

GOVERNMENT OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION
PUBLIC HEARING

TEXT AMENDMENTS
COMMUNITY-BASED RESIDENTIAL Case No. 97-15
FACILITIES

Hearing Room 220 South
441 4th Street, N.W.
Washington, D.C. 20001

Monday
April 6, 1998

The above-entitled matter came on for hearing, pursuant to notice, at 7:00 p.m.

BEFORE:

MAYBELLE TAYLOR BENNETT, Chairperson
HERBERT M. FRANKLIN, Commissioner
JERRILY KRESS, Commissioner
JOHN G. PARSONS, Commissioner

STAFF PRESENT:

MADALIENE DOBBINS, Director, Office of Zoning
SHERI PRUITT-WILLIAMS, Office of Zoning
JILL DENNIS, Director, Office of Planning
DAVE COLBY, Office of Planning

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P-R-O-C-E-E-D-I-N-G-S

7:07 p.m.

CHAIRPERSON BENNETT: Good evening, ladies and gentlemen. My name is Maybelle Taylor Bennett. I am Chairperson of the Zoning Commission for the District of Columbia. Joining me this evening are Commissioners Franklin, Kress, and Parsons. I declare this hearing open. Tonight's hearing session is a continuation of the March 23, 1998 hearing in Case 97-15. This case is an initiative of the Zoning Commission resulting from a petition from the District of Columbia Office of Planning, the United States Office of Justice with the District of Columbia Office of the Corporation Counsel and the District of Columbia Department of Consumer and Regulatory Affairs to amend the text of the D.C. Zoning Regulations, Title 11, District of Columbia Municipal Regulations.

The hearing will be conducted in accordance with the provisions of 11 DCMR 3021. The Commission will continue to hear testimony from witnesses in the order indicated on the witness list with one exception. We are going to hear from Ms. Harriet Hubbard first so that she may go home this evening early.

Those presenting testimony should be brief and non-repetitive. If you have a prepared statement, please give copies to staff and orally summarize the highlights. Please note that time limits have been sent. Those time limits are 5 minutes per person. The time limits will be enforced. Each individual appearing before the Commission must complete two identification slips and submit them to the reporter at the time you make your statement. If these guidelines, an adequate record can be developed in a reasonable length of time.

Let me ask first whether or not there are any preliminary matters that anyone is aware of? Ms. Dobbins?

MS. DOBBINS: Good evening, Madam Chairman and members of the Commission. There are no preliminary matters. I think Ms. Hubbard has

1 requested to testify first. I think that is the only matter, and she is sitting right in front
2 of you.

3 CHAIRPERSON BENNETT: Okay. Why don't we -- you come
4 forward. Good evening.

5 MS. HUBBARD: Good evening. My name is Harriet B.
6 Hubbard, and I represent the Residential Action Coalition in making these remarks
7 as well as myself.

8 I am an opponent of your proposal. Remember, this is the
9 Capitol of the United States. I have visited New Delhi in India, Karachi, and
10 Morocco, Paris, Brazilia, Byrne, Buenos Aires, Techi and Shanghai, Berlin, London,
11 and all of these times, I have looked to see how they took care of their handicapped
12 people and their homeless people. Now I am sure all of you are great travelers and
13 have observed these very same things, so that you can compare the United States
14 Capitol with what you see in other capitals. And if that is the way you want to be -- if
15 you want to look like Karachi, if you want to look like Daka in Bangladesh, or you
16 want to look like Buenos Aires or Brazilia, go ahead and pass this silly thing.
17 Because they don't take care of their people with troubles. Walking the streets --
18 fortunately, I have a very sanguine temperament and can stand to see the agony
19 and misery of people without fainting or anything. But many Americans don't like
20 this at all. One reason they moved out of the city is because of the way you have
21 treated the people here.

22 Now I just want to say, remember, this is our Capitol. I would
23 like to give you a little history of halfway houses beginning in 1963.

24 CHAIRPERSON BENNETT: Don't forget, you only have five
25 minutes.

26 MS. HUBBARD: All right. But you should hear this because you
27 don't know how we got to be where we are. In 1963, the Corrections Department
28 and the judges began to have halfway houses for felons in the District. They put in

1 six in the 3rd District without even notifying the police. Now you know the record of
2 felons on repeat offenses. These were for people on probation. Two of them were
3 right on the street where I lived on 19th Street. In 1969, right after the riots, Mrs.
4 Rollark from Anacostia -- she was the head of a citizens association -- she came
5 before the BZA on a complaint about an occupancy permit that had been issued to
6 EFIC, which is a thing for people coming out of Lorton, as to whether or not that was
7 really a boarding/rooming house, which was permitted as a matter of right. And
8 Stan Scrivener, who was head of the BZA then, said could I move in, and the
9 answer was no. This led to our first regulation of halfway houses in 1969.

10 So before that, they were considered as rooming houses, which
11 is just what you are going to do now, which is to go back to the original situation
12 which caused all the trouble. I want to -- you know, we got Home Rule later on. A
13 delegation of citizens went to the first Appropriations Hearing in the Senate where
14 Mr. Inouye was the head of the Appropriations Committee for the District and had all
15 the money for halfway houses taken out of our budget and that was passed. But did
16 that make any difference to Mayor Washington? He went right on and spent it
17 anyway. Remember when Senator Inouye said he was going to put Mayor
18 Washington in jail? You are all too young for that memory. But anyway, a lot of
19 these halfway houses were put in in connection with driving all the people out so as
20 to make room for the freeway. A lot them, for example, on 19th Street where I was -
21 - we had six within a thousand feet, a situation which you will be going back to as a
22 matter of right, won't you? We had one for men felons, one for lady felons, three for
23 dope addicts, that is RAP, Incorporated. And they were going out to Maryland to get
24 their people out of their courts and move them into our halfway houses, a situation
25 which is possible under this proposal. That you can go right out to other courts in
26 other jurisdictions and get the people to move them into the District. And we also
27 had one for retarded children. Imagine putting them all on the same street.

28 Well, people just left in droves -- I mean, the ordinary taxpaying

1 citizens.

2 CHAIRPERSON BENNETT: You are coming to an end, Ms.
3 Hubbard.

4 MS. HUBBARD: Well, I think you should hear this.

5 CHAIRPERSON BENNETT: I do think we should too, but you
6 have got to speed up and I would ask you to summarize your comments.

7 MS. HUBBARD: Well, I have a lot more to say.

8 CHAIRPERSON BENNETT: Do you have it written down?

9 MS. HUBBARD: You see that they have 20 witnesses there,
10 including Wilkes and Artis and the Green Door.

11 CHAIRPERSON BENNETT: Do you have your comments
12 written down?

13 MS. HUBBARD: What?

14 CHAIRPERSON BENNETT: Do you have them written down?

15 MS. HUBBARD: I will write this down for you.

16 CHAIRPERSON BENNETT: And submit them to the record for
17 us?

18 MS. HUBBARD: Yes, I will. I just want to go over one more
19 thing about the position of our Presidents.

20 CHAIRPERSON BENNETT: Please summarize.

21 MS. HUBBARD: All right. We have President Carter. You
22 know, we haven't had any Presidents who weren't sort of in-your-face to the District
23 since President Roosevelt. President Carter put in the Green Door, which is owned
24 by people in Maryland, a woman named Judith Danson, without any hearing at all.
25 He just moved it in. You know, here we are going to decentralize everybody and
26 here is this gorgeous, gorgeous house on 16th Street. There is something in-your-
27 face about this whole thing.

28 I can tell you -- there is just one more little thing, Ms. Bennett, if

1 you would allow. You know, I think you should compare our zoning regulations for
2 permissiveness to what goes on in the suburbs. In the suburbs, the definition of a
3 family is four unrelated people and not six in a house. I have often made mention in
4 the past about how permissive our regulations are. We all protested when the
5 definition of a family was changed from blood relatives, which is what the citizens all
6 were for, when you changed this to six people. I really, really do feel that if you were
7 to go back to related people -- I would like to go into the court cases which we
8 pursued. We won our court cases on constitutional grounds and then our dear
9 District of Columbia Government -- this is for the Dupont Circle area -- and they took
10 it to Omball in the Court of Appeals. And after all these years, three years, the Court
11 of Appeals decided they didn't have any jurisdiction. Now you should look up -- I
12 went to Dave Clark about the succession of courts that we were to appeal to on
13 zoning cases. He says he was too busy to bother with a thing like that. Although he
14 is supposed to be such a big lawyer or he was supposed to be. But you should look
15 at those cases in the Court of Appeals, which we won, that we were
16 unconstitutionally affected by the large number of halfway houses in our area. Now
17 you want to just give everybody a matter of right. This is the most terrible thing you
18 could possibly consider.

19 And sometime, I would like to have -- the other part of my
20 testimony is as to whether this is really in the best interest of the people who are
21 confined in these places, who are supposed to live there. But I won't have time, will
22 I?

23 CHAIRPERSON BENNETT: All right. Will you submit what you
24 do have at length in writing?

25 MS. HUBBARD: Yes, I will. I don't know if you ever read
26 anything I write.

27 CHAIRPERSON BENNETT: Oh, we do. We just made this
28 agreement, Ms. Hubbard.

1 MS. HUBBARD: All right.

2 CHAIRPERSON BENNETT: Thank you. All right, let's move on
3 then to the Campaign for New Community, which has proposed four panels. The
4 first is a panel consisting of Lois Williams, Harry and Simon; Phil Feola, Wilkes,
5 Artis, Hedrick and Lane; Steve Pollin, Oxford House; Richard M. Hall, Campaign for
6 New Community; and Patricia Fugere, Washington Legal Clinic for the Homeless.
7 Good evening.

8 MS. WILLIAMS: Good evening. Ms. Fugere sends here regrets.
9 She could not be with us this evening.

10 CHAIRPERSON BENNETT: And your name?

11 MS. WILLIAMS: I am Lois Williams.

12 CHAIRPERSON BENNETT: Okay.

13 MS. WILLIAMS: And since you have mentioned everyone's
14 name, I won't introduce them. I would like to say just for the record that these are
15 -- we all happen to be lawyers. We have worked on this project for a long time. But
16 there is not a lawyer here who has ever taken a dime for work on this matter. It has
17 all been contributed pro bono.

18 We are here to support the proposal that is on the table. We
19 come from a variety of backgrounds, but the organizing force here has been --
20 began with the Religious Freedom Roundtable and then moved to the Campaign for
21 New Community, which is before you now. We organized originally on an ad hoc
22 basis to address some of the difficulties that religious organizations and other non-
23 profits were facing in communities who were opposed to their work and the
24 increasing difficulties they were having with providing the services they feel called to
25 provide.

26 We began to see very quickly that the zoning law should be a
27 part of our study and a committee was formed and has spent countless hours
28 looking at the zoning law as it applies to people with disabilities in the District of

1 Columbia. Let me emphasize that what we are talking about here in the proposal at
2 issue concerns not corrections facilities, not most of the CBRF categories, it
3 concerns only that category that applies to people with disability as they are defined
4 by federal law and local law, which Phil will mention.

5 Our study, which was going on in parallel with that of the Justice
6 Department in the District of Columbia, exposed three areas of the greatest concern
7 under the housing law. These are principles that are common to the proposal we
8 submitted, which the Commission may recall. We submitted a comprehensive
9 proposal for zoning reform in August of 1996. It included both housing and religious
10 freedom principles deriving from our original charter. We have separated those into
11 two. The religious freedom proposal we have resubmitted and it is now pending
12 again. And the housing proposal, we resubmitted after this Commission's last
13 hearing in which that subject was discussed hoping that it will be helpful to you in
14 your consideration.

15 I refer you to the brief we submitted in that proposal as a, I think,
16 fairly full discussion of both the law and the problems that we had exposed or we
17 had identified for our constituency and for the citizens, we think, at large. The three
18 areas that were of most concern were the radius restrictions that applied to people
19 providing housing for persons with disabilities, the size restrictions, and the process
20 requirements that these projects have to endure that others do not. We believe that
21 in each of these areas people with disabilities are singled out for disadvantageous
22 treatment pure and simple. And the category CRF is designed for people with
23 disabilities, as you have acknowledged. It is not for -- they are not penal institutions.
24 They are designed for people who can live in the community with some help. That is
25 what they are for. Those are the people who will be benefitted by this proposal.

26 They don't need heavy security institutional care. They just need
27 assistance in living independently. But under current zoning law, those housing
28 projects are limited in size, in site location, and in process ways that the housing that

1 you and I enjoy are not limited.

2 Now both our proposal and the Justice Department proposals
3 have several things in common. I would like to just run through those and then I will
4 turn it over to my colleagues. They would remove all zoning restrictions placed on
5 disabled populations that do not also apply to non-disabled populations in multi-
6 family zones. That means no radius restrictions should apply and that means no
7 occupancy limits apply unless they apply to all. But let me emphasize the other side
8 of that coin, which is that neither our proposal nor the Justice Department proposal
9 would place outside facilities in residential areas. We are talking about comparable
10 housing. If it is single family dwellings, then we were not proposing any multi-family
11 dwellings to go in those zones. If it is a zone where apartment buildings are
12 permitted, then there simply should be no discrimination against apartment buildings
13 for people with disabilities. We are not talking about putting large apartment
14 buildings in R-1 zones. But where rooming and boarding houses or apartment
15 houses are permitted, they have to be permitted for handicapped persons on an
16 equal basis.

17 This proposal doesn't directly affect licensing requirements, but
18 we submit that whatever licensing requirements are imposed by the District Council
19 simply shouldn't be linked to zoning. It shouldn't say if you have to get a license,
20 then you can't locate in certain places or you have extra restriction beyond the
21 licensing requirements. The licensing requirements -- generally reasonable
22 licensing requirements, we don't oppose at all. Those are here for our security, for
23 the community's security, and for the security, perhaps most importantly we should
24 remember, of the residents.

25 The reasonable accommodation procedure is also common to
26 their proposal and to ours. It is essential under the law that persons with disabilities
27 be reasonably accommodated. It is sensible for the District of Columbia to have an
28 orderly process in which to do that. Theoretically, one could simply write a letter to

1 the mayor requesting reasonable accommodation under the federal law, and if it is
2 reasonable, it ought to be granted. But you need a process for that, which is what
3 this proposal would ensure.

4 The hallmarks of that reasonable accommodation procedure
5 should be that it is simple and accessible to those who need it, that it be expeditious,
6 that it be final Agency action, so that it can't drag on for years. The whole point of it
7 is to relax or waive existing rules that stand as an impediment to housing opportunity
8 for people with disabilities.

9 Now finally, it is explicit in our proposal but we believe it is
10 implicit also in the Justice Department proposal, that housing that we have called
11 service-enriched should not be penalized or discriminated against because it offers
12 services that enable people to live in the community, which increasingly we have
13 seen with the housing projects with which we are familiar. And you will hear some
14 examples of those tonight. Services that are provided for the affluent or a part of the
15 housing services provided for people who need services in order to live there ought
16 to stand on the same footing. We would hope that that would be explicit in the
17 regulation. We believe it is, as I say, implicit in the Justice Department and the
18 District's proposal.

19 With that, I would like to turn it over to my colleague, Phil Feola.

20 CHAIRPERSON BENNETT: Good evening.

21 MR. FEOLA: Madam Chair, I am Phil Feola from Wilkes, Artis,
22 Hedrick and Lane. I won't take my full five minutes. I am sure you are glad to hear
23 that. You have heard me talk enough over the years. But there are really just two
24 points I would like to make. The first is I would like to urge the Commission to take
25 the opportunity to look at housing as it is defined in the zoning regulations and as it
26 is applied in the zoning regulations. And the second is I would like to urge the
27 Commission to look at the Comprehensive Plan as it continues to deliberate on this
28 case to make sure that what it does here is consistent with the Comprehensive Plan.

1 The first part, outdated regulations. The current base zoning
2 regulations, as you all know, were established in 1958. The data that went into
3 creating those regulations happened in the mid-1950's, and consequently we have a
4 series of housing types and permitted uses in the zoning regulations that may not be
5 needed now. We have tenement houses and alley dwellings, many of which posed
6 real problems and real issues with the health, safety and welfare of people in 1953,
7 1955, 1956, and which fortunately we have eliminated or practically eliminated from
8 the community as we know it. However, our regulations in 1998, 40 years later, still
9 have definitions for those and at the same time they don't have definitions for or
10 places to put things that are now being built in the urban housing stock -- single-
11 room occupancies; congregate housing; assisted living, whether it is senior or
12 otherwise -- mildly assisted living, if you will; service-enriched. All those things that if
13 you look across the housing community in the cities in this country are addressed
14 and accommodated. Right now we don't have that. Mal Rivkin is going to talk a little
15 bit about those things in the future. Right now we do it on a case-by-case approach.
16 We have single-room occupancy buildings in this town. Some of them are
17 apartments, some of them are rooming houses, and some are boarding houses. It
18 is a case-by-case approach. And I would suggest that it doesn't do anybody any
19 good to not have a standard by which to base it. All of us, whether it is providers,
20 whether it is the zoning lawyers that are advising providers, whether it is the
21 residents or the neighbors. What is an SRO? Where can it go? How big can it be?
22 How many parking spaces should it have? All unanswered. They are all being
23 adjudicated, if you will, at the zoning administrative level on a case-by-case basis.
24 Not a healthy way to administer zoning regulations in my opinion.

25 So I would urge the Zoning Commission to look at the whole
26 projects of housing and what it means in 1998 as we go into the next century and to
27 take a real look at how we can bring our community's regulations forward.

28 The second major point is the Comprehensive Plan. As all of

1 you know, the zoning regulations must not be inconsistent with the Comprehensive
2 Plan. The Comprehensive Plan, Sections 300.7 and 300.8, which I am going to
3 pass out, specifically acknowledge the District of Columbia Human Rights Act.
4 Those sections are in the housing section. I didn't bring the whole Comprehensive
5 Plan, just those two sections. The District Human Rights Act specifically prohibits
6 discrimination in housing and in real estate transactions based on persons, among
7 other reasons, because of their disability. Lois is passing out the operable section of
8 the Human Rights Act.

9 By reference, the Comprehensive Plan requires that zoning be
10 cognizant of the disability language in the Human Rights Act. And we would
11 suggest that unless the Commission adopts the Justice Department proposal in the
12 first instance and our proposal in the second instance, you would be in violation of
13 being consistent with the Comprehensive Plan. And I would add that the Zoning
14 Commission has acted fairly responsibly, as it always does --

15 CHAIRPERSON BENNETT: You know what to say, Mr. Feola,
16 don't you.

17 MR. FEOLA: In requiring applicants for planning and
18 development in every BZA order since 1988 to have a specific condition placed in
19 those orders that requires compliance. In fact, there was a Corporation Counsel
20 opinion in 1988 which requires that. So all I guess we are asking is that the
21 Commission in its broader regulatory powers, not just PUD orders, be cognizant of
22 and incorporate the D.C. Human Rights Act in its base regulations. I think I will turn
23 it over to Mr. Pollin unless you have questions.

24 CHAIRPERSON BENNETT: All right. Thank you.

25 MR. FEOLA: Thank you.

26 MR. POLLIN: My name is Steven Pollin. I am an attorney in
27 private practice in the District of Columbia. A major part of my practice is group
28 home litigation under the Fair Housing Act, and in that regard my major client is

1 Oxford House. I have also over the years served as a consultant to organizations
2 such as the Baslan Center on disability issues as it relates to the Fair Housing Act.

3 I would like to bring my experience to this proceeding in terms of
4 Oxford House's experience with the District of Columbia, and in a broader sense
5 some of the problems that not only exist here in the District of Columbia but that I
6 have seen in other municipalities in this country regarding how the Fair Housing Act
7 is to be implemented and what cities can or cannot do in order to bring themselves
8 into compliance and in conformance with the Fair Housing Act.

9 As this panel probably is aware, Oxford House has been in the
10 District of Columbia for nearly 20 years now. At present, we have approximately 25
11 houses in the District which have anywhere between 8 and 15 individuals residing in
12 them. Just for clarity sake and for the record, Oxford House provides housing for
13 recovering addicts and alcoholics and each house is democratically run, financially
14 self-supported, and must expel anyone who uses drugs or alcohol. Most of our
15 houses are in the better parts of town, meaning that we are in upper Northwest
16 Washington. We are on North Hampton Street. We are on Huntington Street. We
17 are on Garrison Street. We are on 12th Street in Shepard Park. We are off of 15th
18 Street. We are off of 16th Street. We are around Dupont Circle. The houses -- like
19 I said, the organization has been providing housing in the district for 20 years. We
20 have a tremendous history of success in terms of allowing recovering addicts and
21 alcoholics the opportunity to live in good houses in good neighborhoods and to
22 recover from their addictions and their alcoholism at their own pace. And we feel
23 that the opportunity to live in an environment such as Oxford House, where
24 individuals can learn to become responsible, productive members of society and
25 start giving back to society what has been given to them is instrumental.

26 One point I would like to make is that Oxford House only rents
27 houses. Therefore, every house that we rent pays property taxes. So we are not
28 taking away from the revenue base in the District, and we think that is important.

1 As the panel may be aware, Oxford House a few years ago
2 engaged in litigation with the District of Columbia concerning this very issue of what
3 constitutes a rooming and boarding house and what are the permissible limits of the
4 number of unrelated persons that can reside in a single family dwelling. The
5 District's definition of family as it currently exists and as it existed then was any
6 number of persons related by blood, marriage or adoptions or up to six unrelated
7 persons or up to 15 people who are associated with the religious order. We asked
8 the District to make a reasonable accommodation for us under the federal Fair
9 Housing Act and to allow us to have up to 15 people. At that time, we could only be
10 accommodated by going through the administrative process and we went through a
11 hearing before a hearing examiner who denied our request. Subsequently, through
12 the litigation, we settled the matter. We are allowed up to 15 people in Oxford
13 Houses as the upper limits of the zoning ordinance requires. And at that point, there
14 was a mechanism for reasonable accommodation put into the settlement agreement
15 and which the District was required to implement. It has now been refined by the
16 current accommodation that is in the Justice Department settlement, which in my
17 view has been bettered. I think it has taken care of a couple of the bugs that we
18 were concerned about in the earlier version.

19 I believe the District along with the Justice Department is on the
20 right track in having this accommodation mechanism in place. It appears to be a
21 quick, easy mechanism in which a provider can request an accommodation. It
22 doesn't invite public scrutiny and it can be weighed on its own merits without a lot of
23 emotionalism, so to speak, to be interjected.

24 A couple of other things I want to touch upon. What this Board is
25 doing is important because I think what has happened over the years is that this
26 process of regulations with the CBF's and the CBRF's has, rather than becoming a
27 model for providing house, has become an obstacle for providing housing. And one
28 of the promises of the federal Fair Housing Act is to knock down these barriers for

1 groups of disabled persons. I mean, we are now in an era where Congress has
2 declared as a matter of policy and I think basically the citizenry of this country has
3 said that they don't want government helping out people anymore. They want to cut
4 off the funds to provide programs. And now the burden is falling upon providers like
5 Oxford House and Green Door and others of the providers here to pick up the slack.
6 And if there are going to be people out there with disabilities who need housing, the
7 regulations that come with that have to be made consistent with the Fair Housing
8 Act. They must be made simple. They must be provided to encourage that type of
9 housing rather than not so much discouraging it but deterring that type of housing. I
10 think some of the providers which will testify later will tell us stories that they don't
11 want to go above certain limits because of what may happen in terms of
12 enforcement or what the citizens will do or they don't want to provide these types of
13 services.

14 Every class and every group of disabled persons has their own
15 level of need and these must be evaluated individually rather than as a broad brush.
16 In short, I would like to say that not only is it incumbent upon the groups of disabled
17 persons and the providers to follow the required procedures for obtaining the
18 benefits of the Fair Housing Act, but it also falls upon the lawmakers and the
19 rulemakers and the decision-makers to follow those same principles and concepts
20 when it comes to enforcing the Fair Housing Act and making decisions relating to
21 persons with disabilities who are seeking relief and seeking accommodations under
22 the Fair Housing Act. Thank you.

23 CHAIRPERSON BENNETT: Thank you. Now mindful of that,
24 you have gone over your time. So I am hoping that the last speaker can be efficient
25 in conveying his remarks.

26 MR. HALL: Madam Chair, I will try my best. I am Richard Hall, a
27 lawyer also, and the zoning coordinator for the Campaign for New Community. I am
28 here to talk about the reasonable accommodation procedure. The federal Fair

1 Housing Act requires that in addition to non-discriminatory laws and regulations that
2 there be a procedure for reasonable accommodations for the instances in which
3 already non-discriminatory laws in the application to a particular situation or a
4 particular population actually inhibit unfairly housing for the handicapped. So a
5 reasonable accommodation procedure is not a substitute for non-discriminatory laws
6 and regulations. It is in addition to it.

7 Sort of in a nutshell, the three things that mark a good
8 reasonable accommodation procedure are that they are speedy, that there is a
9 rationale process, and that they are final. The reasonable accommodation
10 procedure attached to the Department of Justice/District of Columbia agreement we
11 believe meets that test. We think it is an outstanding provision and we endorse it.
12 We compare it to the present process, if you will, which in in the zoning side, which
13 we are here to discuss today, essentially is the special exception or variance
14 process. Now in the special exceptions process, a person will come in and ask for
15 approval of a particular building and would be told that they have to seek a special
16 exception or variance. If they were granted it, any opponent to the building could
17 appeal to the BZA saying that they -- I mean, if they were told that they could do it as
18 a right, the opponent could go to the BZA and invoke that process essentially. And
19 that will engender years of delay or certainly months of delay. We are all, I think,
20 fairly aware that there is a very serious delay process before the BZA.

21 The reasonable accommodation procedure that is before you --
22 or actually not before you. It is before the Department of Consumer and Regulatory
23 Affairs, but it would be their rulemaking that would set it in place and you would
24 recognize it in the proposed text amendments that were proposed by the Office of
25 Planning. You would just essentially recognize it. Let them do the rulemaking and
26 you don't have to have an independent procedure. You would recognize it.

27 That would provide for a governmental decision within 45 days.
28 If further information is needed by the government, the period of time in which the

1 applicant supplies the information tolls the running the 45 days, but essentially it is a
2 very speedy process and there is no administrative appeal. The only appeal -- it is a
3 final decision. Whatever the decision is, it is a final decision by the District of
4 Columbia and any party who doesn't like it has to go to court. But the point is if it is
5 granted then, then it is available only at risk of judicial intervention.

6 Likewise, the variance and special exception process invites
7 public participation in a way which invites people to oppose a facility for the
8 handicapped very frequently on the basis of stereotypes about handicapped people.
9 And that is the very kind of basis for a decision which the Fair Housing Act rules out.
10 So inherent in this BZA process is frequently a very broad characterization of the
11 handicapped population as undesirable, as dangerous, as smelly, as objectionable
12 and all the kinds of stereotypes that the federal law has said cannot be the basis for
13 housing decisions.

14 In comparison, the special exceptions process that is proposed
15 here is set up in a way to avoid the kind of invocation of these stereotypes, and in
16 fact has specific standards for when the reasonable exception should be granted.
17 And they are clearly standards that are lawful under the Fair Housing Act.

18 CHAIRPERSON BENNETT: Are you about to summarize?

19 MR. HALL: I am about to. Now, there has been concern here,
20 and I have heard it, about the public notice and public hearing opportunity. Does the
21 Fair Housing Act or does the reasonable accommodation procedure unfairly cut that
22 off? I only brought one copy, but I would like to pass out now the one copy or
23 submit later many more copies of a decision by the Attorney General of Maryland
24 who faced this very issue and struck down based on the Potomac Group Homes
25 Corporation case the public notice requirements of a Montgomery County statute
26 and a state statute. I am sorry, the decision struck down the Montgomery County.
27 The Attorney General's opinion struck down a Maryland State provision, not unlike
28 the BZA process, which would require a public notice and an opportunity for public

1 involvement. And it was the opinion of the Attorney General that it was a violation of
2 the Fair Housing Act. I submit it to you as a correct reading of the law, and one if
3 you will look at it that I think you will agree with. If I can submit this one now, I will
4 submit others as part of my written comment.

5 CHAIRPERSON BENNETT: Thank you. Colleagues, questions
6 of the legal panel?

7 COMMISSIONER FRANKLIN: Lots. Should I start?

8 CHAIRPERSON BENNETT: Please.

9 COMMISSIONER FRANKLIN: Starting with Mr. Hall, could you
10 give me some examples of the reasonable accommodation that we are talking about
11 here? Instead of talking in generalities about a process, give me some examples of
12 what you see as typical reasonable accommodation decisions that you think would
13 be made. Is it by the Zoning Administrator?

14 MR. HALL: No. I think it would be made by the -- as I
15 understand the process, and perhaps Mr. Randall has the best view of this -- but it
16 would be made by the Director of the Department of Consumer and Regulatory
17 Affairs.

18 COMMISSIONER FRANKLIN: Oh, that is right.

19 MR. HALL: In consultation -- I had a meeting with some of their
20 staff -- in consultation with the Zoning Office. But I gather it would be his decision to
21 make in the end.

22 COMMISSIONER FRANKLIN: Now suppose that that decision
23 related to physical changes to housing which would, in the absence of that change,
24 violate the zoning regulations. The D.C. rental -- what is it? I keep forgetting the
25 acronym. But that authority would have the right to make changes in our
26 regulations?

27 MR. HALL: Well, let me say that there has been one decision
28 that I am aware of under the present procedure by Director Watts, and it was made

1 about two or three weeks ago. And as I understand the facts -- I have not seen the
2 papers, but it was described to me by a party who made the application and also
3 described to me very briefly by Mr. Watts' staff -- it was for housing -- you may know
4 this better than I do, Lois -- it was for housing for mental illness to house 6 people or
5 8 --

6 MS. WILLIAMS: Specifically, the assertion there was that
7 because of the 16th Street overlay, this house that would have been permitted as an
8 absolute matter of right for 6 people could not be located there. The initial informal
9 determination that the provider got was -- and this was from the Zoning
10 Administrator I believe -- that because of the 16th Street overlay, this house was not
11 appropriate in that area. She applied for a reasonable accommodation and it was
12 granted. It is for six people only, which would be clearly okay in every other area of
13 the city. But that required an accommodation because the overlay seemed to
14 prohibit it. That is the kind of thing.

15 COMMISSIONER FRANKLIN: Well, suppose -- yes?

16 MR. FEOLA: Mr. Franklin, it would not permit -- my
17 understanding of the way it has been written by the Justice Department and
18 Corporation Counsel -- variances from other zoning requirements such as rear yard,
19 side yards. That would still have to go through the BZA, if that is where you are
20 going.

21 COMMISSIONER FRANKLIN: Is that what everyone else on the
22 panel understands?

23 MR. FEOLA: The regulatory framework for the physical building.

24 COMMISSIONER FRANKLIN: That physical regulations would
25 still have to go through -- physical changes that ran afoul of our normal regulations
26 would still have to go through the normal?

27 MS. WILLIAMS: Unless they adversely affect the ability of the
28 handicapped person to live in community. In that case, those rules are vulnerable.

1 CHAIRPERSON BENNETT: But if I wanted to put a ramp
2 beside the house that would encroach upon an 8-foot side yard --

3 MS. WILLIAMS: Yes.

4 CHAIRPERSON BENNETT: That is a physical requirement.

5 MS. WILLIAMS: Yes.

6 CHAIRPERSON BENNETT: But there could then be a
7 reasonable accommodation made to permit such a ramp?

8 MS. WILLIAMS: Exactly.

9 COMMISSIONER KRESS: What exactly was it in the 16th
10 Street overlay that didn't allow -- the historic overlay that didn't allow --

11 MS. WILLIAMS: The assertion by the neighbors was that this --
12 first of all, they said it is a CRF and you can't have any new CRF's without getting a
13 special exception. That was the assertion. And I understand that Ms. Hicks agreed
14 with that, yes.

15 COMMISSIONER FRANKLIN: But now Oxford House tells us
16 that they only rent the properties. They don't own them, is that correct?

17 MR. POLLIN: That is correct.

18 COMMISSIONER FRANKLIN: So what you are saying is that
19 reasonable accommodation would have to be made to allow, let's say, some
20 physical changes to that property because you are renting it, notwithstanding the
21 fact that a year later you might not be renting it?

22 MR. POLLIN: Well any -- if there were physical modifications
23 needed for the property, it would be made in conjunction with the property owner.

24 MR. POLLIN: Well, it would not normally be permissible, but
25 under the Fair Housing Act, reasonable modifications to the property are allowable
26 at the owner or the occupant's expense provided that they change it back at the end
27 -- at the time the occupancy ends. Now in an Oxford House type situation, I don't
28 know what type of physical changes anybody --

1 COMMISSIONER FRANKLIN: Right.

2 MR. POLLIN: You know, would be envisioned.

3 COMMISSIONER FRANKLIN: But there might be other
4 providers who also rent and where such changes might be.

5 MR. POLLIN: Well, it would be -- to a certain extent, it would be
6 no different than a renter in a condominium or a renter in any other type of dwelling if
7 they have a physical handicap and they need a ramp or that type of thing. It is not
8 out of the ordinary and it is certainly well within the case law on this issue.

9 COMMISSIONER FRANKLIN: Are the beneficiaries under the
10 Oxford House program actually renting their living accommodations?

11 MR. POLLIN: The beneficiaries -- the house is rented by a
12 group known as, let's say, Oxford House 12th Street.

13 COMMISSIONER FRANKLIN: Right. But the occupants, are
14 they, themselves --

15 CHAIRPERSON BENNETT: The occupants pay rent.

16 MR. POLLIN: Each occupant pays his fair share of the
17 expenses.

18 COMMISSIONER FRANKLIN: I see. Okay. I had a question for
19 Mr. Feola. With regard to the more comprehensive changes recommended by the
20 Campaign for New Community and getting to your recommendation that we take a
21 fresh look at how we define housing and housing types, do you believe that this
22 Commission would be able to adopt any or all of these proposals without
23 readvertising?

24 MR. FEOLA: No. No, I think that would have to -- that would
25 take another look on the part of the public notice. But I think it is long overdue
26 and I think you will hear from Mr. Rivkin our -- and you probably know better than I --
27 the types of housing that is being provided in an urban environment have changed
28 tremendously in the last 20 years, even since the CBRF regulations were put in

1 place. The kinds of things that are being praised nationwide as innovative ways to
2 handle some of the problems our society have just don't show up in our zoning
3 regulations. So you are left with a Zoning Administrator scratching his or her head
4 saying is this really this or that. It might be this if you follow these 10 rules. It is
5 terribly burdensome, I think, on both the providers and the communities because
6 there is no rule hard and fast.

7 COMMISSIONER FRANKLIN: You say that there are a lot of
8 boarding houses in the District of Columbia? I thought I heard you say that.

9 MR. FEOLA: There are some single room occupancy buildings
10 that are operating either under a rooming house C of O, a boarding house C of O, or
11 an apartment house C of O depending on the individual case-by-case analysis and
12 permission that it was granted through the Zoning Administrator. I don't know -- if I
13 said there were many boarding houses, I didn't mean to because I don't know that.

14 COMMISSIONER FRANKLIN: And Ms. Williams, with respect to
15 radius restrictions, is there controlling legal precedent in the District of Columbia on
16 that subject?

17 MS. WILLIAMS: There is a very solid decision in the case that
18 Samaritan Inns brought that dealt with -- I mean, the question was is it properly a
19 rooming or boarding house or is it a CBRF. And Samaritan Inns prevailed there.
20 One of the issues -- if it is a CBRF, it of course was subject to those radius
21 restrictions and could not have met them. Not for its new facility and not for the
22 facility or the project that had been in existence already. It won solidly on the merits.
23 The District appealed. The Court of Appeals did not touch the decision on the
24 merits. It reversed in part on the question of damages, which the District Court had
25 leveled in the amount of \$2.2 million, I believe, against the District. So far as I know,
26 the question of damages hasn't been fully resolved in remand to the District Court.

27 COMMISSIONER FRANKLIN: In your discussion, my mind may
28 have wandered, but I didn't hear the controlling precedent with respect to radius

1 restrictions.

2 MS. WILLIAMS: Well, I think this can fairly be said to be a
3 controlling precedent in the sense that the protected population of that facility
4 -- it was held that the housing category, CBRF, would be discriminatory as to them
5 and had to fall under the Fair Housing Law. So it is -- and it is not terribly indirect. I
6 would be happy to provide a copy of that decision. I think that is the closest thing
7 that I know of in Federal Court here. We have others that know a lot about that.

8 COMMISSIONER FRANKLIN: And that is a Circuit Court
9 opinion?

10 MS. WILLIAMS: Well, yes. It was Judge Rabina in the District
11 Court. It was appealed and there is a decision from the Court of Appeals, but it does
12 not affect the District Court's holding on the merits.

13 COMMISSIONER FRANKLIN: I see.

14 MS. WILLIAMS: I hope I have -- okay.

15 COMMISSIONER FRANKLIN: I think it would be useful to have
16 that.

17 MS. WILLIAMS: I would be happy to provide it.

18 COMMISSIONER FRANKLIN: That is all I have.

19 CHAIRPERSON BENNETT: All right. Ms. Kress, questions?

20 COMMISSIONER KRESS: No. I am fine. Thank you.

21 CHAIRPERSON BENNETT: Mr. Parsons, questions? Thank
22 you very much.

23 MS. WILLIAMS: Thank you.

24 CHAIRPERSON BENNETT: We will call the next panel of
25 clergy. The Reverend Clark Lobenstine, Interfaith Council; the Reverend Jeffrey
26 Haggary, Mt. Gilead Baptist Church. Good evening.

27 REVEREND HAGGARY: Good evening. I am Jeffrey Haggary,
28 pastor of Mt. Gilead Baptist Church at 1625 13th Street, N.W., amid Logan's Circle

1 and Shaw neighborhoods. I am a member of the management committee of the
2 Campaign for New Community. I am also vice president of the Washington
3 Metropolitan Ministerium, a professional association of clergy here in the
4 Metropolitan area. I should say I am also a homeowner in the District and I am
5 excited about that.

6 daily. For that reason, our Church, in addition to its sacred services, operates a
7 clothes closet, a food pantry, a federal credit union, GED classes, adult literacy
8 classes, after-school tutorials, and a cultural and performing arts center. Providing
9 ministry to those who rely upon help from others in order to experience a full quality
10 of life is basic to our mission. Added to our deeply rooted sense of mission are
11 countless appeals to do more to help those who are in need as government are
12 forced to downsize and to eliminate persons that are in need from their rolls.
13 Churches are asked to do more.

14 Upon receiving such appeals from elected and appointed
15 officials, Churches, which by our very nature are community-based organizations,
16 are saying yes to the call for help. We are stepping up to the plate and we are doing
17 more than we have done in the past, including creating housing. The Church
18 intends to build community and we intend to do that by caring for neighbors in need.
19 To defy the myths that are born of socioeconomic and physical differences and
20 stereotyping by removing barriers to inclusive communities where we seek to draw
21 upon the willingness of caring citizens who belong to our parishes. By providing
22 opportunities for community service, we are making a difference for the better.

23 Nevertheless, we are confronted with a disturbing paradox. It is
24 the irony of opposition from those who feel that Churches should not be in the
25 business of concretely caring for our neighbors in need while simultaneously being
26 called upon to do more. We recognize that all of us have the right to oppose
27 whatever we want. However, organizations such as the Campaign for New
28 Community have encouraged and convened dialogues between Churches and

1 neighbors to support siting of needed housing. Therefore, we support dialogue for
2 the sake of building a sense of shared community, promoting collaboration, and
3 removing barriers to full participation within our community.

4 Tonight, we are seeking a partnership rather than an enemy
5 stand-off with our neighbors and with the Zoning Commission. We ask for zoning
6 codes and a zoning review process that affirms both our right to exist and our
7 contributions to the community over/against a grievance model that breeds hostility,
8 contempt, and further misunderstandings in our community. We also undertake our
9 ministries with limited resources and charitable donations, and when the limited
10 resources that have been collected to address human needs are spent waging legal
11 contest that result from unfounded aspersions and suspicions, then our entire
12 community suffers. Therefore, the religious community for that reason has
13 traditionally and faithfully advocated adherence to the Fair Housing laws, which we
14 see as conducive to enabling the kind of inclusive communities discussed above.

15 Finally, we believe that you are in the position to help us
16 accomplish our mission by giving your fullest consideration to the proposals for
17 zoning reform that have been presented to you. The proposal would have the
18 zoning codes respect the right of religious institutions to exercise our ministries on
19 behalf of all citizens, particularly those who are poor, homeless, and in need of
20 specialized ministries. Further, the proposal would relieve the worthwhile zoning
21 review process from those devices utilized by some to delay and distract religious
22 and service providers from our mission, to care for our community members in need.
23 So I offer my strongest and most unreserved support of the zoning reform proposal
24 that is before you and I thank you for listening.

25 CHAIRPERSON BENNETT: Thank you, Reverend Haggary.
26 Reverend Lobenstine?

27 REVEREND LOBENSTINE: I am Reverend Clark Lobenstine. I
28 speak today as both a Presbyterian Minister and as the Executive Director of the

1 Interfaith Conference of Metropolitan Washington. As you may know, the Interfaith
2 Conference brings together the broad religious community here, both for jointly
3 working on critical issues of social and economic justice and for increasing
4 understanding and dialogue. Our members are the Hindu, Islamic, Jewish, Latter
5 Day Saints, Protestant, Roman Catholic, and Sikh faith communities. The Bai Hai's
6 are in the middle of joining us now. Clearly, we are the broadest based religious
7 organization in the city and metropolitan area and one that has been recognized
8 locally and nationally. We co-sponsor the Campaign for New Community and the
9 Religious Freedom Roundtable out of our commitment to build more welcoming
10 communities and out of reflecting our deep commitment as people of faith to serving
11 those in need. The religious community also championed decades ago the need for
12 fair housing that allows people of all races and cultures to live where they wish and
13 championed other aspects of civil rights. For example, the Archdiocese
14 desegregated schools several years before Brown vs. the Board of Education
15 required that. I also speak as a D.C. resident and more recently as a homeowner in
16 D.C.

17 The religious community has been an active partner with the
18 District and with the federal government in meeting human needs, and we look
19 forward to continuing to be partners. Yet partnership is a two-way street. Welfare
20 reform has dramatically changed the nature of that partnership and unreasonably
21 increased the requests and demands on the religious and non-profit communities.
22 For example, when the District government canceled general public assistance
23 programs for single adults between 18 and 55 a number of months ago, it did so
24 with just three weeks notice. And yet, for the hundreds and hundreds of persons on
25 that, this half million dollar monthly saving created nightmares. Naturally, many of
26 them turned to area congregations for help. Where else could they go? While help
27 was often provided to them, there was no way that congregations could help them
28 with the ongoing monthly living support which they had been receiving.

1 Ms. Kress was chair of the social planning committee of the
2 United Way when United Way took on its partnership with us in printing the annually
3 updated Emergency Food and Shelter Directory. This is our 16th edition and the
4 United Way has been our partner in that for at least 10 years. So that now 10,000
5 copies of this are printed by them and distributed by United Way and by us. This
6 booklet lists some 300 food pantries, soup kitchens, shelters, day programs for
7 homeless people, and health care clinics serving those without medical insurance.
8 Almost all of these are either hosted by congregations or were started by
9 congregations or are sponsored by congregations and mutually supported by them.
10 One indication, though not the only indication, of the incredible work being done by
11 the religious community.
12 already doing and what impact Welfare reform would have on them. Some 250
13 congregations responded. They deliver an average of 4 different kinds of services
14 for a total of 1,000 services, and those 250 congregations are serving 250,000
15 people, probably half of them in the District of Columbia.

16 The impact of the religious community is substantial and it is
17 growing and must grow in light of government cutbacks. So implementing the
18 consent agreement with the Department of Justice and adopting the proposed
19 zoning changes are critical to restoring some balance in this partnership between
20 the government and the religious and non-profit sectors. Implementing the
21 Campaign for New Communities proposed regulations on religious freedom is a
22 critically needed next step. You have a wonderful opportunity for leadership tonight
23 and by your action. We hope you will take it. Thank you.

24 CHAIRPERSON BENNETT: Thank you, Reverend Lobenstine.
25 Let me -- hold on, hold on. There may be some questions. I do -- I would be remiss
26 if I did not mention having heard Reverend Adrian Davis at this weekend's Alpha
27 Kappa Alpha North Atlantic Regional Conference on Sunday. I just had to put that
28 in. She is from Mt. Gilead and I understand she is an associate minister there.

1 REVEREND HAGGARY: That is right. Thank you. That is
2 correct. Thank you.

3 CHAIRPERSON BENNETT: Wonderful. Questions, colleagues,
4 of either Reverend Haggary or Reverend Lobenstine?

5 COMMISSIONER FRANKLIN: I would like to observe, Madam
6 Chair, that -- and not in any way disagreeing with what the two clergymen have told
7 us
8 -- that the matter of church provision of services to the needy is really not on the
9 agenda with regard to these regulations. We are dealing with a group of people that
10 by federal law are classified as disabled, and many of the people that you are
11 rightfully assisting do not fall into that category. So I hope you understand that what
12 we are dealing with tonight is not going to address some of the more or the broader
13 matters that I am sure are of concern to you and which I understand are going to be
14 dealt with in a separate proceeding.

15 CHAIRPERSON BENNETT: All right. Thank you very much
16 gentlemen. Our next panel is a panel of providers with Killian Noe, Samaritan Inns;
17 Reverend Roy Settles; Claudia Coonrod, NCAH; Gail Chow, Green Door; Carol
18 Marsh, Miriam's House; and Tom Taylor, So Others Might Eat.

19 MS. COONROD: Good evening. My name is Claudia Coonrod.
20 I am a District of Columbia resident and homeowner. I am the Executive Director of
21 the Community Housing Trust and on the board of the Community Council for the
22 Homeless at Friendship Place which provides direct services and housing to
23 homeless people in Ward 3 of the District. I am also the President of the National
24 Capitol Affordable Housing, Inc.

25 I would like to take a minute to introduce everybody here and
26 give them an opportunity to speak. Gail Chow of Green Door -- she is the Housing
27 Director of Green Door -- sits on my left. Carol Marsh, who is the Executive Director
28 of Miriam's House will also speak. Tom Taylor is at the end from SOME. Arnida

1 Lamont is taking the place of Reverend Roy Settles, who was called unexpectedly
2 out of town on a personal emergency, and she represents the Capitol Association of
3 Community Residential Facilities. Regie High and Killian Noe, on my right, are from
4 Samaritan Inns. I would like to start with Gail Chow from Green Door.

5 MS. CHOW: Good evening. My name is Gail Chow, and I am
6 Housing Director at Green Door. First I want to say thank you very much for this
7 opportunity for me to discuss Green Door's full support of the Department of Justice
8 agreement as well as the proposed Fair Housing text amendments.

9 Green Door is a community program which prepares people with
10 mental disability to live and work independently. Since 1976, Green Door has
11 assisted over 1600 District residents who come from St. Elizabeth's Psychiatric
12 Hospitals and shelters and the street to live and work in the community.

13 The District has been ordered by the Dixon Court decree to
14 assist and outplace patients from St. Elizabeth's to live in the least restrictive setting.
15 It costs Green Door annually less than a fourth of what it costs to assist someone at
16 St. Elizabeth's. It is very expensive for the District to keep someone in the hospital
17 at \$155,000.00 a year when they are ready to live in the community.

18 We are very concerned about the high costs and time delays in
19 opening new, sound, affordable housing in the community due to the current zoning
20 restrictions on the placement of housing affecting people with disability as well as on
21 services provided. In the past, Green Door has been through lengthy delays and
22 high costs and almost prevented from opening up housing such as in the Friendship
23 Heights area, which is an underserved area, because of zoning interpretations such
24 as whether our residents who could live independently would be needlessly forced
25 to live in a community-based residential facility. Another issue was whether six
26 unrelated members of the Green Door -- we don't call our people patients, but
27 members -- are considered a family and therefore live together as a matter of right in
28 an R-2 zone.

1 We have had a small minority of neighbors who have voiced
2 these concerns and have used all means possible, whether it is to have DCRA
3 inspectors come over to look at the house to see if it is big enough for six people
4 when we know that there are families in the neighborhood with more than six. We
5 have had to go to countless meetings in the neighborhood that are called by our
6 neighbors, which we are willing to do to educate. Our doors are always open, hence
7 the name Green Door. But the District's zoning ordinances should treat our
8 members no different because of their affiliation with Green Door.

9 I just wanted to say that Green Door residents and many other
10 people with disabilities are good neighbors. An example is that now the neighbors
11 who live in the Friendship Heights area who opposed Green Door from opening up a
12 house on Military Road are friendly. They call us up when there is an issue. Oh,
13 Gail, we are going to be cutting our hedges, do you want us to cut yours? It takes
14 time, but we really as a whole, the District government with the neighbors, need to
15 look at what is going on with the zoning regulations and provide a fair chance for
16 everyone.

17 In another case in the Shaw area, the former ANC-2C chairman
18 wrote to Green Door to say, "I was very skeptical of having a group home for
19 mentally ill persons from St. Elizabeth's Hospital on my block. After expressing my
20 reservations, several of the staff members arranged tours of housing operated by
21 the Green Door and provided enough information to win my support. Since the
22 Green Door started its housing, their property has been well-maintained and the
23 various residents have been good, quiet, orderly neighbors. I am not aware of any
24 problems in the neighborhood caused by a Green Door resident."

25 I just want to say our residents participate -- they want to
26 participate in the neighborhood, whether it is going to the community churches,
27 using the community facilities, or volunteering with tree plantings, neighborhood
28 clean-ups, or the orange hat patrols. I appreciate this opportunity and your serious

1 consideration and I hope the support of the Fair Housing text amendments. Thank
2 you.

3 CHAIRPERSON BENNETT: Thank you, Ms. Chow.

4 MS. MARSH: Good evening, Madam Chair and members of the
5 Commission. My name is Carol Marsh. I work with -- I am the Executive Director of
6 Miriam's House, which is a residence for homeless women who are living with AIDS.
7 Some of those women have children. We provide intensive in-house services such
8 as addictions counseling, support for sobriety, a certain level of health care,
9 although when the residents are ill, they have to go to the hospital or to their doctor,
10 and a lot of what we call community and loving support.

11 The reason I am here tonight is to express my support for the
12 proposed agreement between the District of Columbia and the U.S. Department of
13 Justice and also for the CNC proposal, which I understand might come under
14 consideration later, being a little more detailed.

15 As a provider of housing for persons who are disabled and also
16 as a citizen of this city, I strongly believe in the value and the importance of the
17 proposed agreement. The basis for my opinion is the work that I have done with
18 development and the operations for Miriam's House. We purchased a small
19 apartment building in the Shaw/Cardoza neighborhood which had been abandoned
20 for 10 years and left to decay. It was used as what they call an oil joint and a flop
21 house, and it was a terrible fire hazard as well as an eye sore and was reducing
22 property values for houses nearby. We completed a gut renovation. We
23 landscaped and we maintain the building beautifully as well as the gardens outside,
24 we feel, and it is sure that we have beautified the corner on which we sit, making it
25 safer and --

26 CHAIRPERSON BENNETT: This is on the corner of 13th and
27 Florida?

28 MS. MARSH: Yes, ma'am.

1 CHAIRPERSON BENNETT: I sat on your BZA case.

2 MS. MARSH: Yes. I actually try not to say the address too
3 much out loud because we do honor the security and the confidentiality of our
4 residents.

5 CHAIRPERSON BENNETT: All right.

6 MS. MARSH: Thank you. I understand that it is a matter of
7 public record as well. We have plenty of room for housing codes for 20 residents,
8 and we have recently and I am grateful for the permission we have had to increase
9 to 20 residents. We, as a matter of right in an R-5B zone, can have 15 residents,
10 and we had to go through the process of being permitted to have 20 residents. And
11 although I am grateful it was granted, it also was quite a hardship for us to have to
12 go through that. A small non-profit that is struggling to survive day-to-day can ill-
13 afford the legal costs and also the time involved in a house that is large enough and
14 well accommodated for 20 residents that can only accommodate 15 and that denies
15 the need in the city for what we are doing and also keeps us from being viable in
16 terms of our lenders and our grantors and from feeling that we are fulfilling our
17 mission to the people of this city.

18 These are difficulties that I feel are not in any way reflective of
19 the benefits that we bring to the people of the city and to our immediate neighbors.
20 Some of the women in our house have been incarcerated. Some of them have been
21 panhandlers on the street, lots of them hopping from shelter to shelter and using
22 various clinics and city resources randomly throughout their lives. The financial
23 benefits to D.C. of having a private organization like Miriam's House which is willing
24 to patch together the various sources of funding in order to provide for all the needs,
25 the varied and intense needs of these women, is incalculable. For example, we only
26 get 20 percent of our funding from the city in order to fulfill the needs of the women.

27 In addition, there are benefits to the neighborhood. We are a
28 well-run organization that focuses on sobriety, security, and a certain level of

1 behavior on the part of residents and visitors. We implement random drug screens
2 and alcohol screens of our residents and, as I said, require a certain level of
3 behavior that is a much higher level of oversight than the neighborhood would have
4 from, say, a typical apartment house or otherwise.

5 CHAIRPERSON BENNETT: Thank you, Ms. Marsh.

6 MR. TAYLOR: Thank you. I would also like to express my
7 appreciation for the opportunity to address you in support of the proposal before you
8 tonight. My name is Tom Taylor, and I am with So Others Might Eat, or better
9 known as SOME. I am the program director for our men's transitional housing
10 program. We have two houses that provide. One house has 12 beds and the other
11 15 beds that provide transitional housing services to help formerly homeless men
12 who are in recovery from addiction regain independent living status in the
13 community through finding a job, through building a support network, saving money,
14 and moving into housing.

15 On a personal note, when I used to live in Adams Morgan for
16 about 10 years, I lived across the street from a halfway house. And that house, if I
17 didn't know it was such a facility, it was immaculate. The yard was always kept well.
18 They were the first ones to clean the snow whenever it snowed. There was no --
19 you know, they were quiet and we never had any problems. And it is that same
20 philosophy that we at SOME try to implement at our facilities. In the 20 years that I
21 have been at SOME, as many of you know we have had a lot of struggles to get
22 some of our programs underway in many neighborhoods. It has always been a
23 battle, but we have always felt it is worthwhile. And usually, as Carol has testified,
24 once we are there, the neighbors welcome us with open arms. Shalom House, one
25 of our SRO's, was a facility that was being used for drug dealing and prostitution.
26 Now many of the neighbors still didn't want us there, and now that we are there, they
27 are really glad that we are there. Another one of our SRO's, Anna Cooper House,
28 won an award from the Logan's Circle citizen's association thanking us for our

1 involvement in the community and what we have done.

2 When we designed our two programs, Joshua House and Leland
3 Place for men's transitional housing, we really put an emphasis on trying to be good
4 neighbors. I asked the woman next door, an elderly lady next to Leland Place in
5 North Capitol, I said have we been good neighbors? Is there anything we can do?
6 She said, I am glad you are here. Because the building was vacant before we were
7 there and the alcoholics before going to the shelter would stop -- that was their
8 stopping place. Now that we are there, we are able to provide a stable place that is
9 a counterbalance to all the negativity that was going on in the neighborhood.

10 So I think that we -- you know, I wanted to say that I think these
11 kinds of programs and the proposal that you have in front of you gives an
12 opportunity to help our citizens in need and with disabilities become better
13 productive citizens and give back to the community. They want to be part of the
14 community, as other speakers have said. We provide 24-hour supervision to insure
15 smooth and efficient operations and we are also the site of an AA meeting which is
16 open to the community. So residents from the neighborhood can come in and get
17 help with their alcohol and drug problems.

18 We are able, through our facilities and through what we are able
19 to do, to provide family-like, small-scale, intensive, home-like atmosphere for the
20 person with disabilities to work on their issues, and I think that is real important and
21 we think that that has been a real critical factor in our success. With that kind of
22 environment, our residents have been able to compete very favorably in the job
23 market. We had a contract with the Department of Employment Services. Every
24 year that we had that contract, we won an award of excellence. And our residents
25 were going up against clients from training programs throughout the city, some of
26 whom were not homeless, and they did very well. They came in always in the top
27 three in terms of wages and longevity on the job and that kind of thing. In fact, one
28 year we won a national award from the Department of Labor for programs dealing

1 with people with multiple barriers to employment. Our small environment and the
2 ability to be in the communities really helps us to achieve that mission. So I would
3 encourage you to support this. I think it will help us to do that. It provides a low-cost
4 alternative to institutions and it really -- and our residents come to us all the time and
5 say we want to be members of the community. We want to be productive citizens.
6 They want the same things as all the rest of us do. They want to live in quiet
7 neighborhoods away from the craziness that their lives had been when they were
8 homeless. And I think the opportunity in the proposal that you have before you will
9 really give the opportunity to provide the facilities and make it equal and give
10 everybody a chance to do that. Thank you very much for the chance to testify. I
11 appreciate it very much.

12 CHAIRPERSON BENNETT: Thank you, Mr. Taylor.

13 MS. COONROD: I would like to introduce Killian Noe and Regie
14 High from Samaritan Inns.

15 MS. NOE: Good evening.

16 CHAIRPERSON BENNETT: Good evening.

17 MS. NOE: I too want to thank you for this opportunity. My name
18 is Killian Noe. I am here with my colleague, Regie High. We are also very much in
19 favor of the proposal before us. We are here representing Samaritan Inns. I serve
20 on the board of Samaritan Inns and also as its Program Director. Samaritan Inns
21 provides housing for men and women who are recovering from homelessness and
22 addiction who are committed to living healthy, drug and alcohol-free lives. We
23 operate two longer term housing communities, Lazarus House and Tabitha's House.
24 Regie is the manager of both.

25 You are probably familiar with Tabitha's House, with the extreme
26 difficulty we faced during our attempts to open Tabitha's House and with the
27 exorbitant cost involved in that wearing battle. I only want to emphasize one point
28 tonight. That is that both Lazarus House and Tabitha's House have vastly improved

1 the neighborhoods in which they are located. Just for one example, the building
2 which has become Lazarus House was formerly a boarded up, dilapidated
3 apartment building used by practicing addicts to shoot up and get high. Now,
4 Lazarus House is a well-managed, beautifully renovated, exquisitely maintained
5 housing community. The neighbors look out on a manicured lawn and the sight of
6 men and women going to and from their jobs every day. The residents of Lazarus
7 House are men and women who are not only employed, tax-paying citizens, but who
8 are committed to being drug and alcohol-free role models in the neighborhoods.
9 They are people who know their need of community, which is a gift, I think. And
10 they are committed to living out their philosophy of giving back. They are committed
11 to being contributing members of the community. They are men and women who
12 deserve our respect and our unwavering support.

13 CHAIRPERSON BENNETT: Thank you, Ms. Noe. Mr. High?

14 MR. HIGH: Good afternoon, Madam Chairperson and board
15 members. I am here tonight on behalf of also this proposal that is going through. I
16 just want to testify that I am a living example. I am a drug and alcoholic in recovery.
17 Before coming in to Samaritan Inns, I had no hope of life. I drank and drugged for
18 24 years, and during all this time, I had no place to go but a crack house. I lived
19 most of my life in a crack house. The trials and tribulations I have been through
20 would take me more than 5 minutes to tell you about that.

21 CHAIRPERSON BENNETT: I bet that is right.

22 MR. HIGH: But just some brief things that I have done that was
23 crazy out there in my life is that I lived with my family and during that course of time
24 the havoc that I reaped on my family was such as letting other drug dealers come
25 into my father's house to bag up dope. My dad has never used any type of drug in
26 his life. He lived in his house for 30-something years and what I had did to him was
27 to cause him to lose his house because we got raided by the police. I was
28 completely on my own, devastated, lost, and did not know what to do. I was really

1 hopeless out there in the streets. I knew I was going to die.
2 neighborhoods and back around the old people that we used to hang out and deal
3 dope with. I was really hopeless out there until I heard of Samaritan Inns on my
4 second try of going into treatment. When I came out of treatment on the second try,
5 a guy from Samaritan Inns came over to the VA Hospital. I am a veteran. And he
6 told us about the Samaritan Inns and the way of life that they had and planned for.
7 At that time, I was very skeptical because I didn't think no one could really help me.
8 I said I would give it a try. I went through Samaritan Inns -- I went through the first
9 time their 60-month transitional housing. When I got there, I thought that this was
10 going to be like a hospital-like setting. You come in and you are stacked on top of
11 one another and you do a little time and then you are gone and back on your own
12 again. But it wasn't nothing like that. This was a family-setting house. It was so
13 clean and so beautiful in there that it changed my whole insides right then and there.
14 Because I think this was what I was always looking for, some kind of stability --
15 housing, a home, a family. And it made me feel so good because everyone that was
16 living in this house was in recovery also. We bonded. I could talk to someone now.
17 I had other people that understood my problem. Somebody that wouldn't turn their
18 back on me because I was an addict. They really listened to me.

19 From that point on, I stayed there for six months because I really
20 enjoyed what I was doing. I got progressive again in the community. I had 30 days
21 in which to find a job while I was transitional. That motivated me to go out and find a
22 job. I was no longer dealing dope. I went out and found a job, a menial job for \$5.00
23 an hour working at Maggie's Pizzeria on Wisconsin Avenue. I really loved that job.
24 After quitting a government job and being on dope. I worked that job successfully
25 for three years straight. I worked that job with pride and did it because I felt like I
26 was giving back to the community for so long after I took from the community. I
27 stayed on that job for three years and then after that Killian Noe called me on the
28 phone one day and asked me to come into her office because she wanted to talk to

1 me. Right then and there I said, oh my God, what have I done wrong. Because I
2 was always living in that negativity and no one had ever told me anything good in my
3 life. So when I got home that evening, I was sweating bullets. I thought I was going
4 to have to leave the program and then I was going to be lost. But it wasn't that. She
5 had some news for me that really floored me. She asked me would I become the
6 manager of Tabitha's House. Because I guess they had watched my work ethics the
7 whole three years I had worked that menial job making pizza dough. For three
8 years straight I went every day because I was really proud of what I was doing.

9 I took that job and I had no idea what I was going to be doing.
10 But it is just the point of someone like that asking me to become a manager of a
11 place that I had never been a manager of in my life. I took that job and I went to
12 Tabitha's House. That was the most beautiful building I have ever seen. And right
13 now to this day that building still looks like it was just opened yesterday. Because
14 we took pride
15 -- myself and my other managers, we took pride in keeping that building up because
16 that was our home. It wasn't no crack house no more. It wasn't dark. It wasn't
17 filthy. This was a nicely lit, well-kept place with painted walls and beautiful furniture.
18 And this is something that a lot of us addicts has always been looking for but we just
19 never had the chance or we had the chance and we blew the chance.

20 Today, I am the general manager of both buildings, Lazarus
21 House and Tabitha's House. For a guy like me who drugged and drank for 24 years,
22 I never in my wildest dreams thought that I would ever come into a position of this
23 type of magnitude where I am giving back to society. I am helping the other suffering
24 addicts coming in. They hear my story and that is what motivates them to stay on
25 with their recovery. Because if one addict can do it, they can do it too. All we
26 needed was that hope. And this is what we give them at Samaritan Inns, is hope.
27 Today, I am proud to say I am 7 years clean, the longest I have ever been clean in
28 my life.

1 So like I say, I don't want to take up all your time. That is just a
2 little part of the story. I could go into other battlefields, but I won't get into that. I just
3 want to thank you all for your time.

4 CHAIRPERSON BENNETT: Thank you very much, Mr. High.

5 MS. COONROD: Arnida Lamont.

6 MS. LAMONT: Good evening, Madam Chairperson and
7 committee members. Thank you for the opportunity to testify since I had a one-day
8 notice. I would just like to concur with most of my panelists. I feel the same way. I
9 am the President of the Capitol Association of Community Resident Facilities. We
10 are a group of licensed independent providers that save the city thousands of dollars
11 with the community resident program. The community resident facilities are
12 perceived as all these crazy people running throughout the neighborhood and that is
13 not the case. They say that group homes or that homes for the handicapped or the
14 disabled brings the neighborhood down. The homes that I have purchased have
15 really enhanced the neighborhood because I purchased it at a price three times
16 what the other residents have purchased their homes for. So the value of the
17 neighborhood actually has gone up. The residents are very helpful. The neighbors
18 like them. They go to the store and they even cut other neighbors' grass. We have
19 house rules. We are highly regulated by Consumer Regulatory Affairs. Every three
20 months, the Commission on Mental Health visits our homes. Every six months, the
21 DCRA visits our homes. We have house rules for the clients and the staff. If those
22 rules are not adhered to, we will be fined. So our facilities are always on tip-top
23 shape.

24 They tell us that we cannot have no more than six clients per
25 home. I live in a neighborhood that had three group homes that housed four to five
26 residents. By the same token, on that same block we have homes that house 8, 9,
27 and 10 children, but it is a family. So we would just like to -- and I would like to say
28 on behalf of the providers -- that we are in favor of this proposal and we would like to

1 see it go through because this program does work and it does not bring the
2 neighborhood down. Like my other colleagues have said, if anything it does
3 enhance the neighborhood. These are just regular people, every-day people like
4 you and I that are on medication, which they have to stay on medication in order to
5 act like decent human beings. But we do not have any problems with a home of 6,
6 7, 8, 9, 10, 11, or 12. So we just do not feel as though there should be a restriction
7 on the zoning. Thank you.

8 CHAIRPERSON BENNETT: Thank you, Ms. Lamont.

9 MS. COONROD: And I would just like to close with --

10 CHAIRPERSON BENNETT: You have got to get near a
11 microphone.

12 MS. COONROD: Certainly. I am Claudia Coonrod. I would just
13 like to close with you have in front of you a photograph of Veronica House. That is a
14 home for five formerly homeless women who suffer from serious chronic mental
15 illness and one resident manager who provides services about 12 to 14 hours a day.
16 That is in Ward 3. We had to go through quite a few ANC meetings, not as a
17 requirement of the zoning law because it is six people living in a single
18 housekeeping unit, but because we felt we wanted to engage the community as part
19 of the process of developing housing within the community. But I have to say that
20 the experience was a very troubling one because neighbors asked questions like are
21 people on medication, do they have a criminal history, is there drinking allowed in
22 the house, what will you do if there is violence. And no one else buying a house on
23 MacArthur Boulevard is asked the question, do you beat your wife? But we had to
24 go through this process and we would do it again exactly the same way in terms of
25 educating the community. But it is an undue and unfair burden in order to provide
26 safe, affordable housing within the community for these people with disabilities.
27 Thank you very much.

28 CHAIRPERSON BENNETT: Thank you. Questions of this

1 panel, colleagues?

2 COMMISSIONER KRESS: I think it was quite complete. Thank
3 you.

4 MS. COONROD: Thank you.

5 CHAIRPERSON BENNETT: Thank you very much. Mr. Rivkin,
6 good evening.

7 MR. RIVKIN: Good evening, Chairman Bennett and members of
8 the board. I guess I am delegated to be the clean-up hitter without the protection of
9 a panel. My name is Malcolm Rivkin. I am an urban and regional planner. My work
10 in housing goes back a long time, as Mr. Franklin will attest, to a number of projects
11 with the National Urban Coalition.

12 More recently, I prepared the planning brief and was the
13 planning witness for the Tabitha's House case in Federal Court that you have heard
14 about earlier this evening. And along with Goldie Rivkin, prepared the planning brief
15 for what we hope will be the next round of your deliberations, that is the CNC
16 proposed amendments to the zoning regulations.

17 You have heard a lot of compelling evidence in my opinion
18 tonight to adopt the Department of Justice/District of Columbia agreement. And
19 there is really only one more thing to say, and that is that I hope you will see this as
20 the first step in calibrating the zoning regulations to realities of residential patterns in
21 the District and responding to 21st century housing and support needs of District
22 residents with disabilities.

23 Why is this only the first step? From a planning standpoint,
24 population composition in the District of Columbia in the 1990's is vastly different
25 from Washington of a generation ago. Even from the early 1980's, when the last
26 major changes were made to housing definitions in the regulations. I am not talking
27 about race. I am talking about demographics from the standpoint of age, of social
28 and health needs, of educational needs, and disabilities. Demographic change

1 occurs far more swiftly than physical development, and these new demographics
2 exist within a land-use pattern and housing stock created over more than two
3 centuries. If today's population differs from that of earlier years, the housing stock
4 must be adapted to fit its needs. Otherwise, the population is ill-housed, and you
5 have heard some comments tonight, and the housing stock deteriorates.

6 Mr. Feola talked about the Comprehensive Plan and the
7 humanistic component. There is another set of let's say prescriptions in the
8 Comprehensive Plan in the housing section where it calls for a stimulation of a wide
9 range of housing choices and strategies, a wider range than are now used to
10 preserve sound older housing stock and produce new units for a wide variety of
11 household types. And it establishes as a major priority to maintain the District's
12 reasonably priced standard rental stock that has been and is forecast to remain the
13 primary housing resource for moderate and lower income households.

14 That means some innovation in approaches is essential and
15 desired. But it is particularly difficult to initiate such approaches when zoning
16 regulations and procedures do not mesh either with demographic realities or with the
17 directives of the Comprehensive Plan.

18 There are many, many recommendations in the CNC proposed
19 amendments which I hope you will take up next. Let me just give you just two
20 examples. Would it surprise the Commission to learn that the only acceptable kind
21 of residential grouping which the zoning regulations define applies to the minority of
22 living arrangements in the District today? The regulations define a family, not a
23 household, as in the Comprehensive Plan or in the U.S. Census. I won't go into the
24 definition in the regulations. You are all very familiar. But while it may be true that
25 related individuals in families once characterized the majority of the District's
26 population and the occupancy of its dwelling units, that is no longer the case. At the
27 time of the 1990 Census, the District contained almost 250,000 households. Of
28 these, 128,000 or 51.1 percent were non-family households. Only San Francisco,

1 another physically small city surrounded by a vast metropolitan area, exceeded the
2 District in the proportion of non-family households among major urban areas. In the
3 District, the traditional family of a married couple with children comprise only 25
4 percent of the households. The relative balance between family and non-family
5 households had shifted from the 1980 Census, when almost 53 percent of the
6 District's households were family. And to the best of our knowledge, that pattern
7 and that shift continues.

8 Extremely dramatic were the proportions of elderly individuals
9 living alone and people with disabilities among the households. Over 47,000
10 people, 46 percent of those living alone, were age 65 or older. And according to
11 demographer George Greer, about one-fifth of those people living alone regardless
12 of age reported some kind of disability. The District has a substantial proportion of
13 disabled people with special housing needs who are attempting to live independently
14 in housing stock designed years ago for families, to a great degree because of the
15 District's superb public transportation system which provides accessibility to
16 employment that cannot be found in suburban areas.

17 The zoning regulations, in my opinion, should recognize and
18 legitimize the living arrangements of these people. CNC, therefore, has presented
19 to the Commission a definition of household that is responsive to demographic
20 realities and can replace the constricted definition of family.

21 Here is another example, and I will try to be brief. Educational,
22 social, and other supporting services in matter of right apartment buildings and
23 houses are a principle means to enable the elderly, people with disabilities, and
24 other disadvantaged groups to maintain independent living. District zoning
25 regulations are silent on the subject of acceptable services in matter of right
26 housing. Some of the services are quite extraordinary. A case in point is the Iona
27 House program. Again, I don't have to tell you about what that is. It provides
28 enormous numbers of services to folks up and down Connecticut Avenue and in

1 Foggy Bottom -- Meals on Wheels, transportation, and a wide range of referral
2 services. How do these services differ from those offered to residents in luxury
3 apartment buildings that are part of their rent or their condo fee. They certainly don't
4 create adverse impact on neighborhoods. Do they, however, jeopardize a building's
5 matter of right status? Are they illegal? Are the kind of financial planning
6 assistance, the tutoring classes, and the referrals to physicians and other off-
7 premises services offered in many boarding houses and rooming houses that cater
8 to people with disabilities illegal as well? By their very silence, the zoning
9 regulations encourage opponents of affordable housing for people with disabilities to
10 claim that any service either may not be provided on residential premises at all or
11 may occur only in facilities where zoning provides specifically for such purposes.

12 To correct this oversight, CNC has, therefore, offered to the
13 Zoning Commission a definition that will legitimize acceptable services, so no one
14 can misunderstand. A definition as applicable to luxury buildings as to affordable
15 housing. And there are many, many other proposals that we have made in this
16 submission that clear up ambiguities in the ordinance and provide a realistic
17 framework for treating the array of housing types currently subsumed under the
18 CBRF nomenclature.

19 In terms of the planning issues that will face the District --

20 CHAIRPERSON BENNETT: Mr. Rivkin, are you wrapping it up?

21 MR. RIVKIN: I am wrapping it up.

22 CHAIRPERSON BENNETT: All right.

23 MR. RIVKIN: Over the next decade or more, I urge this
24 Commission to give high priority to review of these proposals once you have put in
25 place the Department of Justice/District agreement.

26 One last thing to say. Earlier tonight, I heard one of the most
27 incredible statements that I have ever seen made before this Commission. I have
28 worked in the cities of the developing world and I know how they handle people with

1 disabilities. And I want to thank the good Lord and the U.S. Congress that we have
2 the ADA and the Fair Housing Act. And thank you very much for your attention.

3 CHAIRPERSON BENNETT: Thank you, Mr. Rivkin. Do you
4 have your comments written for us?

5 MR. RIVKIN: I have an outline. I would be happy to share that
6 with you.

7 CHAIRPERSON BENNETT: I would like to see that entered into
8 the record.

9 MR. RIVKIN: Yes, ma'am.

10 CHAIRPERSON BENNETT: Together with the other --

11 MR. RIVKIN: I will give that to the recorder this evening.

12 CHAIRPERSON BENNETT: Colleagues, questions of Mr.
13 Rivkin?

14 COMMISSIONER FRANKLIN: Just a couple.

15 CHAIRPERSON BENNETT: Just a couple. That is all right.

16 MR. RIVKIN: I would be surprised if you didn't.

17 COMMISSIONER FRANKLIN: Dr. Rivkin, is there a model in
18 another jurisdiction or other jurisdictions that has informed the suggestions that have
19 come to us from the CNC?

20 MR. RIVKIN: Yes, I don't think there is a single model simply
21 because there are many communities that are grappling with this problem today.
22 What I will suggest is this. That CNC -- and Ms. Williams can describe this more
23 completely -- commission a number of studies beyond our own. I will say ours is the
24 slimmest that CNC received in that process. And that included some work by a
25 faculty member at the University of California in Los Angeles, I believe, making a
26 national review of a number of the proposals, the regulations, and the experience
27 dealing with housing for disabilities. And if that has not yet been put into the record,
28 Lois would have that. But I am pretty certain that CNC will do that and make that

1 available. It did shape a great deal of our recommendations.

2 CHAIRPERSON BENNETT: Okay.

3 COMMISSIONER FRANKLIN: The other question I had had to
4 do with the demographics and the change in demographics. You mentioned the
5 District and San Francisco, but would you say that what is characterized as the
6 demographic change in these two cities is atypical or typical of other major American
7 cities?

8 MR. RIVKIN: It is happening throughout the United States. I
9 have not checked -- and I am pretty certain that we will see in the year 2000 Census
10 a number of other cities. I suspect -- again, I don't have evidence for this -- that
11 Boston would be an example of another one. Where you have a relatively
12 constricted central core community surrounded by a large metropolitan area and
13 because of transportation and because of higher densities, a very significant shift
14 from families to households. I have seen it -- again, not as -- the District and San
15 Francisco were the highest that I was able from a very limited sample to see. But I
16 saw places like Pittsburgh that had very significant numbers of non-family
17 households.

18 COMMISSIONER FRANKLIN: Of course a lot of that change
19 may result from the fact that in major cities, for a variety of reasons, families have
20 not found it desirable to live anymore.

21 MR. RIVKIN: Oh, sure.

22 COMMISSIONER FRANKLIN: The school systems are not
23 responsive to their needs, they feel insecure, et cetera. So that it is a result of sort
24 of negative developments and one could make an argument that perhaps public
25 policy ought to really do what it can to attract that kind of stereotypical household
26 back.

27 MR. RIVKIN: I couldn't agree with you more. But we are faced
28 with the reality. There is public policy and there is reality. And I think from a

1 standpoint of public policy, clearly trying to bring families back to cities is very, very
2 critical. But how do you deal with the situation as it exists. And I think as a number
3 of the providers pointed out today, people with disabilities provide an opportunity for
4 rehabilitation of some pretty awful buildings given the resources that are available to
5 them. I support -- when we did the Tabitha's House survey, I went to some
6 properties that were mentioned tonight -- Anna Cooper House and Shalom House --
7 and they were in neighborhoods where really the physical change that they created
8 through the rehabs was quite extraordinary. So I think they all have to go together.

9 COMMISSIONER FRANKLIN: If somebody were to argue that
10 these services and facilities are attracting people who would normally live in the
11 suburbs but the suburbs don't seem to be providing those facilities rather than
12 serving people who are -- however you want to define a resident of the District --
13 what would be the answer to that?

14 MR. RIVKIN: Well, first of all, I think a lot of suburbs are
15 providing residential facilities. The things that the suburbs -- for better or worse --
16 can't provide as well as the District -- and I mentioned or sort of eluded to earlier the
17 fact that people can, if they are ambulatory, can walk to work. That there is
18 substantial public transportation. I mean, people can take the Metro and if they have
19 a wheelchair, they can get onto the facility and get to where they are going.

20 COMMISSIONER FRANKLIN: If I could interrupt, is there any
21 evidence that people are moving in from the suburbs to take advantage of these
22 possibilities, or are we really servicing --

23 MR. RIVKIN: The only -- I think you would have to ask the
24 housing providers that. The only ones -- let's say the only situation that I know about
25 has to do, I would say, with the elderly in places like the Connecticut Avenue
26 corridor, where people are -- and they are not really classified as disabled -- but
27 where people are moving in from Maryland suburbs to be close to facilities, public
28 transportation, or their children, and so on.

1 COMMISSIONER FRANKLIN: Retirees generally?

2 MR. RIVKIN: Retirees. I don't have any evidence to indicate
3 that disabled people are moving in.

4 COMMISSIONER FRANKLIN: Thank you.

5 CHAIRPERSON BENNETT: Further questions of Dr. Rivkin?
6 All right. Thank you. And finally, Mr. Hairston?

7 MR. HAIRSTON: Madam Chairman and members of the board,
8 I feel out of place. Look how you have me on the schedule. You have all those
9 proponents and then one opponent.

10 CHAIRPERSON BENNETT: Well, we have had two other
11 sessions prior to this where you might have felt in better company, Mr. Hairston.

12 COMMISSIONER FRANKLIN: You are a bookend. We started
13 with an opponent.

14 CHAIRPERSON BENNETT: That is right.

15 MR. HAIRSTON: But that has never stopped me before.

16 CHAIRPERSON BENNETT: I know that is right.

17 MR. HAIRSTON: I am Joe Hairston. I am the chairman of ANC
18 4A. I am a retired tax lawyer. I have been retired about 10 years. I spend all of my
19 time as a do-gooder. I belong to all of these organizations that don't have enough
20 money to do anything and I spend all my time trying to help them. That is my
21 credentials.

22 I think that I can best serve you by trying to shock you into
23 reality. You have heard the proponents. I want to try to suggest a few things to put it
24 in balance. I am not actually opposed to them 100 percent, but I am opposed to
25 them in some respects.

26 Before that, I want to associate myself with Exhibit 21 in this
27 case that was presented by John Shagnon, who is one of the ANC Commissioners
28 in ANC 4A. I belong to religious organizations, civic organizations, and I am a

1 dedicated integrationist, although one of the things I am going to say is going to
2 shock you.

3 First we had the not a dime -- have never taken a dime attorneys
4 that testified. I respect those people, but I notice that at least one of them is from a
5 law firm that I have opposed in zoning matters for years. I remember some years
6 ago I was before the BZA and we were doing our best to protect the community and
7 the chairman of the BZA asked the representative of that law firm to interpret the law
8 for them. Now what did that do to me on the other side if they are getting the
9 interpretation of the law from my opposition?

10 The thing that I want to stress is that in our ANC, we have more
11 problems with these community based houses than any other single thing. I mean,
12 they are concerned about a lot of things, but they are more concerned about these
13 intrusions in their community. Now I said I was an integrationist. I helped found a
14 national organization called National Neighbors. I have been the president of
15 Neighbors, Inc., which some of you may have heard of here in the District. Now one
16 of the things that we learned in both of those organizations is that when communities
17 become integrated, the first thing that slips is zoning. As long as they were
18 segregated, you had the bastion there to protect the community. When they
19 became integrated, then all of a sudden we have all of these do-gooders who are
20 coming around to do good things for us. Now the people who live in those
21 communities are hard-working individuals who saved and bought a house and
22 bought for the zoning that they thought was going to protect them, and they wanted
23 the same quiet enjoyment that anybody else wants -- a place to raise their children
24 and to grow old peacefully. And then as soon as they come in -- as soon as they
25 sort of get settled in, along comes a do-gooder and we are going to reform the
26 world. We are going to take care of all of the underprivileged at the expense of the
27 community in which they are moving into. Now you have to think in terms of doesn't
28 the person who has worked hard all of his life and paid the money -- not taxpayer's

1 money but his or her own money -- doesn't that person have some right to the quiet
2 enjoyment of their community? I think they do. And believe me, I am a religious
3 person. I am an integrationist and I am not opposed to trying to help my fellow
4 brother. But I think people who are hard workers have a right too.

5 What is equally important is that this Commission leave the
6 owners of those single family dwellings with some of their rights. For example, they
7 talked about the rights for the mentally handicapped. Because I knew of a halfway
8 house moving into my neighborhood, I met with the proponent and we sat down in
9 my living room and I called my neighbors in and we agreed to bring them in because
10 it was our choice. It didn't come in behind our back with no notice. The house
11 stayed there and a second was formed with our permission and with our assistance.
12 But we knew it was coming and we worked with it. It wasn't one of those things that
13 was dropped on us with no prior notice.

14 With respect to the clergy, I am the moderator of my church. I
15 belong to more religious boards than you can shake a stick at. But I need to remind
16 my clergy of a couple of things. I am a Baptist because I believe in free will. My
17 Baptist doctrine says that I have the greatest opportunity to exercise my idea of
18 theology. That means that if I am to exercise my free will, I have to let the other
19 fellow exercise his free will. Otherwise, it wouldn't make any sense. So when
20 churches come in and argue what they are going to do for you, one of the things the
21 citizens have a right to is to be free from you. Now I am going to try to convert
22 anybody I can because that is my doctrine, but I respect the right of that person to
23 oppose my doctrine. I fought two wars.

24 COMMISSIONER KRESS: We need to start wrapping up. You
25 have been on a little over --

26 MR. HAIRSTON: Because I firmly believe in that free will. One
27 of the other clergyman talked about being forced into this because of government
28 cutbacks. Well, the federal government, the legislators that made those cutbacks,

1 they probably read one of the letters to the Thessalonians. I will paraphrase, but
2 what the letter says is that those who won't work won't eat. In other words, you have
3 to do something for yourself. The government isn't required to give it all to you.

4 COMMISSIONER KRESS: Do you have a final summary
5 comment? We are way over our time.

6 COMMISSIONER KRESS: I am. I can't rebut them all. I want
7 to talk about the Samaritans -- the Samaritan House. I listened to that lady and I am
8 very respectful of her commitment. I listened to the young man beside her. But my
9 ANC was the one that lost that case. Now she talks about how much they have
10 done in that community. Well, there were others that were ready to renovate that
11 same apartment house and there was another halfway house right across the street.
12 Now the question is, notwithstanding how good they say they have done, do you
13 want to bring in a bunch of ex-addicts and drunks next door to you? Do they have a
14 right to exist? Yes, they do. Should they be helped? Yes, they should. But should
15 they come into your community with no notice so that you don't have a chance to
16 protect yourself or to make your own decision? The outer suburbs gets those
17 people and we are left with a community of people that don't care -- the community
18 is gone. You say I have to stop, I stop. I would preach another sermon if you would
19 let me.

20 COMMISSIONER KRESS: Thank you.

21 MR. HAIRSTON: Are there questions?

22 COMMISSIONER KRESS: Does anyone have any questions?

23 COMMISSIONER FRANKLIN: Do you have any complaints
24 about Samaritan House under its present operation?

25 MR. HAIRSTON: Yes. Because that is part of the 16th Street
26 Heights area. You heard that mentioned by another person. If you look at 16th
27 Street Heights, the reason we got the overlay is because we have got more
28 exceptions than Carter has got pills. I mean, next to Dupont Circle, we are the most

1 excepted --

2 COMMISSIONER FRANKLIN: Let me get back to my question.
3 Specifically with respect to Samaritan House, what is your complaint?

4 MR. HAIRSTON: My objection is it is there without our
5 permission and without our say.

6 COMMISSIONER FRANKLIN: Okay.

7 MR. HAIRSTON: No, I don't have a specific, but if I had my
8 other commissioner here, he lives right around the corner from it. He would tell you
9 a few things. I don't personally have it and I am not going to make it up. I used to
10 live right around the corner from there, but I don't anymore.

11 COMMISSIONER KRESS: Thank you. We appreciate your
12 time. I just wanted to check to see if there was anyone who was left to testify that
13 had not testified before now or who had come back to testify this evening?

14 MS. JORDINA: May I have --

15 COMMISSIONER KRESS: You can't speak from the audience.
16 You have to come up and speak in the microphone and please identify yourself for
17 the record.

18 MS. BROWN: I want to thank all of you for giving me this
19 opportunity to speak for just a few minutes. I have some questions and some
20 concerns that I want to bring from my community, even though I just learned of this
21 hearing about one hour before it took place or one and a half hours.

22 COMMISSIONER KRESS: I am sorry, your name again?

23 MS. BROWN: My name is Jordina Brown.

24 COMMISSIONER KRESS: And where do you live?

25 MS. BROWN: I live in the Shepard Park area. And I have heard
26 some good things coming from the providers tonight, but I am sorry to report that
27 those good things are not happening in my community. For example, on Portal
28 Drive, there was placed a CBRF right next to a residence or family who had a

1 disabled son -- a mentally disturbed son. The family pleaded that a house would not
2 be placed next door because the son could easily be upset. This family was trying
3 to provide for the son. In spite of the pleading, they placed the house right next door
4 that had mentally disadvantaged people in it. The family had to move out of the
5 area because her son just could not take it. He would become easily aggravated
6 and agitated. And I think if someone had taken the time to listen to the community
7 and to the homeowner that was already there, something like that would not have
8 happened. So I think you have to weigh the concerns of the community, of the
9 providers, and of the occupants. We are not against CBRF's, but we would like for
10 you to consider the concerns of the community and let us know when you are
11 moving in so that there will not be a hostile environment. We have a lot of retired
12 people in the community who would be very helpful in dealing with some of these
13 occupants that are placed in the CBRF's, but the groups are usually moved in very
14 quietly. And everybody is wondering who is there and they become very
15 apprehensive not knowing what type of group is next door.

16 I have just a few questions that I would like to ask. When
17 CBRF's are placed in communities, who monitors them to be certain that adequate
18 programs are planned to meet the needs of the occupants? I know on --

19 COMMISSIONER KRESS: That is not our responsibility, as you
20 know. That is done by DCRA and through the licensing. That is not done through --

21 MS. BROWN: But I think there should be some kind of planning
22 for this so that they will not have an adverse effect on the community.

23 COMMISSIONER KRESS: We are not the right folks to talk to
24 about that.

25 MS. BROWN: All right. And the Oxford House on 12th Street,
26 we have been having a lot of problems in the community. I am not saying all of
27 them came from the Oxford House, but we were informed by the police that the
28 problems are originating in our community, and at the community meeting we were

1 asked are they from any of the CBRF's that are located there and we were told yes.

2 COMMISSIONER FRANKLIN: By whom?

3 MS. BROWN: By the police. And I know that you said it is not
4 your responsibility to make sure that the program --

5 COMMISSIONER KRESS: Well, I think it is all of ours in the
6 community. I just meant as far as the Zoning Commission. That does not fall under
7 our purview.

8 MS. BROWN: Yes. But I was saying this for the providers
9 especially. Because we would like for these facilities to be integrated into the
10 community. We would like to be educated as to who is coming in so that we will feel
11 comfortable and we will feel secure and the senior citizens that are in the community
12 will not be afraid to take a walk or go to the store like they are now. Well, as you
13 know, many of them are here and so hopefully they are hearing you. Also, I want to
14 say you need to summarize because you are past your time. But also since you
15 said you weren't -- you didn't find out for whatever reason until just tonight, we are
16 going to be leaving the record open. So any additional information you want to
17 submit to us in writing, and we do read what people send us, or anyone else who
18 may have informed you or not be aware, we will be keeping the record open to
19 receive additional testimony for about 30 days. So I want you to know if you don't
20 feel you have had time to get all your thoughts across or even prepare them all, we
21 would be happy to read them with the record.

22 MS. BROWN: All right. Thank you very much for allowing me
23 this opportunity.

24 COMMISSIONER KRESS: Just a second. Did anyone have
25 any questions?

26 COMMISSIONER FRANKLIN: No.

27 COMMISSIONER KRESS: Thank you very much for coming.

28 With that, that is everyone that I believe was going to testify this evening. So, ladies

1 and gentlemen, the other members of the Commission and I wish to thank you for
2 your testimony and assistance in this hearing. The record in this case will be kept
3 open until May 6, 1998, for submissions of any additional information. Any special
4 information or reports specifically requested by the Commission must be filed no
5 later than the close of business at 4:45 p.m. on May 6, 1998, in Suite 210 of this
6 building, 441 4th Street, N.W. The Commission will make a decision in this case at
7 one of its regular monthly meetings following the closing of the record. These
8 meetings are held at 1:30 p.m. on the 2nd Monday of each month with some
9 exceptions and are open to the public. If any individual is interested in following this
10 case further, I suggest that you contact staff to determine whether this case is on the
11 agenda of a particular meeting. You should also be aware that if the Commission
12 proposes affirmative action, the proposed action must be referred to the National
13 Capitol Planning Commission for federal impact review. The Zoning Commission
14 will take final action at a public meeting following receipt of the NCPD comments
15 after which a written order will be published. I now declare this meeting closed.

16 (Whereupon, at 9:15 p.m, the public hearing was concluded.)

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