, or maintenance; a reserving or preserving for future use; and the means by which something is kept. The Board concludes that “keeping” refers to an act of some long-term duration, and does not

⁴ See Exhibit 43 at page 7.

⁵ The Board declines to adopt the conditions proposed by OP and ANC 2F verbatim, but includes in this order conditions that are based on those recommendations and are appropriate to mitigate any adverse impacts potentially arising from the approved special exception uses.

⁶ Pursuant to § 199.2(g), words not defined in § 199 of the Zoning Regulations “shall have the meanings given in *Webster’s Unabridged Dictionary*.”

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encompass the sort of temporary, periodic use of the outdoor deck planned by the Applicant.⁷ The limited use of the outdoor deck proposed by the Applicant as an exercise space incidental to the animal boarding, pet grooming, and animal shelter uses does not constitute the “keeping” of animals that is proscribed by the Zoning Regulations, and therefore variance relief from §§ 735.3, 736.5, and 739.6 is not needed in this case.

The party in opposition contends that the Applicant requires additional zoning relief to operate the planned uses at the subject property, especially relating to off-street parking requirements and to the maximum permitted non-residential floor area ratio. The Applicant disagrees. In deliberating on this self-certified application, the Board addresses only those areas of relief requested by the Applicant and makes no findings with respect to additional zoning relief, if any, that would be required by the Applicant’s proposed operations at the subject property.⁸

The Board is required to give “great weight” to the recommendation of the Office of Planning. D.C. Official Code § 6-623.04 (2001). In this case, as discussed above, the Board concurs with OP’s recommendation that the application should be approved, subject to conditions.

The Board is also required to give “great weight” to the issues and concerns raised by the affected ANC. Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2001)). In this case, ANC 2F voted to support the application subject to the same conditions recommended by OP. The ANC did not raise any specific issues or concerns about the proposed zoning relief but concluded that the Applicant met the standard for the requested special exceptions and noted “significant support” for the application from persons living in the neighborhood in the vicinity of the subject property.

Based on the findings of fact and conclusion of law, the Board concludes that the Applicant has satisfied the burden of proof with respect to the request for special exceptions to allow use of property for animal boarding pursuant to § 735, pet grooming pursuant to § 736, and an animal

⁷ This conclusion is consistent with the use of “keep” or “keeping” in other titles of the District of Columbia Municipal Regulations. For example, with respect to pet ownership and service animals in public housing, residents “may keep an animal” subject to certain requirements (14 DCMR §§ 6211, 7409), and Animal Control regulations establish requirements for any “person owning, keeping, or having custody of a dog” (24 DCMR §§ 900, 901). Outside of chapter 7, use of the word “keeping” in the Zoning Regulations also suggests a long-term act: the “Agricultural” use category of the Saint Elizabeth’s East Campus district is described as the “on-site cultivation, or maintenance of plants, or the breeding or keeping of animals and livestock intended for personal use or eventual sale or lease off-site, including but not limited to: farm, truck garden, beekeeping, greenhouse, dairy, horticultural nursery, or community garden.” 11 DCMR § 3303.1(a).

⁸ See Application No. 18250 (order issued May 10, 2012) (opposition party’s argument that more zoning relief was required than was requested was found irrelevant to the relief requested by the applicant); Application No. 16974 (July 29, 2004) (“Assuming that the opposition is correct . . . the most that can be said is that the applicant will need variance relief. That fact alone does not require the Board to deny a special exception. . . . Our inquiry is limited to the narrow question of whether the Applicant met its burden under the general and specific special exception criteria”). Accord Application No. 17537 (July 27, 2007) (“The question of whether an applicant should be requesting variance relief is not germane to the question of whether a special exception should be granted”).

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shelter pursuant to § 739 in the C-2-A Zone District at 1232 9th Street, N.W. (Square 398, Lot 911), noting that the **request for variances** from §§ 735.3, 735.6, and 739.6, concerning the “keeping” of animals in exterior facilities, is **dismissed** as unnecessary in this case. Accordingly, it is **ORDERED** that the application is **GRANTED, SUBJECT** to the following **CONDITIONS**:

1. The application is approved for a term of three years beginning on the date upon which this order becomes final.
2. No animal shall be permitted on the outdoor deck between the hours of 6:00 p.m. and 9:00 a.m.
3. No more than five animals shall be permitted on the outdoor deck at any one time, and no dog shall be allowed on the deck for a period greater than 30 minutes per day.
4. An employee of the Applicant shall remain on the outdoor deck at all times when an animal is present.
5. Within 60 days of the effective date of this Order, the Applicant shall put in place a process and procedure to show that the Applicant is working cooperatively with the ANC, the neighbors, and surrounding businesses in order to stay abreast of any negative impacts resulting from the Applicant’s use of the subject property.

VOTE: 4-0-1 (Nicole C. Sorg, S. Kathryn Allen, Lloyd J. Jordan, and Michael G. Turnbull (by absentee vote) to Approve the application for special exceptions and Dismiss the application for variance relief; Jeffrey L. Hinkle not participating)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
The majority of the Board members approved the issuance of this order.

ATTESTED BY:



SARA A. FARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: August 21, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

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, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. 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.

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