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GOVERNMENT
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**HOME RULE AMENDMENTS AND TRANSFER
OF VARIOUS AGENCIES TO THE
D.C. GOVERNMENT**

DOCUMENTS

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HEARINGS

BEFORE THE

**COMMITTEE ON
THE DISTRICT OF COLUMBIA
HOUSE OF REPRESENTATIVES**

AND THE

**COMMITTEE ON
THE DISTRICT OF COLUMBIA
UNITED STATES SENATE**

NINETY-THIRD CONGRESS

SECOND SESSION

ON

H.R. 15791

AMENDMENTS TO SECTION 204 OF H.R. 9682 AND OVER-
SIGHT OVER TRANSITION OF VARIOUS AGENCIES TO THE
D.C. GOVERNMENT

JUNE 26 AND JULY 2, 1974

Printed for the use of the
Committee on the District of Columbia



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AMENDMENTS TO SECTION 204 OF H.R. 9682 AND OVERSIGHT OVER TRANSITION OF VARIOUS AGENCIES TO THE D.C. GOVERNMENT

WEDNESDAY, JUNE 26, 1974

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
AND THE U.S. SENATE,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The committees met in Joint Session, pursuant to notice, at 9:45 a.m., in room 1310, Longworth House Office Building, The Honorable Charles C. Diggs, Jr. (Chairman) presiding.

Present: Representatives Diggs (presiding), Fauntroy, Breckinridge, Nelsen, Gude, and Burgener.

Also present: Robert Harris, Staff Director, and Andrew E. Manatos, Assistant Staff Director, Senate District Committee; and from the House District Committee: Robert B. Washington, Jr., Chief Counsel; James T. Clark, Legislative Counsel; Dale MacIver, Assistant Counsel; Leonard O. Hilder and Ralph Ulmer, Minority Professional Staff members.

Chairman Diggs. The joint committee will come to order.

Before going into the specifics for this hearing, the Chair would like to make the following observations.

STATEMENT OF HON. CHARLES C. DIGGS, JR.

Under the Home Rule charter act, the committees of the District of Columbia continue to maintain their unique role as agents of Congress in determining when to recommend specific legislation for the District and the authority for such action comes from the exclusive legislation clause of the United States Constitution, Article one, Section eight, clause seventeen.

OVERSIGHT RESPONSIBILITY OF COMMITTEE

This legislative authority and the attendant oversight authority over all local government operations in the District of Columbia continue to be essential elements of the committee's historic and constitutional responsibility to define and facilitate the operations of the often complex evolutionary balance of interrelated federal and local interests in the District of Columbia.

I say that because I think it's important to put into proper perspective the role of the D.C. committees at this point because there are some people who apparently do not understand just what that role is and what it will continue to be under the terms of the Home Rule bill and the Home Rule charter.

We have continuing responsibility to work in partnership with the local government and as a matter of fact, these next 3 to 4 years are going to be very important in connection with that kind of an arrangement, if the Home Rule concept is going to be meaningful and continue to be supported by the Congress.

There are some elements in Congress that do not believe Home Rule will work. There are some people in this community who do not believe that it will work and unless there is this kind of partnership concept, unless there is understanding (by both components) of the dynamics of self determination it will not work.

So these oversight hearings have as their basis the desirability of making self determination meaningful.

LIMITATIONS ON SELF GOVERNMENT

These next 3 to 4 years in particular will be very sensitive and important years under the current self-determination concept. As you all know there were certain limitations that were put into the Home Rule Charter and the Home Rule Bill—review of the budget of course is the most significant one; the review of acts by the local elected City Council. Every act passed by the City Council with the exception of a very limited number have to lay over for 30 days and for purposes of being reviewed by Congress. Organizations and jurisdictions of the local courts is still under the jurisdiction of Congress, of course, and the D.C. Criminal Code.

I think it is important to stress this because there are some people who wonder why we're having an oversight hearing. We have got some feedback. Now that Home Rule is here, what does Congress have to do with the Self-Government and Governmental Reorganization Act and things of that nature?

PARTNERSHIP WITH CONGRESS

I am here to tell you that unless this kind of a partnership arrangement is understood, the whole question of self determination is going to be rather tenuous. Not because of any negative attitude on the part of this chair, but because of the sensitivities that are on both sides of the Capitol with respect to this whole idea.

We have asked the witnesses from the District Government to explain the new staffing patterns and organizations of the City Government and our inquiry is intended to specifically ascertain whether the transfer and reorganization is proceeding in a manner which is consistent with the Home Rule Act.

JULY 1 TRANSFER OF FEDERAL AGENCIES

I am pleased to open these hearings jointly with the Committee on District Government has been preparing for the very important event 4

days from now when title II of the Act comes into operation and the three Federal agencies come completely under the control of the District and the local aspects of a fourth Federal agency are also transferred. As you know, these agencies are the D.C. Manpower Administration, the National Capital Housing Authority, the Redevelopment Land Agency and the local planning powers of National Capital Planning Commission.

The D.C. Committees of the House and Senate, meanwhile, have been reviewing the Home Rule Act to make certain that any additional legislation or corrective action is taken to make Home Rule work. Today we will hear about possible amendments which will make the title II transfers more effective.

The two agencies we will discuss today are the National Capital Planning Commission and the D.C. Manpower Administration. Next Tuesday the committee will reconvene to consider the Redevelopment Land Agency and the National Capital Housing Authority and how the District Government intends to organize itself to perform those functions.

REPORT ON PLANNING

We have had a very good preliminary report on May 7th from Mr. Ben Gilbert, on action being taken within the District Government to prepare for the new local planning responsibilities of the city.

We hope to hear further good news from the District today.

The rhetoric of a year ago gave promise of a streamlined government, if the title II transfers became law. The Congress was told, "Don't just give us the vote. Give us the tools to do the job. Bring these scattered agencies under the control of the Mayor's office so that unified planning and development could be carried out."

Well, Congress followed that advice and adopted title II and I am here to tell you it was not easy. We adopted title II and today we hope to hear how title II is being put into operation. How will it work? Who is in charge? How will the public know what is going on and be involved in the new decision making process? How much will it cost? Is Congress approving adequate funding?

You would be surprised at the number of people from the local government who have interest in this matter, who have been going around through the back door trying to—when title II was under consideration, trying to sabotage this matter.

There are others who are still disenchanted with the transfer to the local government. So the problems that we face in this reorganization are not coming from Congress and I think that ought to be put into proper perspective.

As the witness list shows, the first witness is Mr. Ben Gilbert, Director, Office of Planning and Management. He is accompanied by J. Kirkwood White, Director of Planning and Louis P. Robbins, Principal Assistant Corporation Counsel for the District.

After I have recognized Mr. Gude for a statement that he would like to make and also we have a statement from Mr. Broyhill who may not be able to be here, we will call these witnesses.

I would like to now yield to the gentleman from Maryland, Mr. Gude.

STATEMENT OF HON. GILBERT GUDE

Mr. GUDE. Thank you, Mr. Chairman.

At the outset I want to commend you on having these hearings. You have mentioned and alluded to a partnership arrangement between the city and the D.C. Committee.

During this period of transition and I heartedly agree with that concept and beyond that I think that we should have a continuous dialogue to make sure that this is proceeding in the best interest of establishing more self government in the District of Columbia and one specific area to be covered in this hearing is the question which has been raised with me by several of my constituents who are directly involved in the transition.

I appreciate this opportunity to meet and clarify any questions that have arisen concerning a smooth transition and fortunately the protection of the employees rights at this time and I am particularly concerned with the status of the employees of the D.C. Manpower Administration. It was certainly our intent to protect the rights of the workers under the transfer and I am prepared to work with District officials, Civil Service Commission and my colleagues here on the committee to resolve this issue.

So concerning the individual rights of employees of the Federal Government and employees of the D.C. Government during this particular transition, there is need for these hearings and also the looking at the larger concept with the establishing of a good form of self government in the District of Columbia. We need these hearings and thank you for having them, Mr. Chairman.

Also I have a statement from Congressman Hogan who is unable to be here with us if you could put it in the record.

Chairman DIGGS. Without objection it is so ordered.

[The above referred to statement follows:]

STATEMENT OF HON. LAWRENCE J. HOGAN

Mr. HOGAN. Mr. Chairman, I appreciate this opportunity to appear before your Full Committee to testify with respect to the oversight hearings as they relate to Public Law 93-198, The District of Columbia Self-Government and Governmental Reorganization Act of 1973. I am particularly concerned about some of the provisions in Title II which affect the transfer of the D.C. Manpower Administration from the Federal Government (i.e., the Labor Department) to the District of Columbia Government effective July 1, 1974. I am particularly concerned with the language as it appears in Section 204(g).

In my opinion, neither the rights of the employees nor the status of positions in the National Capital Housing Authority and the Redevelopment Land Agency will be affected by the transfer of those two agencies into the District of Columbia Government, which will take place under the D. C. Self-Government and Governmental Reorganization Act on July 1, 1974. However, again it is my opinion that Section 204(g) constitutes an exception to that general rule as applicable to the D. C. Manpower Administration as stated in the bill itself:

Any employee in the competitive service of the United States transferred to the government of the District under the provisions of this section shall retain all the rights, benefits, and privileges pertaining thereto held prior to such transfer. When such an employee vacates the position into which he was transferred, such position shall no longer be a position in such competitive service.

Based on my cursory review of the particular provision, after it had been called to my attention by several petitioning employees from the D. C. Manpower Administration who will be transferred with the functions to the District Government effective July 1, 1974, it is my understanding that in order for a position with the D. C. Manpower Administration to retain its character as a position in the competitive service, an employee must be occupying that position at the time of transfer. Otherwise, as I view it, it becomes a position in the "excepted" service after the transfer date. Vacant positions at the time of transfer, therefore, could or would lose their status as competitive service positions. Similarly, once the transferee vacates his or her position, that position would lose its character as a position in the competitive service.

There are a number of other additional questions involving D. C. Manpower Administration employees which I have discussed with the Minority Staff of the House District Committee; and it is my understanding that several of these questions have been discussed with Mr. Weinberg, the Director of Personnel for the Government of the District of Columbia, and Mr. Anthony E. Mondeillo, General Counsel of the Civil Service Commission.

On behalf of the employees of the D.C. Manpower Administration, I would request that the Committee give particular attention to the provisions of Section 204(g) and review the effect that the language in that provision would have on the present employees of the Administration at the time of and subsequent to the transfer of the Administration from the Federal Government to the local government. I make this request not only on behalf of my own constituents, by all employees of the Administration so that we may insure that standards of equity and justice are being applied to the individuals who are being transferred and that their rights as employees will not be infringed upon. I am sure that you, Mr. Chairman, and the other members of the Committee are equally interested in pursuing this objective.

Again, Mr. Chairman, I wish to thank you for this opportunity to appear before the Committee and offer whatever service I may be able to bring to this Committee to resolve this particular issue that has arisen at this time as the transfer of the D.C. Manpower Administration to the local government is imminent.

Chairman DIGGS. Does the gentleman from the District of Columbia have any comment at this point?

Mr. FAUNTROY. No, Mr. Chairman.

Chairman DIGGS. The gentleman from Kentucky?

Mr. BRECKINRIDGE. I have none.

Chairman DIGGS. We also have a statement from the gentleman from Virginia, Mr. Broyhill who hoped to have been here but is apparently being delayed unavoidably.

I would like to have the staff read his statement.

Mr. HILDER. Thank you, Mr. Chairman.

On behalf of Joel T. Broyhill I should like to make the following statement for the record.

PREPARED STATEMENT OF HON. JOEL T. BROYHILL

Mr. Chairman, I am pleased that these hearings are being conducted on the subject of the transfer of the Redevelopment Land Agency, the National Capital Housing Authority, and the D.C. Manpower Administration from the Federal government to the District of Columbia government as of July 1 of this year, under the provisions of title II of the Home Rule Act. And I wish to take this opportunity to protest one of the existing provisions in regard to the transfer of the Manpower Administration and to urge its amendment.

The provision to which I refer is the second sentence in section 204(g). The first sentence of this subsection states that any employee of the D.C. Manpower Administration in the competitive service of the United States at the time this agency is transferred to the D.C.

government under this Act shall retain all his present rights, benefits, and privileges. This, of course, is completely proper. The second sentence, however, to which I take strong exception, provides that when such an employee vacates the position into which he was transferred, that position shall no longer be a position in the competitive service.

This means that any present employee of the D.C. Manpower Administration who now enjoys competitive status under the Civil Service system, but who may be promoted or transferred into a different position in this agency which either was vacant as of July 1 or becomes vacant after that date, will revert in status from the competitive service to the excepted service after such promotion or transfer. Further, I understand that such an employee in the Manpower Administration whose position becomes reclassified after July 1 will suffer this same change of status.

I am advised that employees in the excepted service under the Civil Service system lack two principal privileges which are enjoyed by employees in the competitive service. First, they have no "bumping rights", or retention rights based upon seniority in the event of reductions in force. And secondly, any appeals by employees in the excepted service, as to disciplinary or adverse actions of any kind, will go to the D.C. Mayor rather than to the Civil Service Commission.

I wish to call the attention of my colleagues to section 713(d) of the Home Rule Act, which appears to assure transferred employees continuity of all their former rights, stating as follows:

No officer or employee shall, by reason of his transfer to the District government under this Act or his separation from service under this Act, be deprived of any civil services rights, benefits, and privileges held by him prior to such transfer or any right of appeal or review he may have by reason of his separation from service.

In view of the language quoted above, there seems little room for doubt that this committee did not intend any such loss of rights which the second sentence of section 204(g) may impose upon some employees of the D.C. Manpower Administration. However, the counsel for the U.S. Civil Service Commission has advised that the effect of 204(g) will be as I have described it, regardless of section 713(d).

This inequity is inconsistent with the general rule in the Federal Personnel Manual covering the transfer of agencies, and also with certain provisions in Public Law 93-198 designed to protect the rights, benefits, and privileges of Civil Service employees. Furthermore, since the Home Rule Act contains no such provision regarding the employees of the RLA and the NCHA, who will also be transferred to the District of Columbia government on July 1, this provision with respect to employees of the Manpower Administration is also discriminatory.

A number of the employees of the D.C. Manpower Administration are constituents of mine, and I am certainly interested in their welfare.

Further than that, however, I am deeply concerned that all the employees of this agency be afforded equitable treatment under this law.

Mr. Chairman, I am certain that no member of this committee would knowingly sanction this unfair and discriminatory treatment of these employees, and that the presence of this provision in the Home Rule Act is nothing more than an oversight in the preparation of a long and complicated piece of legislation. I am equally confident that this committee will not allow this inequity to prevail. I understand that the D.C. government will offer an amendment to the Home Rules Act which will correct this problem by striking this second sentence from the language of section 204(g) and also by stating in positive language that positions in the competitive service in the Manpower Administration which are vacated after the transfer shall continue to be positions in the competitive service.

I urge my colleagues on this committee to approve this amending language and to move promptly to enact such a provision into law.

Thank you.

Chairman Diggs. Senator Eagleton, Chairman of the Senate District of Columbia is in the chair now on the other side of the Capitol in connection with another assignment and may not be able to be with us this morning. Mr. Robert Harris, the staff director of that committee is here. Does the gentleman have any statement to make on behalf of his principal or on behalf of the committee before we proceed to the witnesses?

Mr. HARRIS. No, Mr. Chairman.

Chairman Diggs. If the members will look in their folder they will find two lists and I have asked Mr. Gilbert to use these two lists that will explain the changes that will occur on the first of July and how the city and staff will be organized to handle this.

One list is the agenda of the National Capital Planning Commission for May 30, 1974. I have asked Mr. Gilbert to go through the agenda and illustrate for us what items will no longer be handled by the NCPC but by the City government.

NATIONAL CAPITAL PLANNING COMMISSION, WASHINGTON, D.C.

AGENDA—OPEN SESSION

Agenda No. 1.—Proposed amendment to By-Laws relating to quorum requirements (Commission action requested: adoption pursuant to Commission's By-Laws and Rules of Procedure)—Presentation by D. H. Shear.

Agenda No. 2.—Report of the Executive Director by C. H. Conrad.

Agenda No. 3. File No. MP49.—The Mall—1976 Bicentennial Development, between 3rd and 14th Streets, N.W. (Commission action requested: approval of final site development plan pursuant to Section 5 of the National Capital Planning Act of 1952)—

Presentation by E. C. Hromanik.

Report of the Joint Committee on Landmarks by R. B. Westbrook.

Report of the Park, Recreation, and Open Space and Federal Planning and Projects Committees by Mrs. Scott Heuer, Jr., and Paul Thiry.

Agenda No. 4. File No. 1225.—Union of Soviet Socialist Republics Embassy Complex, Wisconsin Avenue and Calvert Street, N.W. (Mt. Alto Site)—preliminary site and building plans—Presentation (no Commission action requested) by E. C. Hromanik.

Agenda No. 5. File No. UR02.—Southwest Urban Renewal Area, Project C—urban renewal plan modification (Channel Inn). (Commission action requested: adoption pursuant to District of Columbia Redevelopment Act of 1945, as amended)—

Presentation by C. G. Bassett and L. S. Press.

Report of the Urban Renewal and Housing Committee by C. C. Johnson, Jr.

Agenda No. 6. File No. CP08.—Draft Comprehensive Outdoor Recreation Plan for the District of Columbia (Commission action requested: review for conformity to the Comprehensive Plan for the National Capital and related master plans)—Presentation by R. B. Westbrook and S. F. Hodges.

Agenda No. 7. File No. 1221.—Emergency Water Pumping Station, Potomac River, north of Chain Bridge, District of Columbia. (Commission action requested: approval of revised preliminary site and building plans pursuant to Section 5 of the National Capital Planning Act of 1952)—

Presentation by E. C. Hromanik.

Report of the Joint Committee on Landmarks by R. B. Westbrook.

Report of the Federal Planning and Projects Committee by Paul Thiry.

Agenda No. 8.—Andrews Air Force Base, Prince George's County, Maryland: File No. MP48.—(a) Revised Master Plan (Commission action requested: approval for project and budget review pursuant to Sections 5 and 7 of the National Capital Planning Act of 1952)—

Presentation by E. C. Hromanik.

Report of the Federal Planning and Projects Committee by Paul Thiry.

File No. 1280.—(b) Mobile Home Park (125 units) (Commission action requested: approval of preliminary site and building plans pursuant to Section 5 of the National Capital Planning Act of 1952)—

Presentation by E. C. Hromanik.

Report of the Federal Planning and Projects Committee by Paul Thiry.

Agenda No. 9.—Walter Reed Army Medical Center, District of Columbia:

File No. 1297.—(a) Tri-Service Medical Information Systems Programs Administrative Facilities (Commission action requested: approval of preliminary site and building plans pursuant to Section 5 of the National Capital Planning Act of 1952)—

Presentation by J. D. Smith.

Report of the Federal Planning and Projects Committee by Paul Thiry.

File No. 1298.—(b) Patient Visitor Facility (Commission action requested: approval of preliminary site and building plans pursuant to Section 5 of the National Capital Planning Act of 1952)—

Presentation by J. D. Smith.

Report of the Federal Planning and Projects Committee by Paul Thiry.

Agenda No. 10.—Stream Valley Parks, Prince George's County, Maryland—Revised General Development Plans:

File No. MP35.—(a) Anacostia River Park, Unit No. 2 (East-West Highway to Calvert Road) (Commission action requested: approval pursuant to Capper-Cramton Act)—

Presentation by J. D. Smith.

Report of the Park, Recreation, and Open Space Committee by Mrs. Scott Heuer, Jr.

File No. MP54.—(b) Paint Branch Park, Unit No. 2 (Calvert Road to U.S. Route 1) (Commission action requested: approval pursuant to Capper-Cramton Act)—

Presentation by J. D. Smith.

Report of the Park, Recreation, and Open Space Committee by Mrs. Scott Heuer, Jr.

Agenda No. 11. File No. MP11.—Anacostia Park (East Side), District of Columbia:

(a) Kenilworth Park (Commission action requested: approval of preliminary and final site development plans pursuant to Section 5 of the National Capital Planning Act of 1952)—

Presentation by J. D. Smith.

Report of the Park, Recreation, and Open Space Committee by Mrs. Scott Heuer, Jr.

(b) River Terrace Park (Commission action requested: approval of preliminary and final site development plans pursuant to Section 5 of the National Capital Planning Act of 1952)—

Presentation by J. D. Smith.

Report of the Park, Recreation, and Open Space Committee by Mrs. Scott Heuer, Jr.

Agenda No. 12. File No. 1296.—National Institutes of Health, Bethesda, Maryland—Building No. 6 (Commission action requested: approval of preliminary site and building plans pursuant to Section 5 of the National Capital Planning Act of 1952)—

Presentation by E. N. Johnston.

Report of the Federal Planning and Projects Committee by Paul Thiry.

Agenda No. 13. File No. 1304.—Washington National Airport, Arlington County, Virginia—Interim Access Improvement Program (Commission action requested: approval of development concepts pursuant to Section 5 of the National Capital Planning Act of 1952)—

Presentation by R. W. Harris.

Report of the Federal Planning and Projects Committee by Paul Thiry.

Agenda No. 14. File No. 1301.—George Washington University—parking lot, 811-813—21st Street, N.W.—application for a college or university use in a residence district under Paragraph 3101.46 of Zoning Regulations (BZA Appeal No. 11674) (Commission action requested: report to Board of Zoning Adjustment)—

Presentation by W. F. McIntosh.

Report of the Zoning Committee by Mrs. Scott Heuer, Jr.

Agenda No. 15. File No. CP01.—Comprehensive Plan for the National Capital (Fort Circle Parks):

File No. MP97.—(a) Modification No. 12 to Part 2, General Land Use Objectives: 1970/1985 (American University) (Commission action requested: adoption pursuant to Section 4 of the National Capital Planning Act of 1952)—Presentation by S. F. Hodges.

File No. MP19.—(b) Modification No. 13 to Part 2, General Land Use Objectives: 1970/1985, and Modification No. 18 to Part 3, Chapter 4, Parks and Recreation Facilities (Fort Dupont Park) (Commission action requested: adoption pursuant to Section 4 of the National Capital Planning Act of 1952)—Presentation by S. F. Hodges.

File No. MP19.—(c) Modification No. 19 to Part 3, Chapter 4, Parks and Recreation Facilities (Fort Stanton Park) (Commission action requested: adoption pursuant to Section 4 of the National Capital Planning Act of 1952)—Presentation by S. F. Hodges.

Agenda No. 16. File No. 1299.—Miner Elementary School, 15th and F Streets, N.E.—Site Expansion (D.C. Project No. 10-298) (Commission action requested: approval of site boundaries pursuant to Section 5 of the National Capital Planning Act of 1952)—

Presentation by R. E. Gresham.

Report of the District Public Improvements Committee by Paul Thiry.

Agenda No. 17. File No. 1300.—Hendley Elementary School, 6th and Chesapeake Streets, S.E.—Site Expansion (D.C. Project No. 10-310) (Commission action requested: approval of site boundaries pursuant to Section 5 of the National Capital Planning Act of 1952)—

Presentation by R. E. Gresham.

Report of the District Public Improvements Committee by Paul Thiry.

Agenda No. 18. File No. 1706.—Transfer of jurisdiction—Lot 802 and unassessed land in Square S-1001, and the adjacent area, 11th and O Streets, S.E. (DOD to NPS for park purposes and DOD to DC for highway purposes) (Commission action requested: approval pursuant to D.C. Code, sec. 8-115)—

Presentation by R. E. Gresham.

Report of the Park, Recreation, and Open Space Committee by Mrs. Scott Huer, Jr.

Agenda No. 19.—Street and alley closings:

File No. 1294.—(a) Part of First Street, N.W., north of L Street (S.O. 74-18).

File No. 1295.—(b) Part of public alley in Square 68, between 21st, 22nd, O and P Streets, N.W. (S.O. 73-131) (Commission action requested: recommendations to District of Columbia Council pursuant to D.C. Code, sec. 7-401)—

Presentation by R. E. Gresham.

Report of the Transportation Committee by E. W. Dreyfuss.

The second list which is a table of contents for the comprehensive plan of NCPC. It contains many items that have not yet been adopted. Many items in the plan are of a local nature and many are Federal or area-wide in nature. Mr. Gilbert will explain how the city will prepare the plan items, which become its responsibility on July 1 and which plan ailments will remain with the NCPC.

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POLICIES AND PRINCIPLES FOR A TRANSPORTATION SYSTEM FOR THE NATIONAL CAPITAL²

We had intended to have Mr. Charles Conrad, Executive Director of the NCPC with us today, but I am sorry to hear that his father has died. I hope we can have Mr. Conrad as a witness next week.

Mr. Gilbert, please proceed.

¹ Elements of the Comprehensive Plan adopted to date are identified in bold face.

² Approved by the Commission on December 11, 1968. The statement is not part of the Comprehensive Plan.

STATEMENT OF BEN GILBERT, DIRECTOR, OFFICE OF PLANNING
AND MANAGEMENT, D.C. GOVERNMENT, ACCOMPANIED BY
J. KIRKWOOD WHITE, DIRECTOR OF PLANNING, AND LOUIS P.
ROBBINS, PRINCIPAL ASSISTANT CORPORATION COUNSEL

Mr. GILBERT. Mr. Chairman, I appreciate very much the opportunity to appear at this hearing to explain what we have been doing and what we propose to do with respect to the problems of Home Rule transition with particular reference to the planning function transfer.

STATEMENT OF MAYOR WASHINGTON

I believe, Mr. Chairman, that you have received a general overview statement which Mayor Washington recently issued highlighting the District of Columbia Government actions in the various areas with particular reference to the title II transfers. I would also like to submit—

Chairman Diggs. Would the gentleman yield at that point. We're not in receipt of such a communication.

Mr. GILBERT. It's in transit, Mr. Chairman. I do have a copy I can give you.

Chairman Diggs. Would you send it up, please.

Mr. GILBERT. I am sorry that it is not in the form of a communication. The Mayor had sent it in communication form, but that is the text of the statement the Mayor had issued.

Chairman Diggs. Did he issue it before he issued the press release? This is a press release.

Mr. GILBERT. It is a press release and it incorporated the statement, Mr. Chairman. The transmission to you—and I am sorry that you do not have it in hand—was a formal statement he sent to you on Monday and may very well be lost in transit. I want to make sure a new copy is sent over.

THE DISTRICT OF COLUMBIA,
Washington, D.C., June 22, 1974.

HON. CHARLES C. DIGGS, JR.,
Chairman, Committee on the District of Columbia, Rayburn Building, U.S. House
of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: It is my intention to issue periodic public progress on the actions being taken by the District Government to carry out the provisions of the Self-Government and Governmental Reorganization Act (P.L. 93-198).

A copy of the first such report focussing on actions being taken with respect to Title II agency transfer and other matters is enclosed. I will be sending you further progress reports on other actions as they occur.

I hope you will find this report of value.

Sincerely,

WALTER E. WASHINGTON,
Mayor-Commissioner.

Enclosure.

STATEMENT

Seven weeks ago, the voters of this city resoundingly ratified a home rule charter for the District of Columbia and simultaneously authorized the creation of elected advisory neighborhood councils. It was a clear mandate for self-government and for continuing and increasing citizen involvement in the affairs of local government.

One week hence, the Government of the District of Columbia will be greatly strengthened when agencies responsible for urban renewal, public housing and manpower along with their respective citizen advisory components join the city government. At the same time, the city government becomes responsible for initiating its own planning while developing a process of meaningful citizen consultation on planning matters. These actions are being taken in accordance with the provisions of the self-government signed into law just six months ago.

Six months hence, the city will inaugurate its first elected government in 100 years with a Mayor and Council chosen by the people. I look forward to the opportunities provided by the electoral process, not only as a mechanism to choose the leadership of this city, but also to assist that leadership in establishing the city's priorities through the input of our citizens.

Today, I welcome the 1,400 employees who join the city government family next Monday. Many of them are old friends with whom we have worked closely in the past. They are becoming part of a strong stable government which is proud of its record of improving the delivery of services to the people of this city. They will find that the way has been prepared thoughtfully and considerately to provide a smooth transition into the District of Columbia Government.

I have insisted that the transition from Federal to District status be carried out in such a way that the important work being done for the city by these employees continue without interruption or impairment, and with proper concern for the rights of all transferred employees. The reports that I have received with respect to transition arrangements indicate that these goals are being attained.

I would also like to assure all present and prospective employees of the city government and other citizens of the city that this government will be ready to provide effectively for the transfer to the people of the power to govern themselves through elected representatives starting with our Inauguration Day, January 2, 1975.

This government has been hard at work on the many issues of transition. They range widely from such administrative matters as payroll preparation, accounting and personnel procedures to more complex matters of organizational relationships, and questions requiring policy and legal determinations.

Any matters which can be satisfactorily addressed in advance of transition are being addressed. Organizational orders to be issued by July 1 will provide initial authority to function. Other arrangements will be developed in the course of day-to-day operations. Some matters will require policy determinations by the present government which will be provided. There are some other issues of a policy nature which more appropriately should be decided by the elected government. In those cases we will assemble the information required so that sound and effective decisions may be made in due course.

On budgeting and financial management, for example, the act requires a detailed justification of the Federal Payment and other specialized budget reports. These requirements are being met as part of the Fiscal Year 1975 budget presentations and have already become continuing parts of our budget operations.

On the other hand, the self government act gives the city important options on both the borrowing and depositing of city funds. Choices include options of using Treasury facilities or private sector resources, namely banks and the commercial bond markets. These matters involve important policy questions more appropriately decided by the elected leaders of the city after January 2, 1975.

I have directed that issue papers be prepared on the strengths and weaknesses of each option for the elected government. To do that, the Office of Budget and Financial Management has begun discussions with Treasury specialists and other experts, and representatives of the private sector in the District.

With particular reference to July 1, the following important steps are being taken:

(a). To provide needed coordination in the housing field, I am creating the Office of Housing and Community Development (OHCD). In addition to performing the coordination function, that office will work with the citizens in their neighborhoods to establish priorities for community improvement.

Specifically, the new office will incorporate the Office of Housing Programs and will provide coordination for the activities of the Redevelopment Land Agency (RLA) and the National Capital Housing Authority (NCHA). Those two agencies will be incorporated in the city government on July 1 as on-going intact entities along with their citizen and tenant advisory components.

(b). With respect to manpower, the District of Columbia Manpower Administration (DCMA) will be moved to the District Government as an entity on July 1. It will have the responsibility to carry out the manpower program recently approved by me and transmitted to the Federal Department of Labor for funding. An initial sum of \$14 million has been set aside for the District for this purpose under the Comprehensive Employment and Training Act (CETA). The plan was developed with the advice of the recently created Manpower Services Planning Advisory Committee (MSPAC), a broad-ranging unit made up of citizen, community and official representatives.

The city's manpower services for the city's unemployed and underemployed will benefit from the Federal decision to provide such funding through block grants. For the first time, the city will control the funding and administration of manpower funds. Both changes will occur by statute on July 1.

We are looking to pending legislation to authorize a similar change with respect to the distribution of Federal monies for housing and community development.

(c). To begin work in support of the local planning responsibilities transferred to the city government, the Office of Planning and Management (OPM) at my direction is assembling a team to prepare the local elements of the comprehensive plan. That office together with the National Capital Planning Commission (NCPC) has begun the process of identifying local and Federal planning issues to be dealt with by the District and NCPC respectively in accordance with the act. It should be pointed out that, unlike the other transfers, no staff was shifted to the District to carry out the planning function. A request to fund a nucleus of planners to do this work is pending before the Congress.

(d). To provide citizen participation in the development of the comprehensive plan, I shortly will appoint a broadly representative citizens planning advisory committee to advise me with respect to this important task. I also will name a cabinet committee as a District government planning policy committee to meet periodically with me and with the citizens panel on planning issues. In that way, we can assure that planning decisions secure the widest possible support from the city government and from our citizens.

(e). It is my desire that the 1,400 employees to be transferred feel welcome in the District service. Orientation sessions will be provided the entire group on July 18 and steps are being taken to answer any questions that they may have about employee rights and benefits. Except for DCMA, existing union contracts are being carried over. In the case of DCMA, which came under the Labor Department contracts, a new one is being developed in consultation with the union.

The employees, I believe, will find District service rewarding, not only because of the stability of employment, but also because they work closely with the people they serve. The District has a number of special programs for employees including an award-winning occupational health and safety program.

We believe it to be the intent of the self government act that all transferred employees retain Federal benefits they now hold. Because of some technical questions about certain references in the act, we intend to ask the Congress to adopt clarifying language to carry out the understood intent.

I have been assured by the director of the Office of Personnel that procedures are being set up to answer any employee transfer questions promptly and forthright.

Immediately after the May 7 referendum, I met with my cabinet, the heads of all District departments and agencies, to discuss the transition to self-government and the July 1 agency transfers.

At that time, I laid down certain operating policies which I issue today:

- The city government must operate at top efficiency while these important changes are taking place.
- The legitimate concerns of the employees who are affected by these changes must be considered with understanding and sensitivity.
- An open process of consultation and involvement of our citizens and community groups will be followed as we move to pave the way for the elected government.
- We must remember what this effort is all about—to build an elected people's government that rests on the principle of self-determination.

I am transmitting this report to the City Council for its information and to the Congressional Committees concerned with District of Columbia matters. I will report periodically on transition progress to the public, the Council and the Congress.

WALTER E. WASHINGTON,
Mayor-Commissioner.

Date: June 22, 1974.

I believe that our staff has also submitted to you for inclusion in the record a number of documents relevant to our efforts to carry out the provisions of the Planning Sections of the Act, including the May 7th report to which you have eluded. I delivered this morning a letter from Mr. John A. Nevius, Chairman of the D.C. City Council, which he has asked me to call to your attention.

Chairman Diggs. We have received that letter and without objection it will be included in the record with the communication.

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
CITY COUNCIL,
Washington, D.C., June 26, 1974.

HON. CHARLES C. DIGGS, JR.,
Chairman, Committee on the District of Columbia,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: As you know, by the terms of Section 203 of Public Law 93-198, the Mayor and the District of Columbia City Council Chairman become *ex officio* members of the National Capital Planning Commission on July 1, 1974.

Mayor Washington in his role as the chief planning agency of the District of Columbia, has been working closely with the City Council and my staff, keeping us informed of the substantial progress which he and his staff have already made with the NCPC to determine those elements of the comprehensive plan for the National Capital which will be the responsibility of the District Government.

I attach great importance to the successful cooperation of the elected Mayor and an elected Council in achieving a high degree of proficiency in the planning function. It is for this reason that I have taken an active interest in my new role. Indeed, it has been one of the goals of my tenure as the last appointed Chairman of the City Council to increase the participation of the legislative branch in the municipal planning process in the District of Columbia. In a real sense, my participation as a member of NCPC will be building on the foundation of cooperation already established in this regard.

I regret not being able to participate in your hearings today but I wish to assure you that I am well satisfied with the staff progress in working out a fruitful relationship with the NCPC which will I am certain do much to assure the achievement of Congressional intent as expressed in Public Law 93-198, the "Home Rule Charter Legislation."

Warm regards.
Sincerely,

JOHN A. NEVIUS,
Chairman, City Council.

Mr. GILBERT. Mr. Chairman, I was pleased to hear your references to a partnership. In the District of Columbia we are very sensitive and conscious to the need for a continuation of the partnership which, in a fruitful way, produced the Home Rule Act. We expect that we will have problems that we will need to take to you and we appreciate very much that it will be in the spirit of a partnership. This is the way it has been and the way we confidently expect it to continue.

MAYOR IS CENTRAL PLANNING AGENCY

I have some brief background remarks I would like to make prior to addressing the specific questions that you posed. In the Home Rule Act,

as you certainly are aware, there are a number of provisions relating to the planning functions. The Mayor is designated in the Act as the Central Planning Agency of the District of Columbia for purposes of local planning. And he is directed by the Act to prepare the local elements of the comprehensive plans. A procedure is set out in the Act for the approval of these local elements, going from the Mayor to the City Council to the Planning Commission and provisions for consultations thereafter and development of the final form of the local elements of the comprehensive plan. The Planning Commission itself, and I am sure Mr. Conrad will be testifying about that, takes on a new role with respect to the District of Columbia particularly with respect to the comprehensive plan. This new role which is pertinent to how the District of Columbia proceeds with local planning is that the Planning Commission will retain, as we understand the Act, the last word with respect to the Comprehensive Plan on matters that affect the Federal interests.

It will, in addition, have a special role with respect to the development of the Federal elements of the Comprehensive Plans and we, of course, in the City government will have an interest in the development of the Federal element of the Comprehensive Plan to be sure that those Federal elements are compatible with local interests. We will be able to discuss and make our use known. In this regard, the Mayor is a member of the Planning Commission and as of July 1, the Chairman of the City Council also becomes a member of the Planning Commission.

PLANNING REVIEW OF LOCAL PROJECTS

There is provision in the Home Rule Act for continuation of the review relationship with respect to local city projects which has existed. There also is a provision for a review of zoning decisions.

We're quite accustomed to this review process. It's one for which we have developed procedures. We expect now that this is in the Home Rule Act we will develop even more detailed procedures.

I think it's important to understand that, in effect, a dichotomy has been created; that the local elements of the plan become the responsibility of the local government and the Federal element of the plan has become the responsibility of the National Capital Planning Commission in which the local government is represented; and that the two parties to the plan meet at the point of publication of the Comprehensive Plan. The Act requires that the two elements are to be published in one document. There must necessarily be a close working relationship between the City Planning office and the Planning Commission. Both the staff of the Planning Commission and the staff of the Office of Planning and Management are very conscious of the importance of this working relationship with the designated functions and the way it was intended in the Act.

So even before the enactment of the Home Rule Act, staff members of the Planning Commission and staff members of the Office of Planning and Management assisted by the counsel of the Planning Commission and counsel of the Office of the Corporation Counsel have been addressing these joint responsibilities. And at the request of Congress during the period of the development of the Home Rule Act,

the staffs of the Planning Commission and the Office of Planning and Management met together on some other technical problems which have been identified.

The transfer of these local planning functions to the city is a matter of great importance to the City. It enables the City government to tie together the plans and programs that the City has, and ultimately the resources of the city, to carry out the objectives of the City. It should be noted that the transfer of the Planning jurisdiction is a functional one and differs, as I believe the Chairman noted that in his statement, from the other transferred functions where staff and offices were transferred. In the case of the planning transfer only the responsibility for planning was transferred. Now, it's incumbent on us to develop our planning capability so that we can carry out our functions with respect to the local planning function.

Planning in the District of Columbia for some years has been done as an off-shoot of program planning by the individual departments. Generally this planning has been financed as an outgrowth of the Federal government process. That is, the Federal government would make a grant to the municipality and one of the requirements of this grant would be that a proper planning component be developed to carry out the purposes of the grant.

On that basis the City has done a great deal of individual departmental planning or departmental projects or programs and the Office of Planning and Management has done planning with respect to the impact of the metropolitan transit systems on the areas around the rapid transit Stations. We have begun, on a rather small scale, development of a Central Planning Office with some funds provided by the Department of Housing and Urban Development. The Metro Planning Funds have been provided by the Department of Transportation.

BUDGET REQUEST FOR PLANNING OFFICE

Now that planners have been asked to give attention to the development of the municipal planning office and also to getting to work on the comprehensive plan, we have requested in the budget that is now pending funds for this purpose and also for the related community services support. I would call attention to the fact that the planning provisions of the Home Rule Act call upon the Mayor to develop a meaningful system of participation, citizen's participation in the planning process.

TRANSFER OF ZONING STAFF

Also, to strengthen the city's planning capacity, last September the Mayor transferred the support staff of the Zoning office to the Office of Planning and Management so that planning and zoning and citizen participation could be coordinated in one office.

WORK ON COMPREHENSIVE PLAN

We have been holding, Mr. Chairman, a series of meetings with the Staff of the Planning Commission and have set to work to divide the assignments in the comprehensive plan. I would like to offer for your

attention an outline that we have prepared which emphasizes the way we are proposing to go about the development of the comprehensive plan.

You will note on page three of this outline, we have addressed the question that you had asked earlier, that we take a look at the contents of the comprehensive plan for the National Capital and indicate how we propose to proceed.

Now, the first two sheets of this statement list the various elements of the plan that we have identified in our joint meetings with the staff of the Planning Commission. There has been an initial assignment of work responsibility with respect to each of those elements. To illustrate: the initial opening section of the plan entitled "Goals" will be a joint product. The way we see that developing is that we will prepare our draft of those goals that we see the City having a particular priority in and I would assume that the Planning Commission will do the same. Then we would meet together and try to meld those two drafts. That is why, turning to the page three, the concept of the plan there is three x's in the columns on part one and x for the NCPC Federal element, an x for the D.C. City element and an x for the joint preparation.

Now, in some other cases it will be a matter of sole preparation by either the Planning Commission or the City government, depending on whether it's a purely local matter or purely Federal matter in our view.

EMPLOYMENT

Now, there are a number of other situations where elements of the plan have been looked at together may have to be separated. For instance, the heavy Federal employment has traditionally included the District of Columbia government employment. Now, we think it would be appropriate to deal with the programs and policies of the District government employment and objectives and goals separately from the Federal government and so we're going to list as a separate item a subchapter for local government employment.

HOUSING

Similarly in housing, there will be a separate subchapter to deal with military housing which is a Federal concern; the housing units for the local concern and the military housing, which is a Federal concern. We hope the housing element will be such that we can put the two elements together in a housing chapter that make sense.

LIBRARIES

There are a number of other situations where this occurs. The library system of the District of Columbia is purely a local matter. There are many specialized Federal libraries and the Library of Congress. It's my understanding that the Planning Commission intends to look at the Federal Library as part of a developing Federal library system, and so the Comprehensive Plan will take note of that.

HOSPITALS

A similar situation exists with respect to hospitals. There are Federal hospitals, military hospitals, primarily, and there are local hospitals and yet they reenforce each other in providing the hospital care.

On matters such as fire and police protection which is primarily local there is a special federal interest with respect to the federal enclave and that will be addressed. There are also, of course, special federal interests aspects of police and fire with respect to federal installations and embassies, and so forth. When it comes to the planning of the District which has been defined in the comprehensive plan the Planning Commission would like to retain a special interest in what is called the L'Enfant City, the original city of Washington laid out by Charles Pierre L'Enfant. There will be matters where the District of Columbia government will be taking a lead in areas, such as the downtown area, but, with the close participation and cooperation by the Planning Commission in the Pennsylvania Avenue Plan area. Similarly there will be the close involvement, and, in fact, we have just gone through the review of the Pennsylvania Avenue Plan, where the Planning Commission, in accordance with the statute, sent their comments to the Mayor and then the Mayor in his transmission took both a look at their plan and a plan of the Commission which were very close although they did differ in some details.

That is the way we hope to proceed. We focused primarily on the procedural matters thus far rather than trying to get to the substantive content. We will be using the existing comprehensive plan as one of the reference points and guides at which we will be looking.

We will also be examining the programs goals of the various departments of the City government. There will be much greater involvement by the City government in the detailed preparation of the local elements of the comprehensive plan.

The Office of Planning and Management will serve as the District of Columbia Government point of contact with the Planning Commission and it will be its duty to see that there is coordination within the city government so that if a planning issue comes to us from the National Capital Planning Commission, we will get the views of all of the affected District agencies and report these views to the Mayor who will make any policy decision that needs to be made before we return to the Planning Commission with the views of the District Government.

That is the process in terms of the Comprehensive Plan. Of course after the Comprehensive Plan has been developed by the Mayor, he will send it to the Council which will hold hearings on the plan.

CITIZEN PARTICIPATION IN PLANNING

During the process of developing the plan we intend to have full citizen participation. To do this we are proposing to set up a citizen advisory panel which the Mayor will appoint to advise him and assist our office in the work we will be doing on the comprehensive plan.

The members of the Citizens Advisory Committee have not yet been selected but we are actively in the process of compiling a list for selection and expect the appointments to be made shortly.

As we get into those portions of the plan which effect different geographic sections of the city, it's our intention to consult with the community groups in those sections. We're looking ahead to the time when some of the advisory neighborhood councils that are contemplated in the Home Rule Act will be created. When they are, it is our hope that the councils will be set up in such a way that we will be able to call on the services and the assistance of these advisory neighborhood councils to help us with the neighborhood planning reviews which we think are absolutely essential if appropriate planning is to be done in the District of Columbia. We believe the time has come when the planning process, from it's beginning to it's end, has to go forward with full consultation and full participation by concerned citizens. That is the way we plan to proceed.

AGENDA OF NCPC

Now, if I may, I would like to turn to the other question that you asked, Mr. Chairman relating to the agenda of the Planning Commission. It's a relatively simple matter to go through the agenda and indicate which items are primarily a federal interest and which are primarily a local interest. But as we understand what will be happening after July 1, the Planning Commission will continue to examine all of the items but they will be examining them in a different content. They will be looking at local matters that might be submitted to the Planning Commission for review from the standpoint of the federal interest. They may, in addition, give us advice as to whether they think something is good planning or bad planning. But that is a secondary concern on matters that are primarily of local interest. Their primary concern will be to be sure that the City in not proposing to do something that might be in conflict with their role as the custodians of the Federal element of the comprehensive plan and the Federal interest in the Nation's capitol.

So that I think that the agenda would not change very much. It has an agenda and the discussions would go forward in the committees of the Planning Commission and in the Commission itself, presumably taking on a different tone. It's been the practice in the Planning Commission when it had local as well as Federal responsibilities to focus on local responsibilities in great detail. That detail on the local projects, is on July 1st the responsibility of the Mayor and his staff.

Presumably a project will not go forward until intense local scrutiny has been given to it. There will be coordination with the agencies of the city government. Some of that work has been done in the past by the Planning Commission for the City government.

NCPC TO CONTINUE FOR PRESENT

In discussing these matters with the Planning Commission, because of the fact that we have only the nucleus of the planning office at this time, we have reached an understanding with them that they will continue for the immediate present to do some of this work on our behalf. But it's our intention that we were going to absorb this work, this purely local review, as rapidly as we are able to do so.

In other words, we are going to be going through a transition period in the next few weeks and months as we're developing processes and procedures and the handover procedure will be occurring.

For instance, we have discussed at our meeting earlier this week the question of the review of the local projects that in routine course are being presented for the consideration of the Planning Commission at their August 1 meeting. We are going to initiate taking responsibility for the local review but we have asked the Planning Commission staff to complete the work that they already have in progress on those projects so that there will not be an abrupt change. The work will go forward smoothly. There will be a clear identification of what is being done and what is being reacted to concerning the local elements of the plan and what is being reacted to in the Federal interest. I think on this basis we expect to have a good and effective working relationship with the Planning Commission. We feel that it's auspicious that we reach this understanding with their staff on procedures now. It's a matter of dealing with the individual projects and working through them. There will be discussions and undoubtedly there will be times when there will be differences.

We feel there is an adequate piece of machinery here to identify these differences and to discuss them and deal with them in the spirit in which the Act was passed.

Mr. Chairman, that concludes my background remarks and I would be pleased to answer any questions that the committee may have.

Chairman Diggs. Does Mr. Robbins have any statement at this point?

Mr. ROBBINS. Just to respond to questions, Mr. Chairman.

HUD 701 FUNDS

Chairman Diggs. Mr. Gilbert, what about the planning grant funds, HUD 701 funds. Has HUD decided whether you are going to be eligible to receive them?

Mr. GILBERT. We have been receiving 701 funds, Mr. Chairman for the purpose of setting up the Central Planning Office. I believe I am correct that we will receive \$58,000.00 for that purpose, as well as some 701 funds for the purpose of supporting the activities of the Office of Planning and Management with respect to the implementation of the Nelsen Commission recommendations and the Office of Budget and Financial Management has been receiving 701 funds for support of it's activities.

Now, we have been informed that because of the curtailment of the 701 funds that has occurred, we will only be able to receive a total of \$155,000.00 for these purposes.

This is a substantial cut from what the amount we have been receiving in the present fiscal year and we have asked the Department of Housing and Urban Development to review that allocation in the light of the fact that we have these additional responsibilities under the Self-government Act. We have not been advised to where they stand on this and we're hoping to get word in the next few days.

HUD RESPONSE

We have now been informed that we will receive \$155,000 in 701 funds. One half of this amount is allocated to the Office of Planning and Management and the other half is allocated to the Office of Budget and Financial Management. OPM will divide its half between its units of Organization and Management and Planning. This will enable us to support existing operations until September 30, 1974. We are still seeking additional funds to continue operations beyond that date.

Chairman DIGGS. So it has been determined that the D.C. Government is eligible to receive them but apparently the indications are they're going to be reduced or have been in fact reduced.

Mr. GILBERT. That is correct.

ROLE OF CITY COUNCIL AND ZONING COMMISSION

Chairman DIGGS. What about the City Council, what preparation has been made for it's new job of approving the Comprehensive Plan elements or changes?

Mr. GILBERT. I think that is still ahead of it, Mr. Chairman. We're very much aware of the fact that the City Council will be a great deal more active in this area than it has been. There is one change I believe that is pertinent in this regard. Under the present law the Mayor and the Chairman and Vice-Chairman of the City Council sit on the Zoning Commission. That has been the place where the executive branch and legislative branches have had an opportunity to meet on planning matters. We have had a very close working relationship with the Council through the Zoning Commission machinery.

Now, under the Home Rule Act those three officials will be replaced by three citizens members that have been appointed by the Mayor with advice and consent of the Council. Zoning will go forward under the Act without the detailed participation of the Mayor, Chairman and the Vice Chairman. We welcome that because the demand of the zoning process has been such that it's been taking a great deal of the time of those officials. Some of the legislative functions that the Zoning Commission has performed in the planning and zoning areas will now move to the City Council. In addition, the Mayor will be sending to the City Council a comprehensive plan. Then Council will have to set up proper review procedures.

The Council did get some 701 money; \$70,000.00 in the current year to help it support this function. That money will expire, and, as I understand it, that money will not be renewed. The Council has asked for additional resources through the budget process.

CITIZEN PARTICIPATION

Chairman DIGGS. I was prepared to ask you about citizen participation and I noted in the Mayor's press release which you handed us before, he plans on appointing a Citizen Planning Advisory Committee, is that the answer to that question?

Mr. GILBERT. That is a partial answer, Mr. Chairman.

Chairman DIGGS. Have you discussed this organization with any citizen's groups?

Mr. GILBERT. What we have been doing with citizen groups is discussing, on a continuing basis, our commitment to develop and evolve the planning process with as complete citizen participation as possible.

What we have been doing on the particular projects that we have been working on has been to develop new devices and new types of machinery for citizen participation. We have been developing what I think is an excellent report with the citizen components in the various areas of the City.

As far as this particular proposed mechanism, we haven't reached the point yet, Mr. Chairman. I am sure there will be such discussion as the Mayor develops the components of this committee.

We expect that we would like to select about a dozen persons for this committee as a start. It's our hope that it will be broadly represented on the varying view points on planning issues and also broadly represented of the City, its geographic areas and its makeup.

We are just about beginning that process. There will be involvement of and consultations with the groups that have been identified to us. We have set up a special forum to hear citizens views on the West End. We have been meeting with the citizens of the Northeast quadrant of Washington on the planning concerns that they have expressed to us. These meetings have been of a continuous nature. We have urged the citizen groups to go forward with their planning work and tell us what they think.

We are approaching this whole process with the idea that the day when planners will sit in their office and develop a plan and bring it forward full blown and say, 'Now, citizens, here is the beautiful plan that we have prepared for you; what do you think of it.' We think that that is not the way to proceed. What should be done is when we identify a planning problem or planning assignment, at that point we should call the effected citizens and interested citizens in and say we need to look at the area around this Metro station; or we have got this proposal, A, B or C. It might be a Federal Agency or it might be somebody in the private sector. We would like to sit down with you and meet with you and understand how you feel about your own community and what your hopes are and your objectives are for your community. We ask you to help us develop the plan so from the very outset it will reflect the viewpoints of the citizens.

FRIENDSHIP HEIGHTS CITIZENS

Now, we have had some success in this in the Friendship Heights area. That was a planning effort that had certain complications because Friendship Heights is bisected by the District Line. There were citizens in Maryland and Maryland Planning Authorities and citizen groups on the District side of the line. The NCPC was involved and they invited us to join them and we sat up kind of a joint coordinating committee which had citizen input from both Maryland and the District side, both citizen and official input. We went forward and the product of that effort over a period of a year and a half or two years was a recommendation of some rather major changes in zoning on both sides of the District of Columbia line. I am pleased to report that because of the way it was done; the product was accepted on both sides

of the line. The zoning changes have either been made or are in the process of being made in the District of Columbia and Maryland. That is one prototype we're going to develop whatever is appropriate for whatever area we work in.

PUBLIC HEARINGS ON NEW REGULATIONS

Chairman DIGGS. I have one question here for Mr. Robbins. Prior to the adoption of the regulations for Commissioner's order on this new planning set up, are you going to have public hearings in this regard?

Mr. ROBBINS. I am not sure I quite understand the question.

Chairman DIGGS. Are you planning any public hearings?

Mr. ROBBINS. For instance the advisory—

Chairman DIGGS. Are any public hearings being planned prior to the adoption of the regulations or commissioner's orders to be put into effect, are any parts of the new set ups on planning going before public hearings?

Mr. ROBBINS. I am unable to answer that question. I will be glad to supply it for the record.

REPLY OF Mr. ROBBINS

While no formal public hearings on the specific orders are planned, there has been a continuous and active process of community involvement in the transition process. While all of the orders have not been distributed for citizen comment, the decisions reflected in the orders were put before the citizens and community organizations. Further, in his June 29, 1974 statement announcing issuance of the orders Mayor Washington invited the views of the citizens and community organizations to assist the city government in perfecting the new organizational arrangements to carry out the provisions of title II.

Mr. Chairman I think this reflects the city's commitment to obtain the views of citizens. We have been doing this and we will continue to do this.

NELSEN COMMISSION RECOMMENDATION

Chairman DIGGS. Mr. Nelsen.

Mr. NELSEN. Only to say that the intent of the Commission was to provide that the National Capital Planning Commission be sort of the arm of Congress, arm of the Nation and review what is being done, but in the areas where there is local activity that after it was screened a bit be decided what the local, Federal wanted and then it would be in your hands downtown to go ahead from thereon. So I think now our functions here on the Hill is to see that the Federal interest is protected where there is Federal interest.

But to give a free hand to the City's government under the Home Rule Bill that was passed and not interfere with the City, let the City take the ball and that was the intent of the Congress and I think from your statement that you are moving in that direction and I just want to say we want to be helpful to you and thank you very much.

Mr. GILBERT. Thank you very much.

Chairman DIGGS. Mr. Fauntroy.

Mr. FAUNTROY. Thank you, Mr. Chairman. I simply have a question with respect to Mr. Broyhill's suggestion that perhaps we grandfather those who have federal benefits now, not only in their present positions but in any position to which they may ascend during the course of

their life time in public service in the District of Columbia. Do you have any preliminary judgments as to how acceptable that would be for the District of Columbia at this time?

Mr. GILBERT. Mr. Fauntroy, if I may, I would like to defer to other witnesses who are scheduled this morning who have prepared testimony on that matter.

Mr. FAUNTROY. Thank you.

Chairman DIGGS. Mr. Gude.

Mr. GUDE. No questions.

Chairman DIGGS. Mr. Breckinridge.

Mr. BRECKINRIDGE. No questions.

Chairman DIGGS. Does the Senate staff have any questions?

Mr. HARRIS. None.

Chairman DIGGS. Would the Staff like to ask some questions?

FEDERAL LIBRARIES

Mr. WASHINGTON. I would like to ask a question of Mr. Gilbert, you said federal libraries in the NCPC would have responsibility for federal libraries. Does that contemplate the Library of Congress?

Mr. GILBERT. I think that specific question, Mr. Washington, probably would be best addressed to the NCPC. I think in terms of the comprehensive plan, they are looking at the existing libraries that are Federally supported in the Washington area that are a potential library system. I don't mean system in the sense of a public system. For planning purposes it's a system and they would want to be sure that the locations of proposed new libraries are addressed and relate to other libraries and other names that might be related to the library. It's a planning concept rather than anything else.

Mr. WASHINGTON. I raise that question because Congress last year, there was some concern about NCPC—that NCPC would exercise jurisdiction over the library of Congress and to that end an amendment was offered excluding the Library of Congress, the Supreme Court and the Federal Building adjacent to the Capitol. It's very clear I think, it's beyond anyone's expectation.

Mr. GILBERT. You refresh my recollection of it. I appreciate that. I am sure there is no intention on the part of the NCPC to do anything in conflict with that intention.

Mr. WASHINGTON. I agree and I think this should be more appropriately addressed to NCPC. I would like to have their observations in relation to NCPC's new role.

And is it your view that the new role would anticipate an obvious reduction in their size of staff because their functions have changed essentially if there will be a prominent increase in your staff.

Mr. GILBERT. I think it would be inappropriate Mr. Washington for me to discuss the size of the NCPC Staff. They will have Federal review responsibilities with respect to local projects and I think that they will have to develop the work program as it unfolds.

NCPC RULE CHANGES

Mr. WASHINGTON. Finally. I would just like to know whether the District government has had a position with NCPC proposed rule

changes. As you will know, the Home Rule Act applies new memberships on the commission. The likelihood of—with respect to congressional members and we look upon some intrigue to see that they now have changed the responsibility with congressional members or alternates and the District government had any position with respect to that change?

Mr. GILBERT. Well, speaking for myself, Mr. Washington, I just became aware of the rule changes proposed twenty four hours ago and I really have not had a chance to study it.

Mr. WASHINGTON. I know the Senate joins me in that statement, we were shocked, the rules were being changed prior to the new membership and there is a meeting this month and no meeting in July and a meeting in August with a new membership. We were concerned with the role of the District in this regard. I take it you have had no official position?

Mr. GILBERT. Mayor Washington designated me as his principal alternate starting July 1. As of today, I believe there is a planning commission meeting today, Mr. Banks is the principal alternate on the Commission and Mr. Starbabin is the second so I will be glad to inquire and see whether this matter has been studied by Mr. Banks and whether we have a position on it.

REPLY BY DISTRICT GOVERNMENT

In our judgment, this matter should appropriately be addressed at the next Commission meeting on August 1, 1974 and the District Government would support a move to reexamine the rule changes at that time.

Mr. WASHINGTON. Thank you.

Chairman DIGGS. And will provide that for the record?

Mr. GILBERT. Be glad to.

Chairman DIGGS. I think it's a very important point.

PERSONNEL DOING PLANNING

Mr. MACIVER. Do you have anything a little more specific on personnel as to the numbers of people you expect to have in your planning office and the number that will be spread around throughout the other parts of the City government, which part of the plan they will be doing?

Mr. GILBERT. Mr. MacIver, we really will not have that until the Congressional budget process has been completed. We did request the appropriation of nine positions for the planning function and ten positions for the community service functions to support community participation in the planning process.

We also requested some money to pay the civilian members of the Zoning Commission. The first cut of that request, at the House Appropriations Committee level, was to deny those increases. I am hopeful that the denial was without prejudice to the request. I think it was done as a result of the concern for fiscal constraints that the House Appropriations had in reviewing the District budget. The Mayor in his statement commenting on the District Appropriations Committee actions expressed the hopes that the planning function would be restored.

Mr. MacIVER. How much was that?

Mr. GILBERT. It was \$150,000.00 for the planning commission support, \$120,000.00 for the community services support and \$30,000.00 for the zoning commission support.

Mr. MacIVER. And if those funds aren't divided, will there be any money from other parts of the budget to set those planning offices up?

Mr. GILBERT. I believe that those funds are not provided. We will have a very serious problem if they are not.

Chairman Diggs. Mr. Hogan.

Thank you very much.

Mr. GILBERT. Thank you.

Chairman Diggs. Next we have a group of witnesses involving the transfer of D.C. Manpower Administration of the Department of Labor to the Mayor.

Mr. Julian Dugas, Special Assistant to the Mayor and his Executive Director, Thomas A. Wilkins. We also have Don Weinberg, Director of Personnel.

We also have a representative of Clyde M. Webber, National President American Federation of Government Employees and Mrs. Mattie Taylor, Committee of Concerned DCMA Employees and Mrs. Kelcy C. Hoff, Employee, Department of Labor.

STATEMENTS OF JULIAN DUGAS, SPECIAL ASSISTANT TO THE MAYOR, D.C. GOVERNMENT; THOMAS A. WILKINS, EXECUTIVE DIRECTOR, D.C.M.A.; AND DON WEINBERG, DIRECTOR OF PERSONNEL, D.C. GOVERNMENT

Chairman Diggs. Mr. Dugas, you have a prepared statement?

Mr. DUGAS. Yes, I do.

Chairman Diggs. You may proceed.

TRANSFER OF D.C. MANPOWER ADMINISTRATION

Mr. DUGAS. Mr. Chairman, I am prepared to speak to you today as the Mayor's representative on a Joint Department of Labor District of Columbia Task Force involved with the transfer of the District of Columbia Manpower Administration to the District of Columbia.

I am appearing before you to apprise you of the actions which have transpired regarding the transfer of the District of Columbia Manpower Administration to the District Government as directed by the "District of Columbia Self-Government and Governmental Reorganization Act."

The actual logistics of transfer have proceeded well and all actions necessary to accomplish same will be completed on or before July 1, 1974. Language contained in Section 204 of the Act, relating to employees' Civil Service rights and the transfer of a certain DCMA organization element, has caused some concern. The specific details relating to these problems will be discussed by Don Weinberg, D.C. Personnel Officer and Tom Wilkins, DCMA Administrator.

INITIAL ACTION OCTOBER 1973

The initial activity concerning the transfer had its origin in mid-October of 1973, Mr. Chairman, and may I say, parenthetically, we had heard down at the District Building that we had been sitting on our hands regarding this matter. I want to have the Chair note that I have before you the files involving this matter and they are available for the perusal of this staff and this committee to indicate that there has been no hand sitting on this matter.

It's been a matter of deep concern to the District and it started as early as mid-October, 1973 long before the legislation was passed by this eminent body.

Now, at this time, the Assistant Secretary of Labor for Manpower, William Kolberg, met with Mayor Washington and agreed that there should be a joint cooperative effort between the Department of Labor and the District Government to assure a smooth transfer, should the then pending bill become law.

Secretary Kolberg and the Mayor saw the organizational vehicle needed to accomplish this job as a Joint Task Force. I, as General Assistant to the Mayor, was designated to represent the Mayor and Ben Burdetsky, Deputy Assistant Secretary for Manpower, was assigned as the principal Department of Labor representative. Thomas A. Wilkins, D.C. Manpower Administrator, was named the Executive Officer for the Task Force. Other executive staff from the District of Columbia, D.C.M.A. and the Department of Labor were selected according to their special areas of responsibility to serve on a Steering Committee. Work groups were identified for major areas and staff assigned in addition to their regular duties.

Comments on the language in the draft bill were submitted in November 1973, a concept paper for arrangement of manpower functions within the D.C. Government was developed and circulated, and the Joint Task Force leaders met. After the signing of the Act, Department of Labor officials were included in the planning meetings and an audit of the financial systems and status of DCMA was requested by and granted to Mr. Wilkins from the Department of Labor staff for Internal Audit.

ACTION OF FEBRUARY 1974

A preliminary budget estimate for DCMA in FY 1975 was presented for the first time to the D.C. Government on February 3, 1974, and hearings on same were held by the City Council.

On February 19, 1974, the Mayor and the Task Force principals met at the Labor Department with the full membership of the Steering Committee and working subcommittees, which included representatives from D.C. Government, DCMA, the Manpower Administration National Office, the Region III Office, the Solicitor and the Assistant Secretary for Administration and Management of the Department of Labor. Early planning and actions by actors from each of these offices included exploration of a variety of combinations of services for the District including the possible formation of a Department of Labor.

However, on March 15, it was determined that DCMA should be transferred into the D.C. Government from the Manpower Administration with as little change or disruption to its services or to the District Government as possible. Emphasis, at this point, was switched from organizational to functional considerations.

The structure and staffing that will be transferred to the District Government on July 1, 1974 will be identical to that contained in the Reorganization Plan of DCMA dated May 12, 1974, with the exception of those 23 positions involved in contract management which we believe are not sufficiently covered by the Act.

In addition, the Mayor has prepared a Commissioner's Order establishing the new Department of Manpower setting forth its purpose and functions to be effective upon the date of transfer. Funding to support this staffing throughout FY 1975 has been agreed to between the Manpower Administration, DCMA, and the District Government. The funds will be processed through the usual Federal manpower channels, including Region III in Philadelphia, to the District Government, as with any other State employment agency. At present this represents a level of 382 manyears and approximately \$7,149,000 for staffing and personal services. Additional funding for program activities will be provided the Agency thru grants from the Department of Labor, specifically in the areas of employment service, Work Incentive Program (WIN) and the Comprehensive Employment and Training Act of 1973 (CETA) in the amount of approximately 23.4 million. Approximately \$5.6 million of this amount will be for the Employment Service, \$3.8 million for WIN and \$14 million for CETA. Since the transfer is simultaneous with the change in fiscal year, no transfer of funds is anticipated, other than program monies already obligated to program sponsors, and for the operation of the Work Incentive Program.

In closing, I think that the Department of Labor, the District Government and DCMA have taken the necessary steps to insure that DCMA is properly transferred to the District of Columbia Government on the established date of July 1, 1974. I wish to assure you of the Mayor's continuing concerns regarding the protection of the individual rights of those employees who are transferred to the District of Columbia Government.

EMPLOYEES RIGHTS

The Mayor together with key personnel of the District Government, DCMA, Manpower Administration National Office and Labor officials met recently to explore possible resolution of the problems raised by the DCMA employees regarding retention of their competitive service rights. The Mayor strongly supports amendatory language that will ensure the continuation to all affected employees of any and all rights enjoyed by them as a member of the Federal service as they enter into service as District Government employees.

Mr. Chairman, for the information of the Committee attached is a chronology of significant events in preparing for the transfer of DCMA to the District of Columbia Government.

CHRONOLOGY OF SIGNIFICANT EVENTS IN PREPARING FOR THE TRANSFER OF DCMA
TO THE DISTRICT OF COLUMBIA GOVERNMENT

October 19, 1973: Mayor Washington and Assistant Secretary Kollberg met and agreed to form a Joint Task Force to oversee planning and arrangements for the transfer of DCMA to the D.C. Government. Mr. Ben Burdetsky, Deputy Assistant Secretary and Mr. Julian Dugas, Director, Department of Economic Development, were designated as representatives. Other Department of Labor and District Government Executive staff were named to a Steering Committee.

November 9, 1973: Revisions proposed by DCMA for the language effecting employee status in the Home Rule Bill were rejected because they might delay House action on the Bill.

November 15, 1973: Concept paper developed in DCMA to show possible interrelationships of manpower functions within the D.C. Government, and circulated to the Joint Task Force.

November 28, 1973: Joint Task Force principals met.

November-December 1973: Mr. Wilkins met with all DCMA employees to acquaint them with the current status of the transfer and legislative actions.

December 24, 1973: President signed the District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93-198).

January 7, 1974: Meeting of DCMA, Manpower Administration and DOL principals to organize the DOL involvement and participation in the transfer Task Force.

January 10, 1974: Mr. Wilkins requested the DOL internal audit staff to review the financial status and systems within DCMA, prior to transfer.

January 1974: Mr. Everett Crawford contacted Region III, DOL, to coordinate their participation with the transfer effort.

January 29, 1974: Joint Task Force principals met to define the agenda for the Kick-off meeting of all Task Force and Work Group participants.

February 5-26, 1974: Working guidelines and objectives drafted for the transfer work groups, and procedures developed for operation.

February 19, 1974: Mayor Washington, Mr. Julian Dugas and Mr. Ben Burdetsky met with the full complement assigned to the Steering Committee, work groups, and related staff to launch the full-scale transfer preparation.

February 21, 1974: DCMA provided a briefing to Mayor Washington on the Comprehensive Employment and Training Act (CETA).

February 25, 1974: Mr. Wilkins discussed DCMA budget estimates and briefed the D.C. Council on operation and transfer planning status.

February 27, 1974: Chairmen for all work groups were appointed by Messrs. Dugas and Burdetsky.

February 1974: Determined plans for inventory and transfer of DCMA office property to D.C. Government for OASA and O/S, DOL.

February 1974: OMB was contacted by Mr. Crawford to establish the liaison and coordination for the transfer, per Section 204 (f) of the Act.

March 4, 1974: The Legal work group indicated that coverage for all DCMA employees, under Section 204 of the Act, may be questionable.

March 15, 1974: Messrs. Dugas and Burdetsky determined that the DCMA transfer should be basically in its present form and to defer considerations of extensive rearrangements of other D.C. Government units.

April 9-30, 1974: Details regarding the transfer of contractor property responsibilities and building management responsibilities negotiated between DCMA, Manpower Administration, Mr. Sam Starobin, D.C. Department of General Services, and GSA.

April 30, 1974: Office of the Solicitor, DOL, advised that it favored a limited interpretation of the Section 204 coverage for DCMA employees.

May 6, 1974: Procedures for the transfer of Contractor property were agreed upon by all parties.

May 7, 1974: Mr. Donald Weinberg received response from CSC regarding the rights of employees affected by the Act.

May 7, 1974: Work begun in DCMA to develop a Grants Management System to link with the D.C. Government.

May 8, 1974: Determined the classifications and procedures for transferring official contract files, payment files, working files from the DCMA and Manpower Administration.

May 10, 1974: Letter sent by Mr. Kolberg to Mayor Washington explaining available funding levels for FY 1975 at 405 manyears for DCMA.

May 16, 1974: Letter signed by OASA, DOL, to confirm arrangement for DOL payment of employees through the complete pay period ending July 6, 1974.

May 17-23, 1974: Office Directors and supervisors conducted meetings with all DCMA employees to clarify the reorganization.

May 22, 1974: Internal audit of DCMA financial systems and status coordinated with D.C. Government accounting staff and orally updated DCMA officials.

May 24, 1974: Commissioner's Order issued to establish and to appoint membership for the Manpower Services Planning Advisory Committee.

May 29-30, 1974: Joint orientation sessions for DCMA and D.C. Government senior staff.

May 30, 1974: Office of the Solicitor, DOL, advised the Interagency Executive Committee (IEC) of the possible tenuous position resulting if all DCMA employees are transferred under Section 204 of the Act.

May 1974: Payroll data transfer impediments identified and meetings held with OASA, DOL; DCMA; MA; and D.C. Government Payroll Staff.

June 3, 1974: DCMA and D.C. Government staff reviewed funding information with Mr. Comer Copple.

June 3, 1974: DCMA began completion of personnel and payroll data forms for D.C. Government new employees.

June 5, 1974: Official letter issued to all DCMA employees requesting their formal acceptance of the transfer (As of 6/25/74, all employees responded except 4 permanent and 2 temporary employees).

June 10, 1974: Physical inventory of all DCMA office equipment and property completed and valuation established by DCMA staff.

June 12, 1974: MA team initiated on-site assistance to DCMA for closeout of terminated contracts.

June 14, 1974: IEC met with Mr. Hugh Davies, MA Region III, to resolve relationships after the transfer, procedural arrangements, etc.

June 14, 1974: General agreement covering Control/Grant Procedure to be followed after transfer agreed to by D.C. Department of General Services, Corporation Counsel and DCMA.

June 17, 1974: DCMA, D.C. Government and Union representatives met and reached general agreement concerning proposed amendment to Self-Government Act.

June 17, 1974: Mayor met with Committee of Concerned DCMA Employees.

June 19, 1974: Discussions concerning interface of CAMPS Staff and Department of Manpower held in connection with CETA, subsequent to the transfer.

June 25, 1974: Final Draft of Commissioner's Order approved, to establish a D.C. Department of Manpower, effective July 1, 1974.

June 25, 1974: Information necessary for OMB issuance of a Determination Order received concurrence of the Mayor and Assistant Secretary Kolberg.

I am ready for questions, sir.

Chairman DIGGS. Your reference to the amendatory language, what are you talking there officially, what amendatory language are you talking about?

Mr. DUGAS. There have been some suggestions, Sir, that members of certain labor groups, District of Columbia officials and the Labor Department officials met with the Chief Counsel of this House Committee staff discussing possible amendatory language. That is the language to which I speak.

Chairman DIGGS. Well, is it in some form or what?

Mr. DUGAS. That is some something Mr. Weinberg and Mr. Wilkins have more of the detail about, Mr. Chairman. I have not engaged in that kind of detail. I am not the legislative end of this. I am simply the coordinator of the Task Force. There are several bits of proposed amendatory language and these two gentlemen are prepared to discuss them with you.

Chairman DIGGS. Before we go into questions, does Mr. Wilkins have a specific statement?

Mr. WILKINS. No, I do not.

Chairman DIGGS. Beg pardon?

Mr. WILKINS. No, I do not.

Chairman DIGGS. Mr. Weinberg?

AMENDMENTS PREPARED BY D.C. GOVERNMENT

Mr. WEINBERG. Mr. Chairman, I think I can provide the amendatory provisions that you requested and I have a short statement to read.

Chairman DIGGS. The gentleman may proceed.

Mr. WEINBERG. Thank you, Mr. Chairman.

As you know, Title II provides for the transfer of the three Federal Agencies to the D.C. Government, specifically NCHA, RLA and the D.C. Manpower Administration which is currently in the Department of Labor and further provides that the positions in the D.C.M.A. when tempt to correct disparity with respect to the rights afforded employees transferring with their functions to the D.C. Government. The Act contains specific language in Section 204 regarding the D.C.M.A. transfer functions which are to be transferred from the Department of Labor and further provides that the positions in the D.C.M.A. when vacated will no longer be in the competitive service.

The language in section 201 and 202 regarding the transfer of R.L.A. and N.C.H.A. does not specify status of positions in these agencies subsequent to the transfer although they are currently in the competitive services of Federal Government. A decision was requested from the general counsel of the U.S. Civil Service Commission regarding these positions. Are these positions to remain in the competitive service or do they become accepted service positions after July 1, 1974.

The General Counsel ruled that in the absence of language to the contrary, the positions remain in the competitive service and all employee actions affecting the positions and/or incumbent must be accomplished within a competitive civil service requirement. This decision was viewed by the transferring of personnel of R.L.A. and N.C.H.A. as very favorable inasmuch as these employees could move to other positions within these agencies and remain in the competitive service.

The decision, however, Mr. Chairman, as to employees of D.C.M.A. has created an inequity inasmuch as their retention in the competitive service is contingent on their remaining in the position held at the time of the transfer. The situation in D.C.M.A. is compounded by the fact that certain functions under the Manpower Development and Training Act and Economic Opportunity Act which are currently being performed by approximately twenty-three employees of the D.C.M.A. will be abolished or shortly phased out upon a repeal of these Acts on June 30, 1974.

Mr. Chairman, we are advised there is no vehicle to transfer these twenty-three employees to the District of Columbia Government. Accordingly since expertese is needed to administer programs under the Comprehensive Employment and Training Act and phase out the Manpower Development Training Act function, these employees, under

our proposal would be retained in the Department of Labor until the proposed legislation was enacted and continue to perform their responsibility within D.C.M.A. under a joint D.C. Government-Labor Department agreement. The proposed lines would be this: section 204 of Public Law 93-198 would be amended by redesignating subsection F as G, inserting the following as Sub-section F and redesignating subsection G and H as Sub-section H and I and the proposed provision would be as follows, "All other functions and the funds therefore of the Secretary in connection with the District of Columbia Manpower Administration which may be appropriately performed by State or municipal government shall be transferred to the Department of Labor to the District Government. The twenty-three employees would not be required to relinquish their positions in the competitive service in order to accept such assignments if the proposed amendment, proposed by Congressman Broyhill, of section 204 is adopted.

We feel all employees effected by the functional transfer provision of Title II should be afforded the same benefits and since retention in the competitive service is viewed by these employees as a benefit, we are requesting your support in obtaining an amendment to Public Law 93-198. We are of the opinion that by deleting the second sentence in 204(g) the position in the D.C. Manpower Administration including new positions established within that administration would remain in the competitive service.

This opinion is based on the decisions rendered by the General Counsel of the U.S. Civil Service Commission regarding R.L.A. and N.C.H.A. positions and we feel this could be applied to D.C.M.A. positions if the restricted language in 204(g) were deleted.

After exploring all possible administrative actions in an effort to resolve the problems, we have concluded that corrective legislation is required and respectfully request your favorable consideration of our proposed amendment to Public Law 93-198.

Thank you Mr. Chairman.

Chairman Diggs. Mr. Pellerzi, do you have a prepared statement?

STATEMENT OF LEO PELLERZI, GENERAL COUNSEL, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Mr. PELLERZI. Mr. Chairman, I do and I bring you Mr. Webber's regrets that he is unable to appear here. I am Leo Pellerzi, General Counsel of A.F.G.E. and with your permission, Mr. Chairman, I would like to present this statement.

Chairman DIGGS. You may proceed.

Mr. PELLERZI. The American Federation of Government Employees appreciates the opportunity afforded by your Committee to participate in the Oversight Hearings of your Committee regarding clarifying and technical amendments to H.R. 9682, which became Public Law 93-198 on December 24, 1973.

Our union represents more than 650,000 employees of the Federal government, working for either appropriated or nonappropriated funds, and more than 6,000 employees of the District of Columbia. We also represent all the Federal employees affected by Section 204 of H.R. 9682. The total number of funded positions involved appear to

be 382. Of these 341 are now occupied by persons assigned to the Office of Employment Services: there are therefore 41 unoccupied positions, twenty-three of which could be filled suitably by employees in the Office of Manpower Training Programs as we shall explain.

Our testimony today is related therefore solely to the clarifying and technical amendments to Section 204 of the Act which affect these employees in the Office of Employment Services and the Office of Manpower Training Programs.

When H.R. 9682 was under consideration, our union had discussions with the representatives of the government of the District of Columbia particularly regarding Section 204(g). We were especially concerned with the problems which the awkward phrasing of the last sentence of that subparagraph would present. Consequently, we requested its deletion and were under the impression that this would take place during the Conference between the House and Senate representatives. Unfortunately, the last sentence of Section 204(g) was retained.

I think Mr. Webber clearly indicated some of the difficulties of the statutory construction that emanated from it.

Since enactment of H.R. 9682 into P.L. 93-198, we have had further discussions with the government of the District of Columbia which, we understand, now agrees with us that the last sentence of Section 204(g) could lead to confusions and misunderstandings. We are informed that the District of Columbia representatives are now prepared to join us in requesting from you a clarifying amendment to delete the last sentence of Section 204(g) and to substitute for it the following:

All positions identified with functions transferred to the District of Columbia government under the provisions of this Act shall remain in the competitive service.

We are even more concerned with some developments which have been taking place concerning the twenty-three funded and occupied positions in the office of Manpower Training Programs in the D.C. Manpower Administration.

From reports we have received of the situation, it is our understanding that the Department of Labor has been transferring personnel into and out of the Office of Employment Services from other offices but has not afforded personnel in the Office of Manpower Training Programs appropriate opportunities they should have had to be placed on a priority basis into some of the 41 unoccupied positions in the Office of Employment Services.

I would like to digress a minute and say that Mr. Webber underscored the need of the D.C. Government for the skills possessed by these people in his statement.

Had this occurred, these 23 employees could then be transferred with all other employees on July 1, 1974 to the District of Columbia because they would have become a part of the transferring segment.

We have had allegations presented to us that the insensitivity of the Department of Labor to the problems of these 23 employees may be related to opposition to some of the personnel we represent who have been active union members. These allegations give us great concern, of course, especially since there appears to be very little time now left to

examine these allegations appropriately prior to July 1, 1974, the effective transfer date which is less than a week away.

For this reason, we should like to have your Committee consider as a clarifying and technical amendment the addition of a single sentence at the end of Section 204(g) which would retain for these employees the rights they now have and should be enjoying. This single sentence affecting only 23 employees for 41 available positions would be the following:

Personnel of the Office of Manpower Training Programs in the District of Columbia Manpower Administration shall be granted the identical rights of transfer as any other Federal personnel in that Administration being transferred under this Act.

In summery, we wish to express our deepest appreciation for the opportunity to appear before you to present two one-sentence clarifying or technical amendments to H.R. 9682. Both concern employees of the District of Columbia Manpower Administration. The first would add a technical amendment to Section 204(g) at the very end of the paragraph, reading as follows:

Personnel of the Office of Manpower Training Programs in the District of Columbia Manpower Administration shall be granted the identical rights of transfer as any other Federal personnel in that Administration being transferred under this Act.

The second clarifying amendment would delete the present last sentence of Section 204(g) and subtsitute in its place the following:

All positions identified with functions transferred to the District of Columbia government under the provisions of this Act shall remain in the competitive service.

Through these two minor technical and clarifying amendments we believe, the transfer of functions and the transition to Home Rule would be facilitated without inequities being imposed on any employees.

I should be most pleased to supply your committee with any further information which you may wish to have on matters of interest to you. I assure you of the fullest cooperation of all our members in supporting effective Home Rule and in developing a District of Columbia merit system equal to that provided by Congress for Federal employees.

I will be pleased to attempt to answer any questions the Committee may have.

Chairman Diggs. Mrs. Taylor, do you have a statement?

STATEMENTS OF MRS. MATTIE TAYLOR AND MRS. KELCY HOFF, D.C. MANPOWER ADMINISTRATION

Mrs. TAYLOR. I have submitted it.

Mr. Chairman, our honorable representative from the District of Columbia, Mr. Fauntroy, to all of the Honorable members of the United States Congress who serve on this committee, we bring you our greetings this morning.

My name is Mattie Taylor, and I am an employee of the District of Columbia Manpower Administration (DCMA). May I express our

humble gratitude to you for affording us this opportunity to address you on a desperate situation that adversely affects employees of our agency transferring from the Department of Labor to the District of Columbia Government under the provisions of Title II of Public Law 93-198.

I am here to speak on behalf of the Committee of Concerned DCMA Employees which forwarded a petition to you signed by almost 300 aggrieved workers in our agency. As you know, our petition requested that you delete the last sentence from section 204(g) of the Act that reads: "when such an employee vacates the position into which he was transferred, such position shall no longer be a position in such competitive service."

The provisions of this sentence apply only to employees of DMCA. Two other agencies are being transferred under Title II, the Redevelopment Land Agency (RLA) and the National Capital Housing Authority (NCHA). These agencies will retain full competitive status after the transfer. The employees of these agencies will be fully covered by section 713. The Civil Service Commission concludes that "Neither the rights of the employees nor the status of positions in NCHA and RLA should be affected by the transfer which will take place under the Act on July 1, 1974." We are viewed as an exception to this rule because of the sentence in section 204(g) that we have cited.

Peculiar only to DCMA, positions retain their competitive service character only as long as the transferred incumbents remain in the positions. Vacant positions that are transferred lose their competitive character and become excepted positions. Persons promoted or reassigned after the transfer go into excepted positions. Persons serving in career conditional appointments will not be able to obtain career status if they are moved into excepted positions.

The normal conduct of business in our agency moves employees into various positions. For example, I have been with the Agency since 1966, and I have served in five different positions, all related to our mission of delivering Manpower Services. Periodic movement in assignment holds true for almost all of the employees in the agency. We will be precluded from being a part of the growth and expansion of our agency if we are fixed in our current positions under threat of losing competitive position status. We all look forward to finding better and more successful ways of serving our applicants under the Comprehensive Employment and Training Act of 1973 as it is implemented in the District of Columbia. We are deeply distressed at losing our career mobility under the discriminatory language of section 204(g). The elimination of this impediment to career mobility can be accomplished through the deletion of the last sentence of 204(g).

AGENCY HISTORY

Our agency has a long and proud history. The District of Columbia Employment Service came into being in 1933 with the enactment of the Wagner-Peyser Act. Even before this, there was a public employment office in the District. In 1968, the District of Columbia Manpower Administration was established to broaden our capability to respond to the manpower needs of the city. We proudly look back upon these years of service, years spent in helping our clients to find training and employment opportunities.

AGENCY MISSION

Today we stand in the front lines of an unrelenting war against economic, social, and cultural deprivation of many citizens of the District of Columbia. While our doors are open to all persons seeking job placement or job information, we find that our services are in heavy demand by those who are victims of educational inadequacy, economic instability, and social injustice. It has recently been estimated that one in four residents of the District is in need of employment assistance. While the history behind our stalwart agency is long and rich in service, the demands and challenges of the future we face are more vast and more important to the development of this city than ever before.

AGENCY FUTURE

This is the worst time in our experience to have a hodge-podge agency of some competitive, some excepted, some free to move, some fearful to move, employees. This is the worst time for management to be restricted in growth planning by the inability of workers to leave positions in which transferred. We are in the business of stressing equality of work opportunities for those we serve. Now we need your assistance in securing for us the same equality of treatment afforded to employees transferred in the other two agencies.

The authorized personnel ceiling for our agency is 405 positions. At present we have 369 fulltime, regular civil service status employees. Seventy-five percent of our employees are black citizens; fifty percent of the staff are females. Our senior staff member has served for thirty-six years; our most recent staff appointee has served for three months. Our service records span the years in between. Employment with our agency requires deep commitment to our mission and to the people we serve. The majority of our staff members have grown right along with the manpower movement prevalent in our nation over the past decade. We have gone through its trials and errors, its successes and failures. We feel that our experience and technical knowledge will be of great value to the District government as a new employment thrust is begun for the city. The future and the morale of our staff hangs on the decision that you will make on our request.

SUMMARY

We acknowledge with gratitude the efforts of our management, of our labor union, and of the District of Columbia government to protect our interests. Our committee members met with Mayor Washington on June 14, 1974, and were assured of his support for bringing DCMA into D.C. government as a competitive agency and for getting the last sentence deleted from section 204 (g). Now we, the affected citizens, come before you to support their efforts and directly appeal to you to delete the discriminatory language from this crucial legislation.

Public Law 93-198 as written provides for unequal treatment of Federal employees being transferred to the District of Columbia. This unequal treatment is especially puzzling when we look at the three agencies being transferred—RLA, NCHA, and DCMA. We must ask, do all three agencies have competitive civil service positions? The answer is yes. Do all three agencies operate programs of major social concern to the District of Columbia? The answer is yes. Do all three agencies serve the same District client groups? Again the answer is yes. Finally, we ask, will the employees of all three agencies receive equal treatment under Public Law 93-198? The distressing answer is no.

We could find nothing on the face of the statute and nothing in the review of the legislation which would indicate to us why DCMA was singled out to receive different or unequal treatment. In light of these facts, we, the employees of DCMA, being adversely affected by a provision in the legislation, believe that our petitioning Congress will result in the redress of our grievance.

CONCLUSION

We thank you again for the opportunity to bring this grave matter before you. We urge your total support for the elimination of the last sentence of section 204 (g). The elimination of this one sentence will result in equal treatment for all civil service employees being transferred to the District of Columbia under Public Law 93-198.

We sincerely thank you for your kind interest and attention.

Chairman DIGGS. Mrs. Taylor, in the interest of allocating some time for the remainder of our hearing, as I look through your remaining testimony, beyond that last line, you talk about the Agency history, the Agency's mission, and the Agency's future and then you summarize and acknowledge gratitude for the efforts that have been made by various interests. I think in conclusion, I think that we could probably without objection consider the remaining part of your statement read in if you have any conclusion you wish to now draw at this point, I wish you could do that.

Mrs. TAYLOR. Well, in conclusion, Mr. Chairman and Members of the Committee, I would like to say that there are many persons here in this room today who have come to greet you and associate themselves with the testimony that I brought to you and I wonder if you would permit them to stand in greetings to you.

Chairman DIGGS. Thank you very much, the committee welcomes your presence here today.

Mrs. Hoff has a communication here that we have a copy of that she should just be able to summarize. Without objection the statement will be put in the record in full. It's only two paragraphs so if you could just summarize it now.

Mrs. HOFF. Mr. Chairman, I am sorry, you want me to start with "I submit it is unfair to transfer?"

Chairman DIGGS. You can engage in any formalities, it's only two paragraphs, and if you could just give us a brief summary.

Mrs. HOFF. Briefly what I am saying here is that I am a member of the—one of the 23 members of the Office of Manpower Training Programs and I submit it's unfair to transfer those of us who are government authorized representatives to local governments when other GAR's in regional offices are not being treated in the same manner. It's my desire that we be given the opportunity to remain with the Federal Government. Many of us including myself came here to the District Manpower Administrations from Regional Offices and we are occupying the same position that we occupied in Regional Offices and are performing basically the same functions and would like the opportunity to stay with the Department of Labor.

Chairman DIGGS. Thank you very much.

Mr. Gude.

Mr. GUDE. No questions, Mr. Chairman.

Chairman DIGGS. Mr. Fauntroy.

Mr. FAUNTROY. No, Mr. Chairman, all my questions have been answered.

Mr. DUGAS. Mr. Chairman, we have with us Mr. Ben Burdetsky who is the Deputy's Assistant Secretary of Labor for Manpower, he is now present and has a statement he would like to read on behalf of the Department of Labor.

Chairman DIGGS. Do we have a copy of the statement?

How long is the statement?

Mr. BURDETSKY. How long?

Chairman DIGGS. How long specifically is it?

Mr. BURDETSKY. Two pages.

I will read fast, Sir.

Chairman DIGGS. The gentleman is recognized.

STATEMENT OF BEN BURDETSKY, DEPUTY ASSISTANT SECRETARY OF LABOR FOR MANPOWER

Mr. BURDETSKY. Mr. Chairman, my name is Ben Burdetsky. I am Deputy Assistant Secretary of Labor for Manpower.

My remarks today will be brief. Basically, I am here to indicate the support of the Department of Labor and the Manpower Administration for the amendments proposed by the District Government with regard to the transfer of the D.C. Manpower Administration.

As reported, Mr. Dugas and I constitute the Joint Task Force that has been overseeing the transfer process. It has been a complex undertaking that has involved a lot of people in DCMA, the District Government, MA and other Federal Agencies. It has been hard work, but in my view, the effort has been worth it. The transfer of the agency occasion by passage of the District of Columbia Self-government and governmental reorganization Act, coupled with the advent of the Comprehensive Employment and Training Act (see the CETA) establish the base for more efficient, and hopefully more effective, delivery of Manpower Services to the residents of the District.

This is a goal which the District government and the Manpower Administration jointly seek.

While we are concerned about Manpower Services for the residents of the District, we are also concerned about the employees who will be providing those services. That brings me to the two problems raised today.

The scope of the transfer. Section 204 of the Act is drafted in terms of the transfer of functions from the Secretary to the Commissioner. There are those who read the language broadly as covering all employees and there are those who disagree. They maintain that the language can only be read as applying to employees who perform functions flowing from the Wagner-Peyser Act and other functions normally performed by the State Employment Service Agencies. We have decided to err on the side of caution and listen to those who take the narrower reading. We will, therefore hold about 23 employees in Federal Employment status pending consideration of the proposed amendment.

Let me say that I do not believe there is any question of intent. We think that this committee intended to transfer all DCMA employees to the District government. And the District government and we have agreed that the transfer should be inclusive. Speaking for the Department, I would urge early and favorable consideration for the proposed amendment.

With respect to the question of competitive status, we offer no objection at all to the aims of the employees and to others that are seeking full competitive status for the District employees in the same way that has been afforded to other agencies that are being transferred, we think this is an appropriate measure that we would support.

Chairman DIGGS. Just before I got off with the members, Mr. Breckinridge, do you have any questions?

Mr. BRECKINRIDGE. No questions.

Chairman DIGGS. Senate Staff?

Mr. HARRIS. No questions.

Chairman DIGGS. Now, I know that the Mayor has met with the concerned citizens groups and I don't know whether some of you may not—may have some unresolved questions between yourselves and I wondered if anybody on this panel wishes to ask anybody else on the panel any questions. [Laughter.]

Mr. DUGAS. We have been together.

Mr. PELLERZI. Mr. Chairman, I would like the record to show what the General Counsel of the Labor Union is for on this occasion. [Laughter.]

Mr. WASHINGTON. Mr. Chairman, earlier, I think Mr. Dugas' statement referred to a mandatory language that Monday morning meeting at best was a romp session where we had some staff people on our committee and some staff people present on behalf of the Secretary that morning. I didn't understand it to be a session to receive any mandatory language. Quite the contrary it was our impression that the groups were going to get back together and officially transmit a communication or some language and further effort I said at that time, the language being advanced had some appropriation language in it and thus it was subject to the point of order. In fact it was the language Mr. Weinberg read today. Additionally I thought we left with an understanding that we were going to amend 204-a and not an entirely new sub-section. Here again, I am not saying how you ought to be submitting amendments but you ought to submit that language but this could be achieved by 204-a and not having a new subsection.

Mr. WEINBERG. I would be pleased to discuss it with you and the question of funding of the proposed language certainly that could be removed if it's going to cause some problem.

Mr. WASHINGTON. No, it shall be transferred, that is the appropriate language, shall be authorized to be transferred is what we discussed before. The problem I think has been questions of interpretations, questions of intent, as I recall. The legislation would be for a governmental reorganization provision, this was drafted and we specifically had page 46 of the public law saying if any questions arise in carrying out subsection a, transfers, that in fact those questions may be appropriately proposed by OMB, Office of Management and Budget. We were not seers, we did not know all of the possibilities, we sat in November with the Department of Labor, their legislative people and we asked them, does this language achieve the objective. We transmitted this language to the District government, Department of Labor, U.S. Attorney's office, the Attorney General's office and the answer has been soundly yes and that it does. And so it was to our surprise that the language did not in fact achieve the objective intended by the Committee.

So I think it's important to let the record reflect that. It's never been our intention to discharge or not to protect the benefits and rights of the D.C.M.A. employees. To the contrary we put in language to have the opposite effect. We regret that happened and we have been officially waiting for some language and we don't want to rush again and have language not achieve—we're not specialists, we do not understand all of the different point, we're hoping to fully receive some language on it. Especially when the general council of the Civil Service Commission says that Section 713 and 714 are applicable to the transfer notwithstanding the fact that 771 makes those sections effective July 1.

Mr. WEINBERG. Certainly we were well aware of your concern and there is no intention to try and imply that you were not sensitive to the need. We are not seers either. We also were somewhat concerned when we received the letter from the General Counsel of the U.S. Civil Service Commission which made the interpretation of the intent of the Home Rule Act concerning the D.C.M.A. transfer. I would think that the deletion of that second sentence in (g) certainly would satisfy all of the interests and would give D.C.M.A. employees the same protections as RLA and DCHA. The question of the functional transfer, and I certainly stand corrected in your amending section (a). One of the things which has delayed agreement is there were so many bases to touch as you can see from the breath of interest in this room. It has taken time to touch all of the bases but I think you also can see there is a wide area of agreement here today.

Mr. WASHINGTON. Well, again, I can't underscore the stress. The time that we went through five drafts of the conference report and drafts we transmitted to people for comment and I am additionally interested in the chronology. It says on November 9, necessary amendatory language was rejected because it might delay House action. I tried to determine who rejected it. I mean was it ever transmitted to us, was that a decision made, an extra decision, officially transmitted to this committee.

Chairman DIGGS. Well, I think that I don't think it serves any useful purpose to go over the views, development up to this point except in the context of our future relationship because their references is made in the chronology here and the historical narrative which seems to suggest that things were done in the casual way and in the unofficial way and were taken our representative being the official point of action.

Their reference is in the chronology that involves obviously internal mechanisms and internal decisions that were not transmitted and in terms of our future relationship, I think it's important in this partnership context that these kinds of decisions or developing decisions as they relate to the Federal interest may be transmitted to us so we won't make up less than a week before a dead line and you know, without anything officially from the local government, you know, we're talking about somebody that takes place on Monday and I am not sure sitting here that you're prepared to transfer it. I don't think that on the second of July this whole process is going to be complete.

There is a lot incompleting items with respect to this whole thing and the assumption that all of these meetings and the results of these meetings have been transmitted to this committee, I think is an assumption that ought to be reviewed in terms of our future relationship because as I pointed out, at the beginning of this hearing, there is still a great deal of sensitivity in the community and in the Congress about the whole question of self-determination. This whole process is going to have to proceed on a very careful basis during the transition period. The transition period could be 4 years.

I don't think that people are going to be comfortable in the community with this arrangement. Many people, and I don't think there are people in the Committee that will be comfortable with this arrangement until there is some experience in this arrangement and it may take 3 to 4 years before things settle down and we have this kind of understanding.

We get the report back from the Task Force in connection for example with the criminal code, the Law Review Commission. When we have some other experiences in dealing with the City Council and the kind of legislation that they pass that has to come up here on the Hill and be reviewed for 30 days before it is enacted into law. I think there is going to be also some nervousness in the White House until certain things settle down.

So when you put all of these things together, I think that the emphasis is necessary for a great deal more sensitivity than I have seen reflected in some of the comments written and otherwise here this morning and if we come out of this session with a better understanding of the dynamics of this partnership then I think that this hearing will have served a very useful purpose.

Although the gentleman from the other body can speak for themselves, I am certain I reflect a similar attitude there and the presence of the Staff from the other body is a manifestation of that very sensitivity and that interest and the deep sense of responsibility for the protection of the Federal interest which exists in the other body also and all of these proponents in the local government are here who represent others who are not here should take all of this into consideration. As I venture to say some of the problems reflected in the results of the budgetary hearings appear on the Hill is an indication that some of the points that I am talking about.

Mr. WASHINGTON. I have one further short question.

I would like to ask the Union Representative his oppositions identified to be transferred for the District of Columbia Government, under the provisions of this Act, they shall remain in competitive service, does that mean it extends beyond the District's ability under Sec. 422 to establish an independent personnel system?

Mr. PELLERZI. No it does not, Mr. Washington. The 422, no, it does not. I think it's very clear in that regard and it would not. And that was not our intention in any way to interdict any of the authorities of the Council under 422 in establishing a merit system.

I think it would though put these employees on the predicate where their rights would be respected and be guaranteed to be respected in the establishment of that system under the provisions of the section 422.

Mr. WASHINGTON. So you would not be opposed in addition to have a sentence which would say until such time the District can establish a personnel system.

Mr. PELLERZI. I think that is implicit in the law and I would like to say in response to the Chairman's comment if I may, Mr. Chairman, on behalf of AFGE and having been in government service for twenty-five years, I would like to commend this committee for its efforts and its workmanship and providing in this law provisions that I think are precedent to the extent to which they concern themselves in the sensitivity with which they concern themselves with the protection of the public interest and to the extent that the public interest, the employee interest is consistent to the protection of the employees interest and their rights. I think it's a highly commendable piece of legislation and our asking for clarifying amendments today is no way to be construed as any critical comment on the committee's work.

Mr. WASHINGTON. One question.

Mr. MACIVER. I hope that there will be a letter coming from the

Mayor with language of the Bill they would like the Senate and the House to consider if that is what you want and if we're not relying on notes from meetings and communications that the members have been getting in petition form and so forth.

Chairman DIGGS. That could be done expeditiously.

Mr. PELLERZI. That will be done today, Mr. Chairman.

Chairman DIGGS. There may be one more district day, possibly two but there may be one more. The 9th and 22nd may be the last two chances we have for District legislation because under the schedule which is anticipated in regarding the dominant matter in the Congress these days that matter between the first and the ninth should be on the floor. It would be followed by a two week recess and then you're right up—back right up against the election and so for all practical purposes the legislation other than appropriation bills better be on their way, they better have been passed by at least one House if it intends to be enacted before this session is over.

Mr. Gude.

Mr. GUDE. Mr. Chairman, I just wanted to ask Ms. Hoff a question in reference to that letter she submitted, the 23 GAR's which you alluded to in your letter, the function they carry out, you say are the same as those carried out by GAR's in Regional offices?

Ms. HOFF. Well, there are not 23 GAR's, there are 16 GAR's in support of staff. Support of Staff and secretaries and so on. Yes, they are. My position is, which is really all I can speak from, there are two—only two duties that I have now that are different from that which I had when I operated in the Regional Office. One is the acquisition of a new Federal function which is the handling of audits done by the Department of Labor Auditing Staff.

Once that is done, handling the audit, the timely audit that goes to the Board of Appeals or whatever and the other one is providing slot and vacancy information to the employment service.

Those are the only two functions which differ.

Mr. GUDE. Well, is this office here that you're operating under, is this a regional office, the same as the other regional office?

Ms. HOFF. In some ways it operates as an arm of the Office of Field Coordination at the National Office. It's like a field office out of that office.

Mr. GUDE. Is there another office here in the—either a Federal Office or a District of Columbia Office that carries on the functions that are performed by state government, are the functions as far as the Department of Labor is concerned performed by State government, they are not carried on by your office here in the District of Columbia?

Ms. HOFF. No, it's carried out by D.C.M.A., but in the office of the Employment Services.

Mr. GUDE. So this phrase there that says, the Director determines what may be appropriately performed by State government, if that were interpreted as in the context of which you have told me, then you shouldn't be transferred to—your group should not be transferred to the D.C. Government.

Ms. HOFF. I don't believe that we should be but I am in disagreement with the management staff of the agency.

Mr. GUDE. Thank you, Mr. Chairman.

Chairman DIGGS. The committee stands adjourned.

[The above entitled hearing adjourned at 11:50 a.m.]

AMENDMENTS TO SECTION 204 OF H.R. 9682 AND OVERSIGHT OVER TRANSITION OF VARIOUS AGENCIES TO THE D.C. GOVERNMENT

TUESDAY, JULY 2, 1974

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
AND THE UNITED STATES SENATE,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The Full Committees met in Joint Session, pursuant to recess, at 10:00 a.m., in room 1310, Longworth House Office Building, the Honorable Charles C. Diggs, Jr., (Chairman) presiding.

Present: Representatives Diggs, Jr., (presiding), Breckinridge and McKinney.

Also present: Robert Harris, Staff Director and Counsel, Senate District Committee; and from the House District Committee, Robert B. Washington, Jr., Chief Counsel; James T. Clark, Legislative Counsel; Dale MacIver, Assistant Counsel; John Hogan, Minority Counsel; Jackie Wells, Leonard O. Hilder and Ralph Ulmer, Professional Staff Members.

The CHAIRMAN. The Committee will come to order.

Today is our second day of hearings on Title II of the Home Rule Act which provided for transferring several Federal agencies to District control.

Last week we had a discussion of the D. C. Manpower Administration and of the local planning functions assumed by the District on July 1.

PROPOSED LEGISLATION

I would like to correct the record at this point. Last week one of the witnesses, Mr. Julian Dugas, left the impression that a request from the District had been given to this Committee to change the wording of the Home Rule Act in Section 204(g) having to do with personnel of the D. C. Manpower Administration.

As a matter of fact, the request of the Mayor for that change was not given to us until Thursday, June 27, the day after the hearing. I am submitting in the record at this point Mayor Washington's letter of June 27.

[The letter referred to follows:]

THE DISTRICT OF COLUMBIA,
Washington, D.C., June 27, 1974.

Hon. CHARLES C. DIGGS, Jr.,
Chairman, Committee on the District of Columbia, U.S. House of Representatives,
Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is to inform you that it is my understanding that representatives of the U.S. Department of Labor, the District of Columbia Manpower Administration, Local 12, the District Government, and the General Counsel of the American Federation of Government Employees reached agreement June 26, 1974 that a single amendment to the D.C. Self-Government and Governmental Reorganization Act is necessary to provide for the continuation of competitive status for the transferred employees of the D.C. Manpower Administration. The parties agreed that section 204(g) of that Act should be amended to strike the last sentence in subsection (g).

In view of this agreement, the District Government recommends that the second sentence of section 204(g) be deleted. Attached is a draft bill to accomplish that purpose.

It is also my understanding that the parties referred to above are of the opinion that the purpose of section 204 is clearly set forth in the House Committee on the District of Columbia report on the D.C. Self-Government and Governmental Reorganization Act. That report (H. Rpt. 93-482) states with respect to the effect of section 204 that "all manpower activities in the District of Columbia will be consolidated under the Mayor's office into a coordinated manpower service delivery system." In the view of these parties, section 204 thus provides for the transfer of the full complement of employees of the D.C. Manpower Administration. Accordingly, we do not recommend additional amendment of section 204.

I hope the Committee will be able to give prompt consideration to the single amendment we propose to section 204(g). If I can be of further assistance please let me know.

Sincerely yours,

WALTER E. WASHINGTON,
Mayor-Commissioner.

Enclosure.

A BILL To amend section 204(g) of the District of Columbia Self-Government and Governmental Reorganization Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 204(g) of the District of Columbia Self-Government and Governmental Reorganization Act is amended by deleting the second sentence thereof.

The CHAIRMAN. Today we have the Executive Director of the National Capital Planning Commission to give us additional information on the way planning will be shared by the NCPC and the District Government. Following that, we will get into the new structure established by the Mayor-Commissioner for conducting housing and community development programs in the city.

NATIONAL CAPITAL PLANNING COMMISSION

Mr. CONRAD. I wonder if you would like to go over from your point of view the same exercise that Mr. Ben Gilbert gave us last week from the District viewpoint. Could you please run through some of the elements of the comprehensive plan for the Nation's capital and describe what the role of the NCPC will be now and what the role of the city will be?

We have distributed the list that Mr. Gilbert gave us last week. It is the list of the table of contents of the comprehensive plan and has "X" marks in columns under the headings:

NCPC Federal Elements
Joint Preparation
D.C. City Element

So, if you could proceed according to those guidelines, Mr. Conrad, I think we can have a good exchange.

APPLICATION OF WORK PROGRAM TO CONTENTS OF EXISTING COMPREHENSIVE PLAN FOR THE NATIONAL CAPITAL

[Contents of new plan probably will vary somewhat from this arrangement]

	NCPC Federal elements	Joint prepara- tion	District of Columbia city element
Part 1. Goals for the National Capital ¹	X	X	X
Part 2. General Land Use Objectives: 1970/1985 ¹	X		X
Part 3. City and Regional Elements		X	
Chapter 1. Employment	X		X
Subchapter 1. Employment Distribution			
Subchapter 2. Federal Employment (local Gov.—D)	X		(X)
Subchapter 3. Foreign Missions and International Agencies	X		
Chapter 2. Housing (military—F)	(X)		X
Chapter 3. Education			X
Subchapter 1. Elementary and Secondary Schools			X
Subchapter 2. Higher Education (Spec. Inst.—F)	(X)		X
Subchapter 3. Libraries (Spec. Lib.—F)	(X)		X
Chapter 4. Parks and Recreation Facilities ^{1 2}	X	X	X
Chapter 5. Health Facilities			X
Subchapter 1. Hospitals (military—F)	(X)		X
Subchapter 2. Community Health Centers			X
Chapter 6. Protection and Correction			X
Subchapter 1. Fire Protection			X
Subchapter 2. Police Protection (N.C. Service Area—F)	(X)		X
Subchapter 3. Detention and Correctional Facilities			X
Chapter 7. Landmarks	X	X	X
Chapter 8. Public Utilities	X	X	X
Chapter 9. Transportation ¹	X	X	X
Subchapter 1. Mass Transportation Plan	X		X
Subchapter 2. Major Thoroughfare Plan	X		X
Subchapter 3. Vehicular Parking	X		X
Subchapter 4. Major Terminals	X		X
Part 4. Planning Districts:			
Chapter 1. Central Employment Area			
Chapter 2. Near North (L'Enfant City)	X	X	X
Chapter 3. Capitol East/Southwest			
Chapter 4. Anacostia			X
Chapter 5. Northeast			X
Chapter 6. North Central			X
Chapter 7. Northwest			X
Part 5. Related Regional Policies	X	X	X

Note: Policies and principles for a transportation system for the National Capital, approved by the Commission on Dec. 11, 1968. The statement is not part of the comprehensive plan.

¹ Elements of the Comprehensive Plan adopted to date are identified in bold face.

² Including major fine arts centers (e.g., the Smithsonian Institution, National Gallery of Art) and performing arts centers (e.g., John F. Kennedy Center for the Performing Arts).

STATEMENT OF CHARLES H. CONRAD, EXECUTIVE DIRECTOR, NATIONAL CAPITAL PLANNING COMMISSION (NCPC), ACCOMPANIED BY DANIEL H. SHEAR, GENERAL COUNSEL, NCPC

Mr. CONRAD. I would be glad to do so, Mr. Chairman.

I want to thank you first for your comments on behalf of my father at your first hearing and also for postponing my appearance until this morning.

I also have Daniel Shear with me, who is our Secretary and Counsel to the Planning Commission.

I will just go through the list that has been worked up jointly with Mr. Gilbert and the staff of the Commission in regard to who would take the lead in the various parts of the comprehensive plans contained in the contents of the comprehensive plan.

GOALS

Under part one. Under goals, for the National Capital, would be a joint responsibility. Since this is the seat of government there would naturally be goals enunciated for the Nation's Capital as well as for the local city. Therefore, this would be a joint preparation under the general land use objectives, since over 50 percent of the land area in the city is under Federal jurisdiction, that we would also have a general land use plan and the District would have one also. This would also be a joint preparation.

EMPLOYMENT

Under part three, city and regional element, chapter I goes into employment. Employment is Federal as well as local as well as District. The District would prepare the District as well as the private employment sector of the comprehensive plan. The Planning Commission would work very closely with them in regard to the Federal employment, Federal distribution, foreign missions and international agencies.

HOUSING

Under II, housing, this would be primarily district. However, the Department of Defense does have a housing program and, therefore, the Planning Commission would be responsible for preparing a housing program for the Federal section of the plan and the local housing would be the responsibility of the District of Columbia.

EDUCATION AND LIBRARIES

Under education—this is primarily District.

The Federal side does have some very good educational facilities, as we all know, such as Department of Agriculture, the Executive programs which are sponsored by the Civil Service, and also under libraries, the Federal has some very good libraries, the Department of Agriculture, HEW. So the Planning Commission would be responsible for the comprehensive plan elements of the high education and libraries for the Federal side and, of course, the local responsibility would be with the elementary schools, their higher education and their libraries.

PARKS AND RECREATION

Parks and recreation facilities—this has already been adopted by the Planning Commission. In fact the adoption of this section of the comprehensive plan was approved by the Mayor and the Planning Commission and this is divided into two parts. The local part systems in recreation and in the Federal parts in recreation and so this would be a joint operation, local and Federal.

HEALTH

The health facilities chapter 5, hospitals, community health centers, would be primarily District.

PROTECTION AND CORRECTION

Chapter 6, protection and correction, police and police protection, detention and correctional facilities. This is primarily the District. The Planning Commission may get into it in regard to the police protection, which would be in the National Capitol Service area, but this is primarily District.

Landmarks is already shared and so there are Federal landmarks, there are local landmarks. This would be a shared program by the District and Planning Commission.

PUBLIC UTILITIES

Public utilities is also a joint operation. The water is supplied by the Corps of Engineers. The District is responsible for the retail. And since the public utilities are already both Federal and local this part of the comprehensive plan would also be a joint responsibility.

TRANSPORTATION

Under transportation. This section of the comprehensive plan is already adopted by the Planning Commission and approved by the D.C. Council. It consists of the mass transportation plan, major thoroughfare and vehicular parking. This would also be a joint preparation.

NEIGHBORHOODS

Under the planning districts, part 4. Chapters 1, 2, and 3, Central employment area, Near North area, Capital East, Southwest area, which is the L'Enfant City, original city for our Nation's capital laid out in 1791. This would be a joint responsibility. Primarily the rest of the District would be the responsibility of the District of Columbia to prepare these planning districts, these neighborhoods.

Related regional policies. This is a shared operation. The District has policies concerning the region and, of course, the Federal government has installations in the region. This would also be a joint endeavor.

I believe that covers it, Mr. Chairman.

I would like to state that this is a step in progress with the District. This list may change or be modified as we proceed, but this is it as we see it now, and we do have an agreement with the District in regard to this outline.

The CHAIRMAN. Did I understand that you had some additional material?

Mr. CONRAD. You did address a letter to us some time back asking several questions. One of those was to go over an agenda of the Planning Commission to see how it related to the operation after July under Home Rule and you suggested that we take up the May meeting of the Commission, and so if you are agreeable to this I would like to do that at this time.

The CHAIRMAN. The gentleman may proceed.

AGENDA OF NCPC, MAY 30, 1974

Mr. CONRAD. This is the May 30 meeting of the Planning Commission. It had 22 items on the agenda. Of these 22 items, 14 are Federal, two of them are Federal-District and the rest are zoning, which would not be changed to any great extent under Home Rule.

Item number three is the Mall which was definitely Federal. This is a part of the Bicentennial program. The Washington Monument ground, which is part of the Bicentennial program. This is approval of the site plans where the Park Service would like to dress up the Mall for millions of people that are going to come here for the Bicentennial. This is Federal.

We also had before us the Union of Soviet Socialist Republic Embassy complex, which is Federal. The Southwest Urban Renewal Area Project C is a modification. There would be no change under Home Rule in conjunction with this item.

Number seven is the emergency water pumping station, Potomac River, North of Chain Bridge. This is dealing with the Corps of Engineers for the water supply, and also Federal property under the jurisdiction of the Park Service. This is primarily Federal.

The Andrews Air Force Base, Prince George County, Maryland, is Federal and regional. This is a revision of their master plan plus a mobile home park for 125 units.

Number nine is Walter Reed Medical Center, District of Columbia. Patient visitors facilities is a building with overall master plan, as approved by the Planning Commission. This is Federal.

10(a) is Stream Valley Parks, Prince George County, Maryland, revised general development plan. That is according to (a), which the planning Commission administered for the Congress, and any change in the overall plans must be approved by the Planning Commission. So this is primarily Federal and regional.

This is the Anacostia River Park unit number 2, and Paint Branch Park unit No. 2: Item 11 is the Anacostia Park, District of Columbia. Kenilworth Park and River Terrace Park. These are two projects of the Regional Park Service. These are Federal. They were worked out very closely with the community so that facilities that will be provided in these parks on and along Anacostia River will meet the needs not only of the region but also of the people who adjoin these parks and live close to these parks.

National Institute of Health, Bethesda, Maryland, is a building which they want the approval of for site building plans pursuant to Section 5. This is in keeping with their master plan. This is Federal.

13 is Washington National Airport, Arlington, Virginia. Approval of first phase access improvement program which the Commission reviewed. This is Federal.

George Washington University parking lot. This is a BZA referral. It is in keeping with the zoning regulations. So this is a zoning referral which would not be changed under Home Rule.

The comprehensive plan for the National Capital Fort Circle Parks. There is a modification, A, B and C. These are primarily Federal. One is a modification to the Fort Circle parks. One is the Fort DuPont Park, and another is the Fort Stanton Park.

16 and 17 are District. These are elementary schools. These were to be reviewed and they would be reviewed at the August meeting. It would have been reported as no Federal interest.

On 18 is a transfer of jurisdiction from the Department of Defense to National Park Service and from the Department of Defense to the District of Columbia. There would be no change in this. This would still be before the Planning Commission.

19 is street and alley closings, which is District and Federal. There would be no change in the two street and alley closings that are reported.

So to summarize, Mr. Chairman, out of the 22 items, two would be outright District, 16 are Federal, the others would be a Federal-District combination.

If this agenda had come up before the Planning Commission at its August meeting the entire content of this agenda would be before the Planning Commission. There would be no items that would be crossed from this agenda.

PLANNING COMMISSION BUDGET

The CHAIRMAN. Mr. Conrad, what about personnel, property, appropriations and so on. Will NCPC transfer some of its personnel and appropriations and property to the District now that these planning functions have been shifted?

Mr. CONRAD. In preparing the 1975 fiscal year appropriation for the Planning Commission, this was discussed in detail with the Office of Management and Budget since Home Rule had already been through. So this was considered at the time the President submitted his budget to the Congress. In that budget there is no deletion of funds for the Planning Commission or for personnel to the District for the local functions. It was felt under Home Rule that most of these projects still would be reviewed by the Planning Commission though in a different form and in fact some portions of the Home Rule bill gave added responsibilities to the Planning Commission, so there are no minuses or pluses in regard to the District portion of the staff for the Planning Commission.

The CHAIRMAN. Tell us, Mr. Conrad, about the work the NCPC has done on school planning and private employment projects and whether or not the District will now take over these responsibilities and use the materials that you have.

Mr. CONRAD. In order to have a basis for review of the District's schools, the Planning Commission directed its staff to bring up to date the school planning program which we have had prepared in February of 1967, so that the Commission does have an up-to-date school comprehensive plan for its physical facilities which we use to evaluate the individual school projects as they come before the Planning Commission.

This is not adopted by the Planning Commission or is it approved by the District, but it gives us a basis for this kind of review. This would be turned over to the District for whatever use they might want to make of it. I am sure they would want to make some modification in it, but I think a lot of work has been done.

We have also done quite a bit of work on the private employment sector. This is a part of the employment chapter of the comprehensive plan. And we are proceeding with the Federal portion as well as the local. What we have done in regard to the local will be turned over completely to the District of Columbia.

METRO STATION

The CHAIRMAN. I just have one other question at this point, and that is about the division of the labor between the municipal planning office and NCPD.

What do you expect this Division to be on such problems as land use around the metro subway stops or major thoroughfare plans?

Mr. CONRAD. The District is already in operation as I understand around the metro stops through financing of 701, I believe it is. The Planning Commission back in 1958-59 prepared the mass transportation survey which set up the National Capital Transportation Agency and also recommended the W model regional form. At that time we had a complete plan for the rapid rail and thoroughfares. This is represented in the thoroughfare plan which is adopted by the Planning Commission and approved by the D.C. Council at this time. So there is agreement from the broad system standpoint.

When you get into the details of the program, this would be divided according to what stations were on Federal property, such as the Federal Triangle. There is also a station out in the NIH. There will also be a station out in Beltsville, Department of Agriculture, and NASA would be involved. In these cases the Planning Commission would take a leading role in the design of the facilities or the land use around those facilities. Where the transit stop is in the interior of the District, in the neighborhoods and communities, and retail areas, this for the most part would be the lead of the District of Columbia.

The CHAIRMAN. Mr. McKinney?

Mr. McKINNEY. No questions.

The CHAIRMAN. Mr. Harris of the Senate Staff?

Mr. HARRIS. No questions.

The CHAIRMAN. Do you have any questions?

Mr. HOGAN. Thank you, Mr. Chairman.

COMPREHENSIVE PLAN

Congressman Nelsen received a copy of the comprehensive plan, it is a red volume here. I assume that this sheet that you were testifying from is the one that is contained in that?

Mr. CONRAD. There have been slight modifications of the index in that comprehensive plan as I presented here to this Committee this morning. Basically it is the same table of contents.

Mr. HOGAN. That you have in here?

Mr. CONRAD. Yes, sir.

Mr. HOGAN. And you are proceeding to fill this out for the comprehensive plan?

Mr. CONRAD. Yes, sir.

Mr. HOGAN. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Mr. CONRAD. Thank you, Mr. Chairman.

NEW OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT

The CHAIRMAN. Mr. Samuel Parker is the next witness. The gentleman is from the Metropolitan Washington Planning and Housing Association. He has a prepared statement and he may proceed.

STATEMENT OF SAMUEL PARKER, REPRESENTING THE WASHINGTON PLANNING AND HOUSING ASSOCIATION

Mr. PARKER. Mr. Chairman and members of the Committee, my name is Samuel Parker and I am here representing the Washington Planning and Housing Association. WPHA is a 40 year old citizens membership organization which serves as an advocate for the interest of low- and moderate-income residents of the District in the fields of planning and housing.

For several years community organizations in the District concerned with the progress of planning, housing and urban renewal have sought a reorganization of these public efforts. As of July 1st, 1974 the Mayor has the opportunity to establish a Department of Housing and Community Development that is capable of taking strong leadership in providing adequate housing and community facilities. However, from recent announcements it appears that present plans for "reorganization" call for creating a coordinating mechanism rather than a department in direct command of the planning and development capabilities of the city.

There are numerous housing and community development issues that urgently need attention by someone with the authority and responsibility to make decisive decisions. The most pressing issues include Fort Lincoln and development for the three major urban renewal areas, H Street, 14th Street, and Shaw.

NO CLEAR LINES OF AUTHORITY

Merely establishing an agency with primarily a coordinating responsibility creates a paper shell which has no power. It allows the three agencies to continue as separate entities with no clear lines of authority or responsibility. WPHA believes that this falls far short of utilizing the potential of the Home Rule Legislation to reorganize NCHA, OHP and RLA into an efficient and aggressive arm of the D.C. Government for housing and community development.

NELSON COMMISSION RECOMMENDATIONS

In April of 1973 a Community Workshop was held on the recommendations of the Nelson Commission Report. WPHA participated and strongly endorsed the creation of a Department of Housing and Community Development as recommended by the Commission Report.

With respect to the organization of the Department, the Commission proposed that the functional planning required for policy and program development be separated from the day-to-day operations of the Department (Vol. 11-237). Under this scheme, staff units reporting directly to the head of the Department would be responsible for all functional planning.

Two operational divisions would be assigned the responsibilities now performed by NCHA and RLA. One division would be responsible for the urban renewal program, and for the construction, leasing, or acquisition of additional low-rent public housing. The second division would be responsible for the maintenance of public housing.

The Commission believes such a separation of operational functions would allow the public housing agency to concentrate on management, while simplifying the housing development process.

BALTIMORE IS MODEL

A possible model for organizing the NCHA, RLA and OHP is the Baltimore Department of Housing and Community Development. The department established in July 1968 made Baltimore the first major city in the country to bring into one department all the principle functions involving housing.

Under the commissioner are two deputy commissioners and an assistant commissioner. One deputy commissioner is responsible for three operations:

Planning, which works with community groups to establish urban renewal plans, and for planning new public housing projects;

Land Development, which arranges the purchase of land for renewal and public housing; and

Construction and Building Inspection, which arranges for all urban renewal demolition and construction; supervises construction of new public housing; issues permits of all sorts for the city; enforces the Building Code; and arranges for rehabilitation of houses for a City Rehab Program.

The other deputy commissioner is in charge of the following:

Neighborhood Development, which manages all field operations, enforces the housing and zoning codes; arranges rehabilitation loans and grants under federal and local programs, and represents the department to various neighborhoods through a community organization advisor program.

Housing and Management, which manages and maintains the public housing developments;

Resident Family Services, which assists public housing residents with social problems;

Administration, which is responsible for personnel, finances, budgeting, supplies and services.

The assistant commissioner maintains liaison with the Model Cities and Community Action agencies, and directs an equal opportunity program. He is also responsible for Information Services and Relocation, which serves not just renewal and code enforcement displacement, but all public improvement relocations including that for schools and highways.

While Baltimore may not have the exact organizational structure Washington needs, it does represent a working model of how the functional elements of housing and community development should fit together.

WPHA urges the city to establish a Department comparable to Baltimore's HCD and that it be done now.

NEED FOR CITIZEN INVOLVEMENT

I would also like to add that we feel strongly for the need of a citizen advisory component and a relationship with Advisory Neighborhood Councils and we feel that the lack of a public forum up to now or even a public debate of the possible structure of the Department of Housing and Community development is a serious matter that should be rectified for any further development that takes place in creating the structure of this department.

I appreciate the opportunity of testifying here today and am ready for any questions you might have.

The CHAIRMAN. Thank you very much.

Will you tell us something more about the Association? You indicate that it had been in the advocating business with respect to low and moderate income thrust for the past 40 years.

Could you tell us something more about it, is it a membership organization, how was it administered, how was it financed?

WASHINGTON PLANNING AND HOUSING ASSOCIATION

Mr. PARKER. It is a membership organization open to anyone. It is directed by a board, 50 board members, and the Executive Director is Mr. Ford. We are financed primarily by the Health and Welfare Council which gets its funds from the United Way.

We assist without charge community groups who need technical assistance for presentations of their views on assistance in developing their plans.

We also represent the general population group of the metropolitan area in such issues as development of Pennsylvania Avenue and the Eisenhower Civic Center. We took a strong stand not representing a particular community group but the interest of the city at large.

The CHAIRMAN. I didn't quite understand your response to the question of whether it is a membership organization.

Mr. PARKER. Yes, sir.

The CHAIRMAN. You have a 50-man board?

Mr. PARKER. Yes, sir, of directors.

The CHAIRMAN. I was wondering how does one become a member of the association?

Mr. PARKER. One simply contacts the organization and there is a nominal membership dues and he becomes a member.

The CHAIRMAN. How many members do you have?

Mr. PARKER. Roughly 3,000, 2,500, in that range.

THE UPCOMING ELECTION

The CHAIRMAN. Are any of the principals including yourself candidates in the election?

Mr. PARKER. Of our board?

The CHAIRMAN. No, in the local election.

Mr. PARKER. Pardon me?

The CHAIRMAN. Are you or any of the other principals of the association candidates for public office in the upcoming election?

Mr. PARKER. There is no one on our staff who is a candidate. Three or four members of our board of directors are candidates for city council.

ORGANIZATIONAL CHART

The CHAIRMAN. You have seen the organizational chart, Mr. Parker, that has been distributed. I assume the staff made a list for the new office.

Mr. PARKER. I just glanced at it, I just saw it this morning.

The CHAIRMAN. I wondered whether or not you had any comments on it.

Mr. PARKER. I would like to defer that. I haven't really had a chance to study it.

The CHAIRMAN. We will leave the record open and you might want to submit additional views with respect to that matter.

Mr. McKinney?

Mr. McKINNEY. No questions.

The CHAIRMAN. Mr. Harris?

Mr. HARRIS. Was your organization consulted at all in regard to the proposed organizational staffing?

Mr. PARKER. No, we weren't.

Mr. HARRIS. Were you contacted at all by the Mayor's office?

Mr. PARKER. No, sir, we haven't. We did send a letter to the Mayor last week expressing our concern about the organization but we weren't officially contacted by the Mayor's office.

The CHAIRMAN. What was the date of that letter?

Mr. PARKER. I believe it was last Friday.

The CHAIRMAN. Just this past Friday?

Mr. PARKER. Yes, sir.

The CHAIRMAN. So the Mayor has not had an opportunity to respond.

NELSEN COMMISSION RECOMMENDATIONS

You made some references to the Nelsen Commission. I assume that Mr. Hogan, who was on that Commission, would want to raise some questions.

Mr. HOGAN. Thank you, Mr. Chairman. I do note that you endorse the Nelsen Commission recommendations.

Mr. PARKER. Yes, sir.

Mr. HOGAN. You also endorse the Baltimore structure as it relates to their organization for housing?

Mr. PARKER. Yes, we do.

Mr. HOGAN. Which is fairly similar to the one recommended by the Nelsen Commission?

Mr. PARKER. Yes.

Mr. HOGAN. And your position is the same now as it was I think when we met what, last year, or was it last spring?

Mr. PARKER. Yes, I think there is one—a couple of differences. Baltimore has incorporated the functions of building codes and inspection within their department. I think the Nelsen Commission deferred that and left it up to the option of the Mayor to incorporate that in the department of housing community development.

Mr. HOGAN. That is right.

Thank you, Mr. Chairman.

The CHAIRMAN. I think the key, Mr. Parker, in your testimony is in your last sentence, that you urge the city to establish a department comparable to Baltimore's HCD and so on.

The Mayor and the City Council certainly under the terms of the Home Rule Act will have authority to take such initiatives.

Mr. PARKER. Yes.

The CHAIRMAN. Thank you very much.

Mr. PARKER. Thank you.

The CHAIRMAN. Is Mr. Withers here, Ernest Withers?

[No response.]

Mr. JACOBS. Mr. Lorenzo W. Jacobs, Jr., is the Acting Director of the Office of Housing and Community Development and he has a prepared statement.

Mr. Banks and Mr. Mister will be associated with the gentleman.

STATEMENT OF LORENZO W. JACOBS, JR., ACTING DIRECTOR, OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT; ACCOMPANIED BY JAMES G. BANKS, FORMER ASSISTANT TO THE MAYOR-COMMISSIONER OF THE DISTRICT OF COLUMBIA FOR HOUSING PROGRAMS; AND MELVIN A. MISTER, EXECUTIVE DIRECTOR, REDEVELOPMENT LAND AGENCY (RLA)

Mr. JACOBS. Thank you, Mr. Chairman.

Mr. Chairman, and members of the Committee, I appreciate the opportunity to present to you today a summary of the actions taken by the Commissioner of the District of Columbia in implementing the provisions of Home Rule Bill 93-198 as they relate to Housing and Community Development.

Early in February of this year Mayor Washington established a Task Force to deal with a variety of problems—legal, administrative, budgetary and personnel—incidental to the transfer of the D.C. Redevelopment Land Agency and the National Capital Housing Authority to the District Government. He appointed James G. Banks, Assistant to the Commissioner for Housing Programs as Chairman. The Committee's report is attached for the record.

I believe it is attached to a copy of this statement which has previously been furnished to the Committee.

I can report to you today that the Subcommittee assignments were completed by the close of business June 28, 1974. They include:

1. Conversion of RLA and NCHA budget and accounting procedures to District of Columbia government policies and procedures.
2. Transfer of NCHA payroll responsibilities to D.C. government.
3. Conversion of NCHA and RLA personnel policies and procedures to D.C. policies and procedures.
4. Delegation by the D.C. Department of General Services to NCHA and RLA to handle their procurement and contracting operations under D.C. policies and procedures.
5. Orientation of top NCHA and RLA staff to D.C. policies and procedures.

In addition Mayor Washington issued on June 29, 1974 Executive Order 74-143 abolishing the Office of Housing Programs and the position of Assistant to the Commissioner for Housing Programs and establishing a new Office of Housing and Community Development. A copy of the order is attached for the record.

Mayor Washington also issued on July 1, 1974 Executive Order 74-145 designating the Director of the new Office of Housing and Community Development as the National Capital Housing Authority.

Simultaneously the following staff changes have occurred:

1. James G. Banks exercised his option to retire when the position of Assistant to the Mayor for Housing Programs was abolished.

2. Mayor Washington appointed Lorenzo William Jacobs, Jr., Acting Director of the new Office of Housing and Community Development.

3. Mr. Jacobs in his new capacity as National Capital Housing Authority appointed Mr. Monteria Ivey as Acting Executive Director of the National Capital Housing Authority.

All other top officials in the city's housing and community development programs remain unchanged.

Mr. Banks is with me today and we both will be pleased to answer questions you may have.

[The attachments referred to follow:]

THE DISTRICT OF COLUMBIA,
Washington, D.C., June 27, 1974.

HON. CHARLES C. DIGGS, Jr.,

*Chairman, Committee on the District of Columbia, U.S. House of Representatives,
Longworth Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: The District of Columbia Government deems it appropriate at this time to submit this report on its plans for the transfers mandated by Title II of the D.C. Self Government and Governmental Reorganization Act and on plans for the transition of the government organized under Reorganization Plan No. 3 of 1967 to an elected one.

I am pleased to report that much of the work necessary to insure self-government in the District of Columbia has already been completed or is well underway. Since the reorganization in 1967, the District has been readying itself to assume eventually the responsibilities of self-government. During this period, the District has faced and successfully resolved many complex issues. Essential services, ranging from citizen needs in the *public safety, human resources and education* areas to concern for our *natural and physical* environment, have been pulled together and given unified policy direction. Improvements in the City's vital administrative functions, such as *budget and financial management, planning and manpower development* have helped set the stage for the kind of central administrative structure needed under an elected government. Thus, the task before us during this transition period is, in many respects, a natural continuation of the goal we have been working toward during these last six years.

The Self Government Act grants the City expanded legal authority and attendant responsibilities, which in the past it has not experienced. However, in my opinion, many of the new requirements in the Act merely recognize the need for the same modern management practices which the City has been in the process of actively developing over the last few years. Other changes contained in the Act are intended to carry out recommendations made by the Nelsen Commission. Thus, while new procedures and added technical expertise will be needed to make self government a reality, the District Government is already moving into the transition period with the benefit of a significant amount of substantive work on that problem already completed.

Specifically, the Act adds to the City's authority in the area of *housing, community development and manpower*, and makes important changes in key administrative areas, including *budget and financial management, local planning*

decisions and personnel policies. This report discusses some of the implications of these changes and describes the work already completed, now underway and planned for the coming months in carrying out our statutory duty. Combined with the detailed information we are presenting during the Congressional hearings on June 26 and July 2, 1974, this report provides a complete picture of our activities.

GOVERNMENTAL REORGANIZATION

On July 1, 1974, three Federal agencies will be transferred to the District Government. The agencies are the National Capital Housing Authority, the Redevelopment Land Agency and the D.C. Manpower Administration.

The main tasks involved in the transfer of these agencies have been completed. I am establishing an Office of Housing and Community Development to coordinate the activities and programs of the Office of Housing Programs, the Redevelopment Land Agency and the National Capital Housing Authority. The function of the District of Columbia Manpower Administration will be carried out by a new Department of Manpower. In this area I recently approved the programs to be funded under the Comprehensive Employment and Training Act (CETA). Through joint efforts on both the administrative and programmatic level, I am confident that these agencies will be incorporated into the District Government smoothly and effectively.

The Act also gives the Mayor and City Council authority to reorganize District agencies into an effective organizational framework for delivering public services. The District Government already has considerable expertise in carrying out this function. Since 1967, several major organizational realignments have taken place with the creation of new departments for the delivering of services in such program areas as *Human Resources, Economic Development, and Environmental Services*. New offices, including *Budget and Financial Management, Municipal Audits and Inspection, Planning and Management, and Consumer Affairs* have also been established in the Executive Office of the Mayor/Commissioner to consolidate and coordinate policy development in these important areas.

BUDGET AND FINANCIAL MANAGEMENT

The City's budget and financial management process is strengthened under the Act. Included among its provisions is the authority to:

- issue municipal bonds to finance construction of public facilities.
- deposit City funds in interest bearing accounts with local banks and financial institutions.
- balance the city's revenue needs through expanded taxing authority and substantially higher Federal Payment authorizations.

Extensive staff work has been done on projects in each of these areas over the years and increased emphasis will be placed on them during the transition period. We are currently developing internal procedures and regulations governing the municipal bond program for capital construction financing. A preliminary analysis of the legal responsibilities of the capital borrowing process as prescribed in the District Charter has been prepared and accounting information needs are now being identified. Our schedule calls for presentation of the city's first bond proposal to the City Council in early 1975.

The use of the city's authority to deposit funds in commercial bank accounts will be an important policy choice facing the elected city government. For this reason, I have directed the Office of Budget and Financial Management to prepare a staff report on the issues and options which should be explored in formulating a cash management policy. In this connection, several meetings have already been held with representatives from the District financial community, including minority banking interests, to obtain a fuller understanding of practices used in this area. Upon completion of this work, formal operating procedures and proposed administrative guidelines will be ready for transmittal to the City Council shortly after the elected government takes office.

The Self-Government Act requires the City to submit a detailed comparison of expenditure and revenue data from other jurisdictions as part of its Federal Payment request. In support of our FY 1975 Federal Payment justification, I transmitted to Congress a comprehensive report on the background and history of the Federal Payment which contained an analysis of intercity fiscal patterns. After presenting data on expenditure levels, tax burdens and Federal grant

programs for over 60 state and local jurisdictions, the report found that taxes paid by District residents are comparable to those paid by citizens of other jurisdictions, including those in the surrounding area.

In addition to the expanded financial management responsibilities authorized under Home Rule, the District Charter also establishes specific disclosure requirements for the kinds of information presented during the budget formulation and execution process. For example, annual reports must be submitted to the City Council on the following subjects:

- program performance*—evaluating the quantitative and qualitative levels of service actually delivered in relation to planned service delivery goals.
- issue analysis*—examining the costs and benefits of alternative ways of meeting program objectives.
- multi-year plan*—identifying the cost impact of proposed program and budget policies over a five year period.
- capital improvements plan*—outlining the cost of the City's proposed Capital Improvements Program and borrowing requirements to complete the plan.

Because of our ongoing commitment to program budgeting and resource management techniques, substantive accomplishments can be pointed to in each of these areas. For the past year and a half, the City has been developing procedures for measuring the level and quality of services for an establishing *performance standards* in key programs. A progress report on the status of this project was submitted to the Congress in May. The City's *Issue Analysis* Process was launched in 1971 and since that time reports have been completed on several important issues such as *retirement financing*, *dependent child care*, and *citizen participation* in the budget process. Finally, the District's *automated expenditure forecasting system* and *capital budgeting process* already generate planning information on the future impact of operating and capital budget decisions. On the basis of the work completed to date in these areas, we expect to comply fully with these information requirements in conjunction with the formulation and execution of the Fiscal 1976 budget.

MUNICIPAL PLANNING

Under the Act, responsibility for carrying out a comprehensive local planning effort is vested in the Mayor. This includes the coordination, preparation and implementation of comprehensive plans covering such areas as *land use*, *urban renewal*, *physical development*, *social and economic development*, and *transportation*. Previously most of these functions were vested in the National Capital Planning Commission. In carrying out this responsibility, the Act requires the Mayor to involve District residents in the planning process so that they can play a part in decisions affecting their community.

I am also pleased to report the progress already made in preparing the City to meet its new planning responsibilities. In 1971, I created the *Office of Planning and Management* to consolidate the City's major planning activities. Since that time, this office has assumed many important planning operations, such as *zoning*, *METRO development*, and *neighborhood planning*, and has developed a comprehensive framework for future efforts. The Service Area Committee system, established April 20, 1970 to provide a vehicle for citizen participation in municipal affairs, including preparation of the budget was also made a part of this office. In the coming months, we will continue to concentrate our attention on recruiting highly qualified planners into the District Government and exploring ways and means to continue the work already begun of bringing citizens and community groups into the planning process. It is my commitment to have the District elements of the comprehensive plan for the National Capital ready for consideration by the elected City Council and we are currently working toward that goal.

PERSONNEL ADMINISTRATION

Under Title IV of the Act, the District Government is also required to establish a merit system for city employees within five years after the Charter takes effect. The scope of the District's merit system must encompass all major facets of personnel administration, including pay and retirement, classification, tenure, leave, health and life insurance, disability and death benefits, appointments, promotions and separations. Procedures for conducting competitive examinations for appointments and promotions are areas where the District currently lacks expertise which must be developed.

Our work on the recommendations of the Nelsen Commission over the past two years has put the District Government in excellent position to move forward

with the development of the required new personnel system. Action has already been taken on over 89 percent of the more than 163 recommendations covering the City's personnel. Furthermore, I have requested additional staff in the Fiscal 1975 budget to undertake a comprehensive analysis of the present personnel system. Approval of these positions will allow us to evaluate policies in the pay and retirement, insurance, classification and examination areas during the coming year. This review of current policies and procedures will give the elected Mayor and City Council the kinds of information needed to design an effective merit system for District Government employees.

A comprehensive manpower planning system is now being implemented to forecast special skill requirements for the future, to identify areas where employees can be reallocated or retrained for higher priority needs, and to monitor critical manpower trends such as employee turnover.

LEGISLATIVE RESPONSIBILITIES

Apart from the added duties of the Executive Branch, the Act also makes significant changes in the City's legislative process. While I do not presume to speak for City Council members nor to comment on plans they may propose, I feel it is instructive to identify some of the most significant implications and highlight steps that have been taken to address them.

In addition to its new law-making authority, the City Council will also have legislative audit responsibilities through the Office of the District of Columbia Auditor. The City Auditor will serve the City Council in much the same capacity as the General Accounting Office serves the United States Congress. Finally, the City Council will be required to establish procedures and administrative machinery leading to the creation of Advisory Neighborhood Councils which were approved in the Home Rule referendum.

The Fiscal 1975 budget as formulated anticipated the needs of the new City Council. To assist the Council in meeting its responsibilities, the budget contains the following increases:

- Eight positions to provide staff support for Council Committees.
- Twelve staff assistants for Council members.
- Funds for the creation of "Legislative Control Unit" and the Office of the District Auditor.
- Funds for consultant services to assist the Council in areas requiring independent technical expertise.

Chairman Nevius has expressed the present City Council's commitment to making the transition to the new government as smooth as possible. Toward this end, it is my understanding that the Council will be assembling information on proposed procedural rules for the new Council and that it plans to train current staff members in order that they may better serve, in a provisional capacity, during the critical period after the elected Council takes office.

SUMMARY

In closing, I have committed my full support, and that of the entire District Government, to laying the groundwork for a smooth transition from the present governmental structure to the new one. Moreover, this important objective will be pursued without losing sight of the day-to-day service demands of the City and the key programmatic issues now before the Congress.

This latter point is particularly crucial and deserves special consideration. Decisions will be reached shortly on several high priority legislative proposals, including the City's Fiscal 1975 budget and fiscal program and pay increases covering policemen, firemen and public school teachers. The impact of these decisions will not be limited to this year alone, but will carry over into 1975 and beyond. It is absolutely imperative, therefore, that transition activities move ahead within a context that places due emphasis on both short and long range implementation issues.

The District of Columbia is beginning a new and historic chapter in local government. As we move forward with our plans during this transition period, we fully recognize that without your strong commitment and many months of dedicated work, this would not have been possible. I know in the months ahead we will all continue to work hard to fulfill the promise of self-government.

Sincerely yours,

WALTER E. WASHINGTON,
Mayor-Commissioner.

Attachments.

GOVERNMENT OF THE DISTRICT OF COLUMBIA—ADMINISTRATIVE ISSUANCE SYSTEM

(Commissioner's Order 74-145)

JUNE 29, 1974.

Subject: Designation of National Capital Housing Authority.
 Originating Agency: Executive Office of the Commissioner.

By virtue of the authority vested in me by Reorganization Plan No. 3 of 1967 and Section 202 of the District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93-198; 87 Stat. 774), it is hereby ordered that:

1. The Director of the Office of Housing and Community Development is hereby designated as the Authority to carry out the provisions of the District of Columbia Alley Dwelling Act, as amended (D.C. Code, §§ 5-103 through 5-116). Such Authority shall be deemed a continuation of the Authority designated under Presidential Executive Order No. 6868 of October 9, 1934, as amended.

2. In carrying out his functions as such Authority, the Director of the Office of Housing and Community Development shall be known as the "National Capital Housing Authority."

3. All employees, property, unexpended balances of appropriations, allocations, and all other funds, assets and liabilities of the National Capital Housing Authority, are hereby transferred to the Authority named herein.

4. This Order shall be effective on and after July 1, 1974.

WALTER E. WASHINGTON,
 Mayor-Commissioner.

GOVERNMENT OF THE DISTRICT OF COLUMBIA—ADMINISTRATIVE ISSUANCE SYSTEM

(Commissioner's Order 74-143)

JUNE 29, 1974.

Subject: Establishment of the Office of Housing and Community Development.
 Originating Agency: Executive Office of the Commissioner.

By virtue of the authority vested in me by Reorganization Plan No. 3 of 1967, it is hereby ordered that:

1. *Establishment:* There is established in the Government of the District of Columbia, in the Executive Office of the Mayor-Commissioner, an Office of Housing and Community Development, headed by a Director, appointed by the Mayor-Commissioner. The Director shall perform the functions delegated, transferred or otherwise assigned to him in this Order, and shall have the authority to redelegate such functions as he deems necessary.

2. *Purpose:* The Office of Housing and Community Development shall identify the current and future housing and community development needs of the District of Columbia; develop a strategy for best meeting those needs; and ensure the planning and coordination of programs, projects and other activities necessary to carry out that strategy.

3. *Functions:* The Director of the Office of Housing and Community Development shall:

A. Provide the Mayor-Commissioner information and advice on matters pertaining to public and private housing and community development plans, programs, and activities in the District of Columbia.

B. Identify the District's housing and community development needs; recommend to the Mayor-Commissioner plans for meeting those needs. Under the direction of the Mayor-Commissioner establish policies to guide the planning, coordination, and execution of public or joint public-private programs and projects necessary to carry out those plans.

C. Recommend to the Mayor-Commissioner annual and longer-term housing and community development priorities, goals, and objectives for the District.

D. Coordinate the preparation of the District's submissions for funding housing and community development activities from Federal District and private sources; recommend to the Mayor-Commissioner the allocation of all non-categorical housing and community development funds provided to support housing and community development activity in the District of Columbia.

E. Coordinate the preparation of that portion of the Comprehensive Plan for the District involving Housing and Community Development, the Capital Improvements Plan, and the Multi-Year Program and Financial Plan and

recommend to the Mayor-Commissioner changes in these plans when such changes are deemed essential to the accomplishment of housing and community development goals and objectives.

F. Coordinate and prepare the annual consolidated housing and community development plan and budget for approval by the Mayor-Commissioner.

G. Ensure that all housing and community development plans are coordinated with appropriate Federal and local agencies and departments.

H. Develop with appropriate D.C. Departments and private organizations plans and programs to create and sustain private developer interest and activity in the District of Columbia.

I. Recommend to the Mayor-Commissioner standard policies and procedures for conducting housing and community development activities in the District—e.g., for relocation, land acquisition and disposition and citizen participation.

J. Monitor the implementation and execution of housing and community development programs and projects by the operating units, including regular reports to the Mayor-Commissioner for appropriate action.

K. Evaluate at the direction of the Mayor-Commissioner the effectiveness and efficiency with which housing and community development programs and projects are being carried out to meet the specified goals and objectives as set out by the Mayor-Commissioner.

L. Perform research and collect data and statistics in support of the overall functions of the Office; conduct special planning and management studies; develop and test new program concepts as demonstration or special projects as approved by the Mayor-Commissioner.

M. Serve as the Mayor-Commissioner's representative or alternate as housing and community development member on local interagency committees, task forces and coordinating committees.

N. Coordinate and review at the direction of the Mayor-Commissioner, the presentation of plans, budgets, and proposed programs of the District with regard to housing and community development programs before Congressional committees, Federal bodies, and other government entities—e.g., the Metropolitan Washington Council of Governments.

4. *Transfers of Functions and Delegated Authorities:* The position of the Assistant to the Mayor-Commissioner and the Office of Housing Programs is abolished and the functions and delegated authorities of the Assistant to the Commissioner for Housing Programs as set forth in the Commissioner's Order No. 69-182 of April 25, 1969, and as amended by Commissioner's Orders 69-546 of October 3, 1969; 71-307 of August 13, 1971; 71-357 of September 20, 1971; 71-392 of November 1, 1971; and 72-223 of August 18, 1972 are transferred to the Office of Housing and Community Development.

5. *Transfers of Funds and Other Resources:* All positions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the above functions are transferred to the Director of the Office of Housing and Community Development.

6. *Organization:* The Director of the Office of Housing and Community Development, in the performance of the functions for which he is responsible, is authorized to establish such organizational components thereunder with such specified functions as he deems appropriate.

The officers or employees of the offices whose functions were transferred under paragraph 4, above, shall continue to exercise their existing duties, powers, and authorities until such time as the Director of the Office of Housing and Community Development shall otherwise provide.

7. *Effective Date:* The provisions of the Order shall take effect as of June 30, 1974.

WALTER E. WASHINGTON,
Commissioner of the District of Columbia.

ACTING DIRECTOR

The CHAIRMAN. Thank you very much.
As I understand it, you are the Acting Director?
Mr. JACOBS. That is correct, Mr. Chairman.

The CHAIRMAN. Is there any explanation as to why an Acting Director was appointed rather than a Director?

Mr. JACOB. Mr. Chairman, I was not privy to the discussions which went into that judgment. As I have indicated Mr. Banks headed up the Mayor's task force. He may have some information on that.

The CHAIRMAN. Mr. Banks?

Mr. BANKS. Mr. Chairman, I think that the explanation is that in recruitment of a person to take over this responsibility, the Mayor at this point in time is able to guarantee only about six months of employment, which appeared not to be the optimum situation in terms of recruiting personnel to fill this position.

The CHAIRMAN. Well, then, one of the speculations about that, of course, is that the Mayor himself is the nationally acknowledged expert on housing himself and some people speculate that perhaps he was going to be his own housing director and that the acting directorship was in effect an assistant directorship.

You don't put any credence in that speculation?

Mr. BANKS. I think the Mayor certainly intends to play a major role in the next few months in getting this new office set up and calling upon his vast experience in housing and community development to do so.

The CHAIRMAN. Mr. Jacobs, you understood at the time of your appointment that you would be in an acting capacity and did you understand there would be some continued search for a director?

Mr. JACOBS. Mr. Chairman, I had assumed that would possibly be the case. The Mayor has indicated that the present arrangement is a temporary one, that he fully intends to move in the direction of establishing a line department to handle all of the housing and community development functions that are now under his jurisdiction. So I anticipate that fully.

The CHAIRMAN. Could you tell us about your other duties as an assistant for economic development, for example?

Mr. JACOBS. Well, as you may know, Mr. Chairman, the Department of Economic Development is primarily a regulatory agency. It has within its jurisdiction housing inspection, administering the various codes and regulations that deal with construction, plumbing, electrical, elevator, and building codes; enforcement of the zoning regulations; responsibility for the condemnation of unsanitary building and their restoration to sanitary conditions or their demolition. The Department also has responsibility for many of the licensing functions. In fact, practically all of them that deal with occupations and professions, ranging from architects, engineers, medical doctors, accountants, and you name it, and the Department more than likely has responsibility for it. We see that these two assignments actually dovetail with each other.

The CHAIRMAN. Where will this office be located Mr. Jacobs?

Mr. JACOBS. Physically, Mr. Chairman, we expect it to be in the space that formerly was occupied by the Assistant to the Mayor for Housing Programs, which is on the first floor of the District Building.

The CHAIRMAN. Were you on any of the task forces that were involved in the transfer arrangements at all?

Mr. JACOBS. No, I was not.

The CHAIRMAN. What consideration salarywise is there for your embracing all of these activities?

Mr. JACOBS. Mr. Chairman, I do not expect any changes to be made in my salary. I am now earning as much as I can earn under the present law, so that is not a problem.

The CHAIRMAN. Do Mr. Banks or Mr. Mister have collateral statements before we go into further questions?

Do you have a separate statement?

Mr. BANKS. Mr. Chairman, I don't have a statement.

Mr. MISTER. Mr. Chairman, I have a brief statement which I would like to read for the record with your permission.

Mr. CHAIRMAN. Mr. Mister, you may proceed.

REDEVELOPMENT LAND AGENCY

Mr. MISTER. Mr. Chairman, and members of the District committees, I appreciate the opportunity to testify this morning on behalf of the Board of Directors of the Redevelopment Land Agency.

The Agency has worked closely with Mayor Washington and the District Government in support of the home rule legislation, the transition of the Agency from a Federal to a District status, and other actions by the District Government to improve the organization and functioning of the community development program in the District of Columbia.

The home rule Act authorizes the District Government to reorganize the Agency, transfer its functions, or take other actions it deems appropriate with respect to the organization and functioning of the Redevelopment Land Agency. Pending such actions by the District Government, the Agency continues as a corporation under its Board of Directors, who are appointed by the Mayor.

Since February, the Agency has been working with a task force, chaired by Mr. James Banks, on arrangements for the transition of the Agency and the National Capital Housing Authority to the District of Columbia Government on July 1. This task force has concentrated on the legal and administrative matters involved in the transition of the two agencies. Extensive discussions and planning have been carried out in the area of budget and finance, personnel, procurement and general services, and related matters. In each of these areas arrangements have been made for orderly change to District status by the Agency, without disruption of the urban renewal program, or confusion among our employees regarding their rights.

With respect to organization and functions, we have worked with Mayor Washington on creation of the new Office of Housing and Community Development. This office will, for the first time, prepare for the Mayor's approval a consolidated city-wide housing and community development program. The community development program will spell out the roles of the many agencies involved, including the RLA, and will provide the basis for allocating funds under the new revenue sharing program that is virtually certain to be enacted by the Congress in the near future.

Some of the principal responsibilities of the Office of Housing and Community Development in regard to the Redevelopment Land Agency will be the following—I might add these items represent a new process for carrying out the urban renewal program from what has been the case in the past.

1. The Office will assist the Mayor to prepare a city-wide housing and community development program which will determine the allocation of revenue sharing funds, including funds to the RLA.

2. Even before enactment of the revenue sharing program, funding requests by the Agency will be forwarded to the Mayor through the new Office, prior to submission to the Department of Housing and Urban Development.

3. Recommendations for urban renewal plan changes will be forwarded to the Mayor through the new Office.

4. Project Area Committees and other citizen organizations will continue to provide their advice on community development issues through a process to be established by the new Office.

In effect, the Mayor will be the focal point for all planning and decision-making about community development programming, which includes urban renewal. Pending reorganization, RLA will continue as a corporation with its Board of Directors, and will continue its role as an implementer of D.C. Government policy and programs.

We think this transitional organizational of community development agencies, and the development of the needed city-wide objectives, policies and plans, will provide the capacity for the Mayor to exercise his authority over community development actions without delaying the activities being carried out by the Redevelopment Land Agency to meet Bicentennial objectives. In short, these new arrangements will both initiate significant change in the community development program, and avoid the delays and disruption usually associated with reorganization.

During the coming fiscal year, the Agency will be carrying out critical redevelopment and property rehabilitation actions in the Downtown area and the riot corridors. For example, redevelopers selected this Spring have submitted applications for low and moderate income housing assistance to the U.S. Department of Housing and Urban Development, which would produce 2,100 units of such housing at an estimated investment of \$55 million; we are currently working with a redeveloper who will soon submit specific plans and proposals for redevelopment of sites in the Downtown central business district; and we have recently obtained initial applications for assistance to property owners to rehabilitate their residences in an amount exceeding \$2 million.

We think that the transitional planning and organizational changes that have occurred under the direction of Mayor Washington will help to achieve such major new development in the center city by the Bicentennial.

I will be glad to respond to any questions that you may have.

The CHAIRMAN. Thank you.

Mr. McKinney?

Mr. McKINNEY. No questions.

The CHAIRMAN. Mr. Harris?

ACTING DIRECTOR

Mr. HARRIS. Mr. Jacobs, are you going to be continuing your job in the economic development department at the same time that you do this job?

Mr. JACOBS. I expect that practically all of my time will be spent in my new responsibility. There may be short periods of time when I need to tie up some of the things I have been involved in in Economic Development, but I consider my main function and one that I will spend most or substantially all of my time on will be the new Office.

Mr. HARRIS. Let me ask you, are you going to have an office in your old office, are you going to continue to maintain that office?

Mr. JACOBS. My old office?

Mr. HARRIS. Your office. Are you going to have two offices?

Mr. JACOBS. No, indeed.

Mr. HARRIS. And is it your expectation that you will be one of the people applying for this as a permanent director?

Mr. JACOBS. I have not made any judgment about that at this time.

Mr. HARRIS. Thank you.

REDEVELOPMENT LAND AGENCY STATUS

Mr. MISTER, let me ask you a couple of questions about the functioning of RLA under the new system.

One, I understand that the Fort Lincoln project is still in some sort of negotiation stage and up until this point the Board of Directors with you will be making certain decisions in regard to that. Will they continue to make those decisions or will they submit their tentative decisions to the Mayor for approval?

Mr. MISTER. As the situation stands right now with the present executive order, the Board of Directors will still have responsibility and authority to carry out the operations of the Redevelopment Land Agency.

Mr. HARRIS. That isn't what I asked you. I asked you what they were going to do, not what their legal authority was.

Mr. MISTER. They will continue to exercise—

Mr. HARRIS. They will exercise their authority without doing anything further until instructed to the contrary?

Mr. MISTER. Pardon me?

Mr. HARRIS. Until instructed to the contrary by the Mayor, by executive order, they will continue to perform their functions?

Mr. MISTER. That is correct. As I tried to point out in my testimony, the effect of the executive order is to vest in the Mayor the authority to determine how much money we get and what kind of programs we are to carry out, but the actual carrying out of those programs will still be the responsibility of the Board of Directors until the Mayor and city government decide to alter that.

So with respect to Fort Lincoln specifically, the decision about who is to be the developer at Fort Lincoln will be made by the Board unless some specific action is taken to alter their authority.

Mr. HARRIS. Do I also assume from this that any disputes you have on L'Enfant Plaza will continue to proceed in their previously assigned pattern rather than going into the Mayor's office?

Mr. MISTER. Well, until some further action is taken I believe that is correct. The legislation itself, the self-determination act, authorizes the city council to set up a special procedure for settling disputes, but so far that special procedure has not been established. I cannot forecast when it will be established.

Mr. HARRIS. Thank you.

The CHAIRMAN. Mr. Hogan?

Mr. HOGAN. Thank you, Mr. Chairman.

Mr. Banks, as you leave the District Government I would like to say that you certainly have been always very cooperative with our office and you certainly were with the Nelsen Commission during their work in responding to requests and otherwise being helpful.

Mr. BANKS. Thank you.

Mr. HOGAN. That is appreciated.

You indicate in your testimony here, Mr. Mister, that one of the reasons you are setting up the organization that you have now is to avoid delays and disruption normally associated with reorganization.

Does that mean that what is in place may not remain in place and there will be further reorganizations after some period of time.

Mr. MISTER. I really couldn't say. I suspect that as Mr. Jacobs assumes his role there may be suggestions made to the Mayor about further steps to alter the relationships between the agencies and the city. I can't really speculate about that.

We felt that at this point that the arrangement that the Mayor finally decided upon was a good one to strike a balance between assuming control and permitting operations to continue with the least amount of disruption. But down the road I couldn't say. I suspect that, as Mr. Jacobs indicated, there has been a continuing discussion about the formation of a Department of Housing and Community Development, and I suspect that will take place at some point either after the new government is elected or prior to that time. I really couldn't speculate about when that might happen.

Mr. HOGAN. But what has been done to date is not looked upon as freezing the situation as it is right now?

Mr. MISTER. No, that has been clear in all of the task force discussions that I have been involved in.

FORT LINCOLN PROJECT

Mr. HOGAN. Now, Mr. Harris mentioned the Fort Lincoln project. Is that impasse, which seems to occur with respect to the developer, has that been resolved at this point or is it still in the negotiation?

Mr. MISTER. The best statement I could make now, Mr. Hogan, is that resolution is imminent. We worked over the weekend with the BSI people on it and I expect that within a very short time, in a matter of hours if not a few days, we will have it resolved one way or the other.

REHABILITATION OF PRIVATE RESIDENCES

Mr. HOGAN. And you indicate here that you have \$2 million in the rehabilitation of private residences, I gather. Is that a new program?

Mr. MISTER. This really stems in large measure from the neighborhood bicentennial preservation program which was carried out by

the city, through Mr. Banks' Office of Housing Programs. As a result of that special allocation of a low interest rate, three percent Section 312 loans were made available to the city; and prior to June 30, with the assistance of the seven signatories to that agreement, we were able to commit roughly \$2 million in low interest rate loans for people living in the Shaw, 14th and H Street urban renewal areas. Most of that was for the 14th Street urban renewal area. We made the commitments. Now we have to actually prepare the plans and get the rehabilitation work accomplished.

Mr. HOGAN. Is that going to homeowners as well as developers?

Mr. MISTER. Virtually all of the section 312 money is going to homeowners.

Mr. HOGAN. Thank you, Mr. Chairman.

TEMPORARY ARRANGEMENT?

The CHAIRMAN. Am I correct in an assessment that the Administration, specifically the Mayor, has concluded that it might be presumptuous for him to implement his authority with respect to this matter on a more permanent basis, that it might be considered presumptuous in view of the election, and that a wiser course of action was to appoint an acting director, for example, by transferring someone who is already within the Administration and keeping it on a sort of a coordinate basis rather than set up a department on the presumption that the election presupposes that someone will take over in January.

Is that the rationale behind it?

Mr. BANKS. Mr. Chairman—

The CHAIRMAN. I am just trying to understand. I can understand it from that standpoint, I am trying to see if my understanding is correct.

Mr. BANKS. I think —

The CHAIRMAN. That is a thread that has been running throughout our conversations of the questions here and from the citizens organizations, for example. People just don't understand why they haven't the Administration hasn't proceeded to set that thing up on a permanent basis.

Is that the explanation?

Mr. BANKS. There are two points, Mr. Chairman. One is the nature of the organization which has been established and the other is the nature of the appointment, and I would like to speak to the nature of the organization.

I might say that the young man who spoke on behalf of the Washington Planning Housing Association apparently didn't know, but the President of the Board and three members of the Board did meet with me on this proposal to establish a new Office of Housing and Community Development and they do have copies of the proposed organization order. Apparently that information was not available to him.

We had the McKinsey Company look into the best way for the Mayor to proceed in implementing the home rule provisions with respect to housing and community development. They studied the operations in many other cities, including Baltimore, and concluded

after their examination of the other operations as well as the operations of the Housing and Community Development Agencies in the city that as a first step the Mayor would be well advised to establish an office of housing and community development and use that as the basis for establishing a good organization for a department and that is what he decided to do.

The CHAIRMAN. Mr. MacIver?

Mr. MACIVER. Mr. Mister, you say in your statement that under this new organization the Mayor will be the focal point for all planning and decision making in community development.

But isn't it true that the Mayor has already been the focal point? He appoints your board and they appoint you and you sit in on the Mayor's Cabinet meetings and he appoints Mr. Banks in charge of the housing operation. So he has been doing what he is now going to be doing under this new organization. He is just not going to have it organized to have the horses working the way a department would be.

Isn't that true?

Mr. MISTER. Mr. MacIver, the four points I made in my statement represent a new departure from the way the old program is carried out and has been carried out historically.

Under the present arrangement, prior to the self-determination act, the Mayor and the executive branch of the city government had no official role in the urban renewal approval process. Under this new arrangement, proposals will not go to the Planning Commission or to the city council without having gone through the new office and receiving the Mayor's sanction.

Prior to the passage of the self-determination act that was not the case. So that is one of the things that Mr. Banks and I worked on as part of the task force. Our effort with the McKinsey Company people was to try and come up with the best possible judgment about how far to go in changing the procedure at this point in time.

Prior to July 1, urban renewal plans and proposals for changes were approved by the Board of RLA and sent directly to the Planning Commission. Our proposals for funding were sent to the Planning Commission and to the city council, were approved by our board, and sent to the Department of Housing and Urban Development. That was official approval. Increasingly after the formation of the Office of Housing Programs, we worked together on a staff basis. Certainly, the system that we are going to have now will be very different from the one that has been followed in the past.

Mr. MACIVER. Will you get some of the resources from the other department helping with your urban renewal problems, such as maintenance of the housing that you are responsible for? Will some of the people from the housing authority now do maintenance on RLA housing?

Mr. MISTER. Well, I think that those are some of the kinds of economies that we hope will be effected through the development of this overall, comprehensive, consolidated housing and community development program, because as we see this new office, it will be meshing the resources of the city government including RLA and NCHA in a much more coherent fashion. Acting as staff aids to the Mayor, the people of the new office will be able to pull together those resources and

set priorities. I can't say whether more money will be coming to RLA or more money will be flowing in the other direction. It is hard to say. But I think what we are trying to do is to come up with a framework, a program under which all of these activities can fit in in a rational coherent fashion.

Mr. MACIVER. Mr. Banks, the McKinsey Company recommended this office be set up now. Is that for a six-month period, until a permanent director can be located and time to reorganize into a department?

Mr. BANKS. The proposal, Mr. MacIver, for the establishment of this office was not made out of consideration for the appointment of a director. The proposal was based upon their finding that because of the activities which were in process, that if those processes were going to continue with any stability, it would be better to start with an office than to try to put together a department as of July 1.

Mr. MACIVER. So what time period do you—

Mr. BANKS. They do not specify the time period, but I would suspect that between 6 months and a year would be required to gather all the pieces for the formation of a department which could take over the operation without halting a number of projects.

Mr. MACIVER. And they suggested that the new office would have a total staff of 56.

Do you expect that there will be 56 in this new staff a month from now, two months from now?

Mr. BANKS. Well, of course, a lot of decisions have to be made about that. We are expecting that the funds for the staff are going to come from a combination of model cities programs and probably some from the urban renewal program and a few from the public housing program where those functions will be intended to serve all three of those programs.

Mr. MACIVER. So some of the employees of the RLA and NCHA and so forth are going to be transferred to this new office?

Mr. BANKS. Not necessarily the employees. In some instances there will be employees, but I am talking primarily about funds.

Mr. MACIVER. And your task force hasn't gone into this question where you are going to get your employees or who is going to be transferred?

Mr. BANKS. We have discussed it. As a matter of fact we are in the process of discussing it right now. We have discussed it previously. But the primary issue is funds because that is what is required and there the assumption is—I know it is true in the National Capital Housing Authority—few bodies really can be physically moved to another location. Among the few would be people in the budget office, who will be moved, but the others would not be moved without interfering with the operation of the program.

Mr. MACIVER. How about the city council, in what way have you involved the city council in your plans for this new organization, their new role?

Mr. BANKS. There have been discussions with the staff of the Chairman of the Committee on Housing and Community Development.

Mr. MACIVER. Will the city council need new staffing?

Mr. BANKS. Not immediately, as I understand it, no.

Mr. MACIVER. I take it that although the law went into effect yesterday, and you do have one employee in the new office, you won't be ready to answer questions about the new subdivisions in that office or about policy or evaluation or whether you have got a goal set up for urban development in the city under the new setup. I take it that was all deferred for some future time.

Mr. BANKS. The only thing I can say is that we are going to recommend, in the short time I am going to be there, that the planning division be set up and be authorized to proceed immediately to develop the city's community development program in order to be able to qualify when the time comes for funds under the special revenue sharing program.

Mr. MACIVER. That is the division of the office that is listed as having 11 employees including five planners?

Mr. BANKS. Yes, sir.

Mr. MACIVER. That is completely separate from the new office of planning that last week we heard—

Mr. BANKS. It is separate in the sense that the Office of Planning and Management has the responsibility for developing the comprehensive plan for the city. But they will be related in that what is done by the Planning Staff of the new Office has to be within the context of the broad plans laid out by the Office of Planning and Management.

Mr. MACIVER. You indicate you are still going to be there. You are not a private citizen today?

Mr. BANKS. I am operating as an expert assistant to the Mayor until we get these things smoothed out.

Mr. MACIVER. Do you have a private opinion as to what would be the best organization, whether an office like this would be the best organization, or a department with operational functions?

Mr. BANKS. I think ultimately we have to have a department. That is my private opinion. But I do agree on the basis of the studies that have been made that the formation of a department without developing each of the procedures and all of the policies in a very detailed way, in identifying people, would take more time than we had after this bill was passed. This office was designed to provide that kind of assistance to the Mayor during the coming three to six months.

Mr. MACIVER. The McKinsey study indicates that there are several reasons why there should not be a department.

For instance, you get bogged down in the details of operations rather than being close to the Mayor in decision making and so forth.

What response do you have to that indication that this should be a permanent setup?

Mr. BANKS. Well, I think I don't agree with that in the final analysis. I think that contention certainly has merit as we move toward reorganization. But I think, especially if ultimately we have a community development corporation with the ability to move in the physical development field, that a department is a workable proposition.

Mr. MACIVER. These task forces will continue to meet now and tackle the problem of actually putting the plan into operation?

Mr. BANKS. That would be my suggestion to Mr. Jacobs, yes.

Mr. MACIVER. Do you know if there is any intention to try to involve the public in public meetings?

Mr. BANKS. Absolutely. The Mayor wants to establish almost immediately an advisory group of citizens to work with the office as it proceeds to further reorganization.

Mr. MACIVER. Is there any particular reason why this wasn't done over the past six months when you have been planning this far?

Mr. BANKS. Of course you realize there has been a lot of input from the citizen groups. There was a major group put together by Mr. Tucker which did exhaustive studies, and those studies were available to us and to the McKinsey Company. They made their proposals and there have been, as you may be aware, citizen groups involved in the operation of the Housing Authority and the redevelopment planning agencies. We felt that we had a pretty broad view of what the citizens groups would like to see done.

The CHAIRMAN. Well, before gaveling the meeting to a close, Mr. Banks, I would like to join Mr. Hogan in commending you for your distinguished professional career and as you retire we want you to go out with those commendations ringing in your ears and you certainly have been cooperative with this committee and we are delighted to know that the Mayor is still taking advantage of your expert consultation and we wish you well.

Mr BANKS. Thank you, Mr. Chairman.

The CHAIRMAN. The meeting stands adjourned.

[Whereupon, at 11:10 a.m., the meeting adjourned subject to call of the Chair.]

[Subsequently, certain material was received for the record, and is included in the Appendix.]

APPENDIX

BOARD OF EDUCATION OF THE DISTRICT OF COLUMBIA,
Washington, D.C., July 15, 1974.

HON. CHARLES C. DIGGS, JR.,
Chairman, Committee on the District of Columbia,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: At a Special Meeting of the Board of Education of the District of Columbia held Monday, July 15, 1974, the Board announced that four vacancies now exist on the eleven-member Board of Education. After this announcement, the Board unanimously adopted the following motion:

"That the Board of Education instruct the Executive Secretary to notify the Mayor, the Board of Elections, the Chairman of the Senate District Committee and the House District Committee, and the Chairman of the City Council that we are filling the vacancies to the Board of Education by appointment, although we strongly disagree with this process and we urge those in the positions of authority to move immediately to change the law so that vacancies can be filled through special elections."

The Board of Education strongly urges that all parties concerned with the process of government in the District of Columbia work together toward an immediate alteration in the process for filling vacancies which occur on the Board. I am attaching a copy of the procedure to be followed in the appointments process, as approved by the Board.

Sincerely,

DWIGHT S. CROPP,
Executive Secretary, Board of Education.

[H.R. 15791, 93d Cong., 2d sess.]

By Mr. DIGGS (for himself, Mr. FRASER, Mr. FAUNTROY, and Mr. BROYHILL of Virginia)
July 3, 1974

A BILL To amend section 204(g) of the District of Columbia Self-Government and Governmental Reorganization Act, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 204(g) of the District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93-198; 87 Stat. 774) is amended by deleting the second sentence thereof.

Proposed amendment to H.R. 15791—add a new section as follows:

Sec. 2. Section 771 of the District of Columbia Self-Government and Governmental Reorganization Act is amended to read as follows:

EFFECTIVE DATES

"SEC. 771 (a) Titles I and V, and parts A and G, and section 772 of Title VII shall take effect on the date of enactment of this Act.

"(b) Sections 712, 713, 714, and 715 of Title VII, and Section 401(b) of Title IV and Title II shall take effect July 1, 1974, except that any provision thereof which in effect transfers authority to appoint any citizen member of the National Capital Planning Commission or the District of Columbia Redevelopment Land Agency shall take effect January 2, 1975.

"(c) Titles III and IV, except section 401(b) of Title IV, shall take effect January 2, 1975, if Title IV is accepted by a majority of the registered qualified electors in the District of Columbia voting on the Charter issue in the Charter referendum.

(73)

"(d) Title VI and parts D and F and sections 711, 716, 717, 718, 719, 721, and 723 of Title VII shall take effect only if and upon the date that Title IV becomes effective.

"(e) Part E of Title VII shall take effect on the date on which Title IV is accepted by a majority of the registered qualified electors in the District of Columbia voting on the charter issue in the Charter referendum."

ADDITIONAL AMENDMENTS PROPOSED TO H.R. 15791

SEC. 4(a) The first sentence of Section 441 of the D.C. Self Government and Governmental Reorganization Act is amended to read as follows: "The fiscal year of the District shall, beginning on October 1, 1976, commence on the first day of October of each year and shall end on the thirtieth day of September of the succeeding calendar year."

SEC. 4(b) Section 502 of the D.C. Self Government and Governmental Reorganization Act is amended to read as follows:

"SEC. 502. Notwithstanding any other provision of law, there is authorized to be appropriated as the annual Federal payment to the District of Columbia for the fiscal year ending June 30, 1975, the sum of \$230,000,000; for the fiscal year ending June 30, 1976, the sum of \$254,000,000; for the fiscal year ending September 3, 1977, the sum of \$280,000,000; for the fiscal year ending September 30, 1978, and for each year thereafter, the sum of \$300,000,000. For the period July 1 through September 30, 1976, there is authorized to be appropriated a Federal payment of \$70,000,000.

SEC. 5. Section 462(1) of the D.C. Self Government and Governmental Reorganization Act is amended to read as follows:

"(1) briefly describing each project to be financed by the act;".

SEC. 6. The first sentence of section 465 of the D.C. Self Government and Governmental Reorganization Act is amended to read as follows: "At the end of the twenty-day period specified in section 464, the Mayor may issue general obligation bonds as authorized pursuant to the provisions of sections 461 to 465 inclusive, hereof."

SEC. 7. The second sentence of section 466 of the D.C. Self Government and Governmental Reorganization Act is amended by striking out "Council" and inserting in lieu thereof "Mayor".

Add a new section to read as follows:

SEC. 3. In subsection (d) of Section 401 of the D.C. Self Government and Governmental Reorganization Act, renumber (3) to (4) and insert a new subdivision to read as follows:

(3) To fill a vacancy in the Office of Chairman, the Board of Elections shall hold a special election in the District on the first Tuesday occurring more than one hundred and fourteen days after the date on which such vacancy occurs, unless the Board of Elections determines that such vacancy could be more practicably filled in a special election held on the same day as the next general election to be held in the District occurring within sixty days of the date on which a special election would otherwise have been held under the provisions of this paragraph. The person elected Chairman to fill a vacancy in the Office of Chairman shall take office on the day on which the Board of Elections certifies his election, and shall serve as Chairman only for the remainder of the term during which such vacancy occurred. When the Office of Chairman becomes vacant, the Council shall elect one of the elected at-large members of the Council to serve as Chairman and one to serve as Chairman Pro Tempore until the election of a new Chairman.

Amend the first section by adding a new paragraph to read as follows:

(9) Part D of Title VII of the District of Columbia Self-Government and Governmental Reorganization Act (84 Stat 774) is amended by adding a new section to read as follows:

SEC. 744. The District of Columbia Council shall have authority by regulation to amend or repeal any section of the Horizontal Property Act of the District of Columbia, approved December 21, 1963.

STAFF SUMMARY—COMMITTEE ON THE DISTRICT OF COLUMBIA

H.R. 15791

I. Introduced by: Mr. Diggs, Fraser, Fauntroy, Broyhill of Virginia.

II. Short Title: "To amend section 204(g) of the District of Columbia Self-Government and Governmental Reorganization Act, and for other purposes.

III. Summary of Major Provisions: SEC. 1.—Deletes a sentence in Section 204(g), thereby protecting civil service rights of transferred employees of the D. C. Manpower Administration in the same fashion as transferred employees of the National Capital Housing Authority and the employees of the Redevelopment Land Agency.

SEC. 2.—(an amendment) (1) makes July 1, 1974, the effective date for sections 712, 713, 714, and 715 rather than January 2, 1975. These sections deal with transferring personnel, etc. July 1, 1974 is the date of transfer of the RLA, NCHA and DCMA.

(2) makes July 1, 1974, the effective date for section 421(b) rather than January 2, 1975. Sec. 421(b) deals with minority party representation on the city council and should apply to the first elections in September and December, 1974.

SEC. 3.—(an amendment) Provides a special election in case of a vacancy in the office of Chairman of the city council, in nearly identical language to Sec. 421(c) (2) on a vacancy in the office of Mayor. Without this amendment a vacancy in the office of Chairman of the City Council would continue for whatever part of the 4 year term of the chairman remained.

SEC. 5. Section 462(1) of the D.C. Self Government and Governmental Reorganization Act is amended to read as follows:

“(1) briefly describing each project to be financed by the act:”

SEC. 6. The first sentence of section 465 of the D.C. Self Government and Governmental Reorganization Act is amended to read as follows: “At the end of the twenty-day period specified in section 464, the Mayor may issue general obligation bonds as authorized pursuant to the provisions of sections 461 to 465 inclusive, hereof.”

SEC. 7. The second sentence of section 466 of the D.C. Self Government and Governmental Reorganization Act is amended by striking out “Council” and inserting in lieu thereof “Mayor”.

[H.R. 15791, as reported 93d Cong., 2d sess.]

[Report No. 93-1201]

Mr. Diggs. Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed July 16, 1974

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL To amend section 204(g) of the District of Columbia Self-Government and Governmental Reorganization Act, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 204(g) of the District of Columbia Self Government and Governmental Reorganization Act (Public Law 93-198; 87 Stat. 774) is amended by deleting the second sentence thereof:**That the District of Columbia Self-Government and Governmental Reorganization Act (84 Stat. 774) is amended as follows:*(1) *The second sentence of subsection (g) of section 204 of that Act is repealed.*(2) *Subsection (b) of section 401 of that Act is amended by (A) redesignating paragraph (3) as paragraph (4); and (B) inserting immediately after paragraph (2) the following:**“(3) To fill a vacancy in the Office of Chairman, the Board of Elections shall hold a special election in the District on the first Tuesday occurring more than one hundred and fourteen days after the date on which such vacancy occurs, unless the Board of Elections determines that such vacancy could be more practicably filled in a special election held on the same day as the next general election to be held in the District occurring within sixty days of the date on which a special election would otherwise have been held under the provisions of this*

paragraph. The person elected Chairman to fill a vacancy in the Office of Chairman shall take office on the day in which the Board of Elections certifies his election, and shall serve as Chairman only for the remainder of the term during which such vacancy occurred. When the Office of Chairman becomes vacant, the Council shall select one of the elected at-large members of the Council to serve as Chairman and one to serve as Chairman pro tempore until the election of a new Chairman."

(3) The first sentence of section 441 of that Act is amended to read as follows: "The fiscal year of the District shall, beginning on October 1, 1976, commence on the first day of October of each year and shall end on the thirtieth day of September of the succeeding calendar year."

(4) Paragraph (1) of section 462 of that Act is amended to read as follows: "(1) briefly describing each project to be financed by the act;"

(5) The first sentence of section 465 of that Act is amended to read as follows: "At the end of the twenty-day period specified in section 464, the Mayor may issue general obligation bonds as authorized pursuant to the provisions of sections 461 through 465."

(6) The second sentence of section 466 is amended by striking out "Council" and inserting in lieu thereof "Mayor".

(7) Section 502 of that Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 502. Notwithstanding any other provision of law, there is authorized to be appropriated as the annual Federal payment to the District of Columbia for the fiscal year ending June 30, 1975, the sum of \$230,000,000; for the fiscal year ending June 30, 1976, the sum of \$254,000,000; for the fiscal year ending September 30, 1977, the sum of \$280,000,000; for the fiscal year ending September 30, 1978, and for each fiscal year thereafter, the sum of \$300,000,000. For the period July 1, 1976, through September 30, 1976, there is authorized to be appropriated a Federal payment of \$70,000,000."

(8) Section 711 of that Act is amended to read as follows:

"EFFECTIVE DATES

"SEC. 711. (a) Titles I and V, and parts A and G, and section 722 of title VII shall take effect on the date of enactment of this Act.

"(b) Sections 712, 713, 714, and 715 of title VII, and section 401(b) of title IV, and title II shall take effect July 1, 1974, except that any provision thereof which in effect transfers authority to appoint any citizen member of the National Capital Planning Commission or the District of Columbia Redevelopment Land Agency shall take effect January 2, 1975.

"(c) Titles III and IV, except section 401(b) of title IV, shall take effect January 2, 1975, if title IV is accepted by a majority of the registered qualified electors in the District of Columbia voting on the charter issue in the charter referendum.

"(d) Title VI and parts D and F and sections 711, 716, 717, 718, 719, 721, and 723 of title VII shall take effect only if and upon the date that title IV becomes effective.

"(e) Part E of title VII shall take effect on the date on which title IV is accepted by a majority of the registered qualified electors in the District of Columbia voting on the charter issue in the charter referendum."

SEC. 2. (a) The first sentence of subsection (e) of section 10 of the District of Columbia Election Act (D.C. Code, sec. 1-1110) is amended by striking out "for members of the Board of Education".

(b) The Board of Elections shall prescribe regulations as it considers necessary in order to carry out the purposes of the amendment made by subsection (a).

HOME RULE ACT AMENDMENTS

JULY 16, 1974.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. Diggs, from the Committee on the District of Columbia,
submitted the following

REPORT

[To accompany H.R. 15791]

The Committee on the District of Columbia, to whom was referred the bill (H.R. 15791) to amend section 204(g) of the District of Columbia Self-Government and Governmental Reorganization Act, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment strikes out all after the enacting clause and inserts a substitute text which appears in *italic type* in the reported bill.

PURPOSE OF THE BILL

The purpose of H.R. 15791 as amended, is to correct the Home Rule Act at several points where practical difficulties are foreseen. One change is to place employees of the D.C. Manpower Administration on the same footing as to their rights and employee status as other employees being transferred on July 1, 1974 from Federal agencies to the District of Columbia government. Others include changing the District to the new Federal fiscal year of October 1 to September 30, make July 1, 1974 rather than January 2, 1975, the effective date for several sections, simplify the procedure for general obligation bonds and to fill Board of Education vacancies at the next general election.

BACKGROUND

MANPOWER EMPLOYEES

Fourteen hundred employees of the D.C. Manpower Administration, the Re-development Land Agency, and the National Capital Housing Authority, are transferred to the D.C. Government under the terms of Title II of the Self-Government and Governmental Reorganization Act which became law December 24, 1973.

General language in Section 713 of the Act protects the rights of all transferred employees as follows:

(d) No officer or employee shall, by reason of his transfer to the District Government under this Act or his separation from service under this Act, be deprived of any Civil Service rights, benefits, and privileges held by him prior to such transfer or any right of appeal or review he may have by reason of his separation from service.

However, an additional sentence applying only to the employees being transferred, such position shall no longer be a position in such competitive follows:

When such an employee vacates a position into which he was transferred, such position shall no longer be a position in such competitive service.

Deleting that sentence would treat all transferred employees equally.

BOARD OF EDUCATION VACANCIES

The 11-Member elected Board of Education already has several vacancies created by Members resigning to run for election for City Council this September and November.

Present law calls for electing replacements at the next Board of Education election in November, 1975. In the meantime, the remaining members fill vacancies by appointment.

Section 2 of the bill sets a special election to fill those vacancies this fall with the City general election.

OTHER SECTIONS

Paragraphs (4), (5) and (6) of the first section correct apparent oversights in the Home Rule Act on general obligation bonds that can be issued by the District.

Paragraphs (8), (2), (3) and (7) of the first section, dealing with effective dates for sections of the Home Rule Act, filling a vacancy in the office of Chairman of the District Council, and conforming the District to the Federal fiscal year, will ease the transition to Home Rule government.

NEED FOR LEGISLATION

MANPOWER EMPLOYEES

A May 1974 legal opinion by Anthony L. Mondello, General Counsel for the U.S. Civil Service Commission, stated the effect this special language has on D.C. Manpower Administration employees being transferred.

In order for a position with DCMA to retain its character as a position in the competitive service an employee must be occupying that position at the time of transfer. Otherwise it becomes a position in the excepted service after the transfer date. Vacant positions at the time of transfer, therefore, lose their status as competitive service positions. Similarly, once the transferee vacates his or her position, that position loses its character as a position in the competitive service. This conclusion is supported by H.R. Report No. 93-482 at page 7 which describes the purpose of Section 204 as follows:

** * * that such employees shall be able to retain their Civil Service standing until such time as they may vacate their current positions.*
[Emphasis added.]

As a result, many of the affected employees urged Congress to change this language. Mayor-Commissioner Walter E. Washington wrote the Chairman on June 27th requesting the change in the Home Rule Act made by paragraph (1) of the first section.

BOARD OF EDUCATION ELECTION AND OTHER SECTIONS

The action taken in the other sections of the bill will correct situations which have been brought to the attention of the Committee by the Board of Education and by several District officials and the Mayor.

The amendment made by paragraph (8) of the first section, for example, avoids the possibility of a 6-month hiatus of uncertain legal status for employees, existing regulations and pending lawsuits. Paragraph (8) makes July 1, 1974, rather than January 2, 1975, the effective date for Sections 712, 713, 714, and 715, which deal with these matters. Those sections will now apply to the transfers made on July 1, 1974, of three Federal agencies which now come under District control.

HISTORY

Hearings on possible amendments to the Home Rule Act in regards to the transfers made by Title II of that Act were held by the Full Committee on

June 26, and July 2, 1974. Statements requesting the change in the law made by paragraph (1) of the first Section were made by the Honorable Gilbert Gude, the Honorable Joel Broyhill, and the Honorable Lawrence J. Hogan. Testimony was received from officials of the District Government, the Deputy-Assistant Secretary of Labor for Manpower, and two of the affected employees.

No testimony has been received nor statements filed in opposition to this legislation.

VOTE

The bill, H.R. 15791, as amended, was ordered favorably reported to the House on July 16, 1974, by a voice vote, a quorum being present.

COST

There is no additional cost associated with this legislation, except that occasioned by the ballots for candidates for the Board of Education at the regular District election.

DISTRICT GOVERNMENT REPORTS

The letters of the Mayor-Commissioner of the District requesting the change made by paragraphs (1), (3), (4), (5), (6) and (7) of the first section follow:

THE DISTRICT OF COLUMBIA,
Washington, D.C., June 27, 1974.

Hon. CHARLES C. DIGGS, Jr.,
Chairman, Committee on the District of Columbia,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is to inform you that it is my understandings that representatives of the U.S. Department of Labor, the District of Columbia Manpower Administration, Local 12, the District Government, and the General Counsel of the American Federation of Government Employees reached agreement June 26, 1974 that a single amendment to the D.C. Self-Government and Governmental Reorganization Act is necessary to provide for the continuation of competitive status for the transferred employees of the D.C. Manpower Administration. The parties agreed that section 204(g) of that Act should be amended to strike the last sentence in subsection (g).

In view of this agreement, the District Government recommends that the second sentence of section 204(g) be deleted. Attached is a draft bill to accomplish that purpose.

It is also my understanding that the parties referred to above are of the opinion that the purpose of section 204 is clearly set forth in the House Committee on the District of Columbia report on the D.C. Self-Government and Governmental Reorganization Act. That report (H. Rept. 93-482) states with respect to the effect of section 204 that "all manpower activities in the District of Columbia will be consolidated under the Mayor's office into a coordinated manpower service delivery system." In the view of these parties, section 204 thus provides for the transfer of the full complement of employees of the D.C. Manpower Administration. Accordingly, we do not recommend additional amendment of section 204.

I hope the Committee will be able to give prompt consideration to the single amendment we proposed to section 204(g). If I can be of further assistance please let me know.

Sincerely yours,

WALTER E. WASHINGTON,
Mayor-Commissioner.

THE DISTRICT OF COLUMBIA,
Washington, D.C., July 15, 1974.

Hon. CHARLES C. DIGGS, Jr.,
Chairman, Committee on the District of Columbia, U.S. House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: At the hearing of June 26, 1974, before the Joint Senate and House Committees on the District of Columbia concerning the status of transition provisions of Title II of the District of Columbia Self-Government and Governmental Reorganization Act, the District Government was requested to furnish the Congress with such additional amendments to the Act as would be needed to effectuate the orderly transfer of the functions and authorities provided

by such Act. In response to your request, there is attached a draft bill containing proposed amendments to certain sections of Titles IV and V of the Act relating to the borrowing and budgetary processes of the new District Government.

The first amendment proposed by the draft bill would amend section 441 of the Act to change the fiscal year of the District Government from July 1 through June 30 of each year to one beginning on October 1 of each year and ending on September 30 of the succeeding calendar year. Pursuant to section 501 of H.R. 7130, a bill which has passed both the House and Senate and is awaiting approval, the fiscal year of the Federal Government is changed to begin on October 1 of each year. Inasmuch as the budget and appropriation procedures of the District Government traditionally have paralleled those of the United States and will not be materially changed under the Self-Government Act, it appears desirable and practical that a corresponding change be effected in the fiscal year of the new District Government.

The second proposed amendment would amend section 462(1) of the Act to clearly indicate that an act of the Council of the District of Columbia authorizing a bond issue may, should it so provide, finance several projects and is not limited to the financing of a single project.

The third amendment would amend section 465 of the Act to reduce the time period needed to issue general obligation bonds and to specifically vest in the Mayor the authority to perform the administrative act of issuing bonds which, pursuant to the provisions of sections 461 through 464, have already been authorized by act of the Council and have met the notice and publication requirements set out therein.

The fourth amendment would amend section 466 of the Act to vest in the Mayor, as a purely administrative function, the right to reject any and all bids on general obligation bond issues. This amendment will further serve to reduce the time period involved in the sale of bond issues.

The final proposed amendment would amend section 502 of the Act relating to the authorization of appropriations for the annual Federal payment to the District of Columbia to reflect the recommended change in the fiscal year of the District, as proposed in the first amendment of the draft bill. For the interim period between the end of the old fiscal year to the beginning of the new fiscal year, a Federal payment of \$70,000,000 is proposed.

We believe that each of the proposed amendments to the Self-Government Act will be essential to the financial operations of the new District Government and urge their favorable consideration by the Congress. We shall be glad to furnish such additional information concerning these proposals as may be requested.

Sincerely yours,

WALTER E. WASHINGTON,
Mayor-Commissioner.

SECTION-BY-SECTION ANALYSIS

The first section of the bill has eight paragraphs, each paragraph, containing an amendment to the District of Columbia Self-Government and Governmental Reorganization Act as follows:

Paragraph (1) deletes a sentence in Section 204(g), thereby protecting civil service rights of transferred employees of the D.C. Manpower Administration in the same fashion as transferred employees of the National Capital Housing Authority and the employees of the Redevelopment Land Agency.

Paragraph (2) provides a special election in case of a vacancy in the office of the Chairman of the City Council, in nearly identical language to Sec. 421(c) (2) on a vacancy in the office of Mayor. Without this amendment a vacancy in the office of Chairman of the City Council would continue for whatever part of the 4-year term of the Chairman remained.

Paragraph (3) changes the fiscal year to conform to the new Federal fiscal year—October 1 to September 30. In Paragraph (7) Federal payment is recomputed to match the new fiscal year dates.

Paragraph (4) makes it clear that a number of capital projects can be packaged in the same authorizing act by the Council.

Paragraph (5) removes a second delay after the Council enacts authorization for issuance of general obligation bonds. The Mayor can issue and advertise immediately.

Paragraph (6) gives the Mayor rather than the Council the right to reject any and all bids, for general obligation bonds. The Mayor already markets the bonds, setting the interest and maturities under Sec. 461.

Paragraph (8) makes July 1, 1974, the effective date for Sections 712, 713, 714, and 715 rather than January 2, 1975. These sections deal with transferring personnel, etc. July 1, 1974, is the date of transfer of the RLA, NCHA, and DCMA.

The second section amends the D.C. Election Act to provide for filling Board of Election vacancies at the next general election.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

DISTRICT OF COLUMBIA SELF-GOVERNMENT AND GOVERNMENTAL REORGANIZATION ACT

AN ACT To reorganize the governmental structure of the District of Columbia, to provide a charter for local government in the District of Columbia subject to acceptance by a majority of the registered qualified electors in the District of Columbia, to delegate certain legislative powers to the local government, to implement certain recommendations of the Commission on the Organization of the Government of the District of Columbia, and for other purposes

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TITLE II—GOVERNMENTAL REORGANIZATION

* * * * *

DISTRICT OF COLUMBIA MANPOWER ADMINISTRATION

SEC. 204. (a) * * *

* * * * *

(g) Any employee in the competitive service of the United States transferred to the government of the District under the provisions of this section shall retain all rights, benefits, and privileges pertaining thereto held prior to such transfer. [When such an employee vacates the position into which he was transferred, such position shall no longer be a position in such competitive service.]

* * * * *

TITLE IV—THE DISTRICT CHARTER

PART A—THE COUNCIL

Subpart 1—Creation of the Council

CREATION AND MEMBERSHIP

SEC. 401. (a) There is established a Council of the District of Columbia; and the members of the Council shall be elected by the registered qualified electors of the District.

(b) (1) The Council established under subsection (a) shall consist of thirteen members elected on a partisan basis. The Chairman and four members shall be elected at large in the District, and eight members shall be elected one each from the eight election wards established, from time to time, under the District of Columbia Election Act. The term of office of the members of the Council shall be four years, except as provided in paragraph (3), and shall begin at noon on January 2 of the year following their election.

(2) In the case of the first election held for the office of member of the Council after the effective date of this title, not more than two of the at-large members (excluding the Chairman) shall be nominated by the same political party. Thereafter, a political party may nominate a number of candidates for the office of at-large member of the Council equal to one less than the total number of at-large members (excluding the Chairman) to be elected in such election.

(3) To fill a vacancy in the Office of Chairman, the Board of Elections shall hold a special election in the District on the first Tuesday occurring more than one hundred and fourteen days after the date on which such vacancy occurs, unless the Board of Elections determines that such vacancy could be more practicably filled in a special election held on the same day as the next general elec-

tion to be held in the District occurring within sixty days of the date on which a special election would otherwise have been held under the provisions of this paragraph. The person elected Chairman to fill a vacancy in the Office of Chairman shall take office on the day on which the Board of Elections certifies his election, and shall serve as Chairman only for the remainder of the term during which such vacancy occurred. When the Office of Chairman becomes vacant, the Council shall select one of the elected at-large members of the Council to serve as Chairman and one to serve as Chairman Pro Tempore until the election of a new Chairman.

【(3)】 (4) Of the members first elected after the effective date of this title, the Chairman and two members elected at-large and four of the members elected from election wards shall serve for four-year terms; and two of the at-large members and four of the members elected from election wards shall serve for two-year terms. The members to serve the four-year terms and the members to serve the two-year terms shall be determined by the Board of Elections by lot, except that not more than one of the at-large members nominated by any political party shall serve for any such four-year term.

* * * * *

PART D—DISTRICT BUDGET AND FINANCIAL MANAGEMENT

Subpart 1—Budget and Financial Management

FISCAL YEAR

SEC. 441.—The fiscal year of the District [shall begin on the first day of July and shall end on the thirtieth day of June] shall, beginning on October 1, 1976, commence on the first day of October of each year and shall end on the thirtieth day of September of the succeeding calendar year. Such fiscal year shall also constitute the budget and accounting year.

* * * * *

PART E—BORROWING

Subpart 1—Borrowing

* * * * *

CONTENTS OF BORROWING LEGISLATION

SEC. 462. The Council may by act authorize the issuance of general obligation bonds for the purposes specified in section 461. Such an act shall contain, at least, provisions—

- (1) briefly describing each [such] project to be financed by the Act;
- (2) identifying the Act authorizing each such project;
- (3) setting forth the maximum amount of the principal of the indebtedness which may be incurred for each such project;
- (4) setting forth the maximum rate of interest to be paid on such indebtedness;
- (5) setting forth the maximum allowable maturity for the issue and the maximum debt service payable in any year; and
- (6) setting forth, in the event that the Council determines in its discretion, to submit the question of issuing such bonds to a vote of the qualified voters of the District, the manner of holding such election, the manner of voting for or against the incurring of such indebtedness, and the form of ballot to be used at such election.

* * * * *

ACTS FOR ISSUANCE OF GENERAL OBLIGATION BONDS

SEC. 465. At the end of the [twenty-day] 20-day period specified in section 464, the [Council may by act establish an issue of] Mayor may issue general obligation bonds as authorized pursuant to the provisions of section 461 [to 465 inclusive, hereof] through 465. An issue of general obligation bonds is hereby defined to be all or any part of an aggregate principal amount of bonds authorized pursuant to such sections, but no indebtedness shall be deemed to have been

incurred within the meaning of this Act until such bonds have been sold, delivered, and paid for, and then only to the extent of the principal amount of such bonds so sold and delivered. The bonds of each issue shall be payable in annual installments beginning not more than three years after the date of such bonds and ending not more than thirty years from such date. The amount of said issues to be payable in each year shall be so fixed that when the annual interest is added to the principal amount payable in each year, the total amount payable either serially or to a sinking fund shall be substantially equal. It shall be an immaterial variance if the difference between the largest and smallest amounts of principal and interest so payable during each fiscal year during the term of the general obligation bonds does not exceed 3 per centum of the total authorized amount of such series. Such bonds and coupons may be executed by the facsimile signatures of the officer designated by the act authorizing such bonds, to sign the bonds, within the exception that at least one signature shall be manual. Such bonds may be issued in coupon form in the denomination of \$1,000, or \$1,000 and \$5,000, registerable as to principal only or as to both principal and interest, and if registered as to both principal and interest may be issuable in denominations of multiple of \$1,000. Such bonds and the interest thereon may be payable at such place or places within or without the District as the Council may determine.

PUBLIC SALE

SEC. 466. All general obligation bonds issued under this part shall be sold at public sale upon sealed proposals after publication of a notice of such sale at least once not less than ten days prior to the date fixed for sale in a daily newspaper carrying municipal bond notices and devoted primarily to financial news or to the subject of State and municipal bonds published in the city of New York, New York, and in one or more newspapers of general circulation published in the District. Such notice shall state, among other things, that no proposal shall be considered unless there is deposited with the District as a downpayment a certified check or cashier's check for an amount equal to at least 2 per centum of the par amount of general obligation bonds bid for, and the [Council] Mayor shall reserve the right to reject any and all bids.

* * * * *

TITLE V—FEDERAL PAYMENT

* * * * *

AUTHORIZATION OF APPROPRIATIONS

SEC. 502. Notwithstanding any other provision of law, there is authorized to be appropriated as the annual Federal payment to the District of Columbia for the fiscal year ending June 30, 1975, the sum of \$230,000,000; for the fiscal year ending June 30, 1976, the sum of \$254,000,000; for the fiscal year ending [June] September 30, 1977, the sum of \$280,000,000; for the fiscal year ending [June] September 30, 1978, and for each fiscal year thereafter, the sum of \$300,000,000. *For the period July 1, 1976, through September 30, 1976, there is authorized to be appropriated a Federal payment of \$70,000,000.*

* * * * *

TITLE VII—REFERENDUM; SUCCESSION IN GOVERNMENT; TEMPORARY PROVISIONS; MISCELLANEOUS; AMENDMENTS TO DISTRICT OF COLUMBIA ELECTION ACT; RULES OF CONSTRUCTION; AND EFFECTIVE DATES

* * * * *

PART G—EFFECTIVE DATES

EFFECTIVE DATES

SEC. 771. (a) Titles I and V, and parts A and G, and section 722[.] of title VII shall take effect on the date of enactment of this Act.

(b) [Title II] Sections 712, 713, 714, and 715 of title VII, and section 401(b) of title IV, and title II shall take effect [on] July 1, 1974, except that any provision thereof which in effect transfers authority to appoint any citizen member of the National Capital Planning Commission or the District of Columbia Redevelopment Land Agency shall take effect on January 2, 1975.

(c) Titles III and [IV] IV, except section 401(b) of title IV, shall take effect January 2, 1975, if title IV is accepted by a majority of the registered qualified electors in the District of Columbia voting on the charter issue in the charter referendum.

(d) Title VI and parts [B, D, and F, and sections 721 and 723, of] D and F and sections 711, 716, 717, 718, 719, 721, and 723 of title VII shall take effect only if and upon the date that title IV becomes effective.

(e) Part E of title VII shall take effect on the date on which title IV is accepted by a majority of the registered qualified electors in the District of Columbia voting on the charter issue in the charter referendum.

SECTION 10 OF THE DISTRICT OF COLUMBIA ELECTION ACT
ELECTIONS

SEC. 10. (a) * * *

* * * * *

(e) Whenever a vacancy occurs in the office of member of the Board of Education, such vacancy shall be filled at the next general election [for members of the Board of Education] which occurs more than [ninety-nine] one hundred fourteen days after such vacancy occurs. However, the Board of Education shall appoint a person to fill such vacancy until the unexpired term of the vacant office ends or until the fourth Monday in January next following the date of the election of a person to serve the remainder of such unexpired term, whichever occurs first. A person elected to fill a vacancy shall hold office for the duration of the unexpired term of office to which he was elected. Any person appointed under this subsection shall have the same qualifications for holding such office as were required of his immediate predecessor.

THE DISTRICT OF COLUMBIA,
Washington, D.C., June 27, 1974.

Hon. CHARLES C. DIGGS, Jr.,
Chairman, Committee on the District of Columbia, U.S. House of Representatives,
Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is to inform you that it is my understanding that representatives of the U.S. Department of Labor, the District of Columbia Manpower Administration, Local 12, the District Government, and the General Counsel of the American Federation of Government Employees reached agreement June 26, 1974 that a single amendment to the D.C. Self-Government and Governmental Reorganization Act is necessary to provide for the continuation of competitive status for the transferred employees of the D.C. Manpower Administration. The parties agreed that section 204(g) of that Act should be amended to strike the last sentence in subsection (g).

In view of this agreement, the District Government recommends that the second sentence of section 204(g) be deleted. Attached is a draft bill to accomplish that purpose.

It is also my understanding that the parties referred to above are of the opinion that the purpose of section 204 is clearly set forth in the House Committee on the District of Columbia report on the D.C. Self-Government and Governmental Reorganization Act. That report (H. Rept. 93-482) states with respect to the effect of section 204 that "all manpower activities in the District of Columbia will be consolidated under the Mayor's office into a coordinated manpower service delivery system." In the view of these parties, section 204 thus provides for the transfer of the full complement of employees of the D.C. Manpower Administration. Accordingly, we do not recommend additional amendment of section 204.

I hope the Committee will be able to give prompt consideration to the single amendment we propose to section 204(g). If I can be of further assistance please let me know.

Sincerely yours,

WALTER E. WASHINGTON,
Mayor-Commissioner.

Enclosure.

A BILL To amend section 204(g) of the District of Columbia Self-Government and Governmental Reorganization Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 204(g) of the District of Columbia Self-Government and Governmental Reorganization Act is amended by deleting the second sentence thereof.

JULY 2, 1974

HON. CHARLES C. DIGGS, JR.,
Chairman, House District of Columbia Committee,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I understand that there may be at least one technical amendment to the Home Rule Bill. I would like to suggest another technical change regarding the Chairman of the City Council.

As I read the Bill, due to an inadvertence, there is no provision for replacement of the Chairman in any situation other than on a temporary basis when he acts as the Mayor.

I, therefore, suggest that when the Chairman of the City Council dies or resigns, the vacancy thereby created be fulfilled in a special election in the same manner as the at-large Councilmen. The one distinction that I would make is that when a vacancy occurs, the Councilmen among themselves choose an Acting Chairman instead of having them appoint a Temporary Chairman from the community.

I have enclosed suggested draft language.

Sincerely,

JASON I. NEWMAN, Professor.

CONDOMINIUMS IN D.C.—NEW AND CONVERSIONS

The Condominium Law in D.C. was adopted in 1963 (the Horizontal Property Act). New construction of housing units under this law has been very light. Before 1971, there were 166 units constructed. In 1971, there were 126 new units, in 1972, none, and in 1973, 51 new condominium units. This total 343 new units under that law.

Conversions, however, have been a different story. Before 1971, 83 units were converted. In 1971, there were 107 conversions, in 1972, 418 conversions, 1973, 1,141 units converted, and already in the first six months of 1974, 546 rental units have been converted to condominium. This totals 2,295 conversion units—almost seven times as many units as in new construction since the law went into effect.

REGULATIONS BEING ADOPTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA

The Mayor has proposed a set of regulations to protect purchasers of condominium units and tenants caught up in the turmoil of a conversion to condominium by an existing rental owner.

LEGAL OPINION OF CORPORATION COUNSEL

The Corporation Counsel's office has issued an opinion that the City has very restricted powers in regulating condominium sales and conversions of rental units to condominium. The Mayor, Walter Washington, and City Council Vice Chairman Sterling Tucker, who is Chairman of the Council Committee on Housing, have asked for immediate action by Congress to broaden the authority of the City to adopt the necessary regulations to protect purchasers and tenants.

NEW LEGISLATION IN MARYLAND AND VIRGINIA

The States of Maryland and Virginia and various municipalities have adopted new regulations for condominiums because they are having the same problem as faces the District of Columbia. The regulations now being considered by the City Council of the District of Columbia are patterned after many of the regulations adopted in other neighboring jurisdictions.

NEW HOME RULE GOVERNMENT WILL HAVE THIS POWER ON JANUARY 2, 1975

The Home Rule Act gives broad legislative power to the new District Government that will come into existence on January 2, 1975. However, Mayor Washington and Councilman Tucker have requested that as to condominiums this power be advanced five months and given to the present government to meet the immediate problem.

Two days of hearings have been held by the City Council and a long list of witnesses have testified to the need for immediate adoption of broad, protective regulations.

STUDY BY THE METROPOLITAN COUNCIL OF GOVERNMENTS

A study has been issued by the Council of Governments showing the rapid rate of increase of condominium conversions in the Washington Metropolitan Area: whereas only 703 rental units were converted to condominium before 1972, there were 3,563 conversions in the Washington area in 1972, 8,439 units converted in 1973, and 4,923 units converted already in the first six months of 1974.

This is a regional problem, as all housing problems are, and the City Council should be permitted to respond in a way that treats the Washington D.C. housing situation in its context as part of the housing market of this area.

COUNCIL OF GOVERNMENTS STUDY

CONDOMINIUM HOUSING UNITS MARKETED IN THE WASHINGTON METROPOLITAN AREA BY JURISDICTION AND YEAR MARKETED¹

Jurisdiction	Before 1971			1971			1972		
	Conversion	New	Total	Conversion	New	Total	Conversion	New	Total
District of Columbia	83	166	249	107	126	233	418	0	418
Alexandria	0	0	0	0	0	0	0	152	152
Arlington County	0	0	0	0	0	0	419	252	671
Fairfax City	0	0	0	0	0	0	0	0	0
Fairfax County	0	131	131	0	1,104	1,104	462	2,366	2,828
Falls Church	0	0	0	0	0	0	0	0	0
Loudoun County	0	0	0	0	0	0	0	0	0
Prince William County	0	0	0	0	0	0	0	288	288
Montgomery County	48	215	263	455	0	455	1,465	1,148	2,613
Prince Georges County	0	586	586	10	0	10	799	750	1,549
Metropolitan total	131	1,098	1,229	572	1,230	1,802	3,563	4,956	8,519

Jurisdiction	1973			1974 (1st mo)			Totals		
	Conversion	New	Total	Conversion	New	Total	Conversion	New	Totals
District of Columbia	1,141	51	1,192	546	0	546	2,295	343	2,638
Alexandria	99	1,153	1,252	1,450	1,574	3,024	1,549	2,879	4,428
Arlington County	730	44	777	53	679	732	1,202	975	2,177
Fairfax City	168	0	168	0	0	0	168	0	168
Fairfax County	996	2,611	3,607	0	1,712	0	1,458	7,925	9,382
Falls Church	0	0	0	88	0	88	88	0	88
Loudoun County	0	0	0	0	0	0	0	0	0
Prince William County	0	231	231	64	484	548	64	1,003	1,067
Montgomery County	2,103	1,845	3,948	1,892	974	2,866	5,963	4,182	10,145
Prince Georges County	3,202	1,279	4,316	730	2,781	3,511	4,741	5,396	10,137
Metropolitan total	8,439	7,214	15,488	4,923	8,204	13,127	17,528	22,702	40,230

¹ Table includes townhouse, as well as apartment, condominiums. Housing units are aggregated by the year in which the project was initially marketed. Since the marketing phase for many projects will extend over several years, the figures in the table do not represent yearly totals of condominium units sold. An attempt was made to identify developments marketed in phases such that there were distinct marketing periods. In such cases, each section of the overall development was considered a separate project and the units recorded for the appropriate year.

Source: Department of Human Resources, Metropolitan Washington Council of Governments, July 1974.

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
CITY COUNCIL,
Washington, D.C., July 10, 1974.

HON. CHARLES C. DIGGS, JR.,
Chairman, Committee on the District of Columbia, U.S. House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of July 1, 1974, expressing your interest with respect to the authority of the Council to enact a broad regulation dealing with condominiums.

The Committee on Housing and Urban Development, which I chair, has scheduled hearings on July 18 and 19, in the Council Chamber on the subject of condominium regulations. We anticipate these hearings will generate considerable comments on regulations proposed by the Mayor-Commissioner as well as some other provisions not included in that draft. These provisions are also areas of concern that I feel should be carefully considered.

First, it may be feasible and necessary in order to reduce the impact of personal hardship to require a percentage of the existing tenants to approve any proposed conversion of a development unit from a rental to a condominium.

Second, there may exist the need to establish a moratorium on condominium conversion in order that the private sector and the government take a closer scrutiny of the housing situation before any long-term regulations are put in place.

Thus, we are not exactly sure of what type of regulation the Committee will recommend. However, we would appreciate the broadest degree of authority in order that we may deal with the situation as we may determine necessary. In other words, it appears appropriate that we should have as much authority now on this particular question as we would have on January 2, 1975.

Your assistance in this matter is greatly appreciated.

Sincerely,

STERLING TUCKER,
Vice Chairman.

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
EXECUTIVE OFFICE,
Washington, D.C., June 15, 1974.

HON. CHARLES C. DIGGS, JR.,
Chairman, Committee on the District of Columbia, U.S. House of Representatives,
Longworth Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: At the hearing of June 26, 1974, before the Joint Senate and House Committees on the District of Columbia concerning the status of transition provisions of Title II of the District of Columbia Self-Government and Governmental Reorganization Act, the District Government was requested to furnish the Congress with such additional amendments to the Act as would be needed to effectuate the orderly transfer of the functions and authorities provided by such Act. In response to your request, there is attached a draft bill containing proposed amendments to certain sections of Titles IV and V of the Act relating to the borrowing and budgetary processes of the new District Government.

The first amendment proposed by the draft bill would amend section 441 of the Act to change the fiscal year of the District Government from July 1 through June 30 of each year to one beginning on October 1 of each year and ending on September 30 of the succeeding calendar year. Pursuant to section 501 of H.R. 7130, a bill which has passed both the House and Senate and is awaiting approval, the fiscal year of the Federal Government is changed to begin on October 1 of each year. Inasmuch as the budget and appropriation procedures of the District Government traditionally have paralleled those of the United States and will not be materially changed under the Self-Government Act, it appears desirable and practical that a corresponding change be effected in the fiscal year of the new District Government.

The second proposed amendment would amend section 462(1) of the Act to clearly indicate that an act of the Council of the District of Columbia authorizing a bond issue may, should it so provide, finance several projects and is not limited to the financing of a single project.

The third amendment would amend section 465 of the Act to reduce the time period needed to issue general obligation bonds and to specifically vest in the Mayor the authority to perform the administrative act of issuing bonds which, pursuant to the provisions of sections 461 through 464, have already been authorized by act of the Council and have met the notice and publication requirements set out therein.

The fourth amendment would amend section 466 of the Act to vest in the Mayor, as a purely administrative function, the right to reject any and all bids on general obligation bond issues. This amendment will further serve to reduce the time period involved in the sale of bond issues.

The final proposed amendment would amend section 502 of the Act relating to the authorization of appropriations for the annual Federal payment to the District of Columbia to reflect the recommended change in the fiscal year of the District, as proposed in the first amendment of the draft bill. For the interim period between the end of the old fiscal year to the beginning of the new fiscal year, a Federal payment of \$70,000,000 is proposed.

We believe that each of the proposed amendments to the Self-Government Act will be essential to the financial operations of the new District Government and urge their favorable consideration by the Congress. We shall be glad to furnish such additional information concerning these proposals as may be requested.

Sincerely yours,

WALTER E. WASHINGTON,
Mayor-Commissioner.

Attachment.

A BILL To amend the District of Columbia Self-Government and
Governmental Reorganization Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the District of Columbia Self-Government and Governmental Reorganization Act (87 Stat. 774) is amended as follows:

(1) The first sentence of section 441 of such Act is amended to read as follows: "The fiscal year of the District shall, beginning on October 1, 1976, commence on the first day of October of each year and shall end on the thirtieth day of September of the succeeding calendar year."

(2) Section 462(1) of such Act is amended to read as follows:

"(1) briefly describing each project to be financed by the act;";

(3) The first sentence of section 465 of such Act is amended to read as follows: "At the end of the twenty-day period specified in section 464, the Mayor may issue general obligation bonds as authorized pursuant to the provisions of sections 461 to 465 inclusive, hereof."

(4) The second sentence of section 466 of such Act is amended by striking out "Council" and inserting in lieu thereof "Mayor".

(5) Section 502 of such Act is amended to read as follows:

"SEC. 502. Notwithstanding any other provision of law, there is authorized to be appropriated as the annual Federal payment to the District of Columbia for the fiscal year ending June 30, 1975, the sum of \$230,000,000; for the fiscal year ending June 30, 1976, the sum of \$254,000,000; for the fiscal year ending September 30, 1977, the sum of \$280,000,000; for the fiscal year ending September 30, 1978, and for each year thereafter, the sum of \$300,000,000. For the period July 1, 1976 through September 30, 1976, there is authorized to be appropriated a Federal payment of \$70,000,000."

THE DISTRICT OF COLUMBIA,
Washington, D.C., July 18, 1974.

Hon. CHARLES C. DIGGS, Jr.,

Chairman, Committee on the District of Columbia, U.S. House of Representatives, Longworth Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your letter asking if it would be useful to have Congress consider legislation to broaden the authority of the District Government with respect to condominiums, I am writing this letter to encourage such action.

The D.C. City Council has scheduled public hearings on proposed condominium regulations for July 18 and 19, 1974. These are the regulations which I transmitted to the Council on June 25, 1974 providing for the full exercise of the Council's present authority. Accordingly, it would be desirable if the Council had general enabling authority with regard to condominiums in the event it

decided regulatory provisions are needed which are beyond the present authority of the Council to enact. I am advised that this can be accomplished by enactment by the Congress of legislation which would authorize the D.C. Council to amend or repeal by regulation the District of Columbia Horizontal Property Act, chapter 9 of Title 5, District of Columbia Code.

Please let me know if I can be of further assistance.

Sincerely yours,

WALTER E. WASHINGTON,
Mayor-Commissioner.

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
CITY COUNCIL,
Washington, D.C., July 24, 1974.

Hon. CHARLES C. DIGGS, Jr.,
Chairman, Committee on the District of Columbia,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of July 1st asking my opinion regarding Congressional legislation which would broaden the statutory power of the City Council with respect to the regulation of condominium conversions.

I agree with the letters of Mayor Washington and Vice Chairman Tucker, dated July 12th and July 10, 1974 respectively, that it would be desirable for Congress to delegate general legislative authority on this subject to the City Council. With respect to possible solutions to the problem, upon which we have already completed Public Hearings without specific proposals in front of us, as Vice Chairman Tucker pointed out there is some sentiment on the Council for a Regulation which would require prior approval of a percentage of existing tenants and would impose a moratorium on all further conversions for some period of time. After attending a substantial part of that Hearing, I have some reservations about either of these approaches to the problem and would suggest the possibility that the Council may want to explore as an alternative the approach suggested by Congressman Gilbert Gude, namely that the District Government be empowered under specific guidelines laid down by the Council to review the merits of each, separate proposed conversion and rule upon same in the way zoning changes and variances are presently processed, including the right to appeal to our Courts on the basis of the evidence from any determination by the appropriate reviewing body.

Sincerely,

JOHN A. NEVIUS,
Chairman, City Council.

FEDERATION OF CITIZENS ASSOCIATIONS
OF THE DISTRICT OF COLUMBIA,
Washington, D.C., June 8, 1974.

Hon. CHARLES C. DIGGS, Jr.,
Chairman, House District Committee,
U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN DIGGS: Enclosed is a copy of our May 9, 1974 resolution requesting accelerated promulgation of legislation and/or regulations for the District of Columbia governing the conversion of existing rental properties to condominiums. See also copy of our related resolution of October 11, 1973, which was mailed to you November 2.

We will appreciate your support in getting early action on this urgent matter.

Sincerely yours,

ADELENE M. BICKERDYKE,
Secretary.

Enclosure.

RESOLUTION—REQUESTING ACCELERATED PROMULGATION OF LEGISLATION AND/OR REGULATIONS GOVERNING THE CONVERSION OF EXISTING RENTAL PROPERTIES TO CONDOMINIUMS

Whereas the District of Columbia does not have in effect any legislation, regulation or ordinance regulating the conditions under which lease/rental properties shall be converted to condominiums; and,

Whereas there is already a serious shortage of rental/lease apartments, especially in the medium and lower rent ranges; and,

Whereas there are reports that it is likely that large numbers of rental/lease properties may be converted to condominiums during the summer months; and,

Whereas such conversions could now result in 30-day notices to vacate be given to present renters, many of whom have contracts on a month-to-month basis; and,

Whereas many of these tenants are elderly persons or persons with families with children in school; and,

Whereas in addition to the problems which may be created from the dislocation of thousands of tenants solely because of a decision to convert to condominiums, other issues may be raised concerning the condition of properties which shall be sold to condominium purchasers; and,

Whereas there is a prospect that, with the passage of Home Rule, the Congress may not wish to legislate on condominiums absent some action by the D.C. Council, for fear that it would be criticized as intervening in local D.C. affairs: Now, therefore,

It would appear most appropriate that the present D.C. Council hold hearings as soon as possible, preferably not later than June 15, 1974, to consider at least what minimum legislation should be enacted now to protect tenants, especially the elderly and those with families, from short notices to vacate solely because of conversion of properties to condominiums; and,

It would appear that such minimum legislation should provide that effective immediately no tenant may be forced to vacate any rented property being converted into a condominium with less than six months notice; provided it be further understood that this six months notice is applicable only for notices to vacate due to conversion to condominium status and does not affect any right of an apartment owner to require vacating an apartment because the tenant has broken a contract or has behaved in any disorderly manner, which would be grounds for ordering the tenant to vacate the premises: Now, therefore, be it

Resolved, by the Federation of Citizens Associations of the District of Columbia, in regular meeting assembled this 9th day of May 1974, to pass this resolution and to have the provisions herein brought to the attention of the D.C. Council, the Mayor-Commissioner and the Chairmen of the Senate and House D.C. Committees.

Approved May 9, 1974.

ADELENE M. BICKERDYKE,
Secretary.

EXCERPTS FROM DISTRICT OF COLUMBIA CODE

TITLE 5.—BUILDING RESTRICTIONS AND REGULATIONS

Chapter 9.—HORIZONTAL PROPERTY REGIMES

Sec.

- 5-901. Short title—Citation of chapter.
- 5-902. Definitions.
- 5-903. Horizontal property regimes.
- 5-904. Status of condominium units within a horizontal property regime.
- 5-905. Joint tenancies, tenancies in common, tenancies by the entirety.
- 5-906. Ownership of condominium units, of common elements—Declaration—
Voting—Individual unit deeds.
- 5-907. Indivisibility of common elements—Limitation upon partition.
- 5-908. Use of elements held in common, right to repair common elements.
- 5-909. Condominium subdivision.
- 5-910. Reference to plat.
- 5-911. Termination and waiver of regime.
- 5-912. Merger no bar to reconstitution.
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§ 5-901. Short title—Citation of chapter.

This chapter, including the following table of contents, may be cited as the "Horizontal Property Act of the District of Columbia". (Dec. 21, 1963, 77 Stat. 449, Pub. L. 88-218, § 1.)

REFERENCES IN TEXT

The "following table of contents" refers to the section analysis set out preceding this section.

§ 5-902. Definitions.

Unless it is plainly evident from the context that a different meaning is intended, as used herein—

(a) "Unit" or "condominium unit" means an enclosed space, consisting of one or more rooms, occupying all or part of one or more floors in buildings of one or more floors or stories regardless of whether it be designed for residence, for office, for the operation of any industry or business, or for any other type of independent use, and shall include such accessory units as may be appended thereto, such as garage space, storage space, balcony, terrace or patio: *Provided*, that said unit has a direct exit to a thoroughfare or to a given common space leading to a thoroughfare.

(b) "Condominium" means the ownership of single units in a multiunit structure with common elements.

(c) "Condominium project" means a real estate condominium project; a plan or project whereby five or more apartments, rooms, office spaces, or other units in existing or proposed buildings or structures are offered or proposed to be offered for sale.

(d) "Co-owner" means a person, persons, corporation, trust, or other legal entity, or any combination thereof, that owns a condominium unit within the building.

(e) "Council of co-owners" means the co-owners as defined in subsection (d) of this section, acting as a group in accordance with the provisions of this chapter and the bylaws and declaration established thereunder; and a majority, as defined in subsection (h) of this section, shall, except as otherwise provided in this chapter, constitute a quorum for the adoption of decisions.

(f) "General common elements" except as otherwise provided in the plat of condominium subdivision, means and includes—

(1) the land on which the building stands in fee simple or leased provided that the leasehold interest of each unit is separable from the leasehold interests of the other units;

(2) the foundations, main walls, roofs, halls, columns, girders, beams, supports, corridors, fire escapes, lobbies, stairways, and entrance and exit or communication ways;

(3) the basements, flat roofs, yards, and gardens except as otherwise provided or stipulated;

(4) the premises for lodging of janitors or persons in charge of the building, except as otherwise provided or stipulated;

(5) the compartments or installations of central services such as power, light, gas, cold and hot water, heating, central air conditioning or central refrigeration, swimming pools, reservoirs, water tanks and pumps, and the like;

(6) the elevators, garbage and trash incinerators and, in general, all devices or installations existing for common use; and

(7) all other elements of the building rationally of common use or necessary to its existence, upkeep, and safety.

(g) "Limited common elements" means and includes those common elements which are agreed upon by all the co-owners to be reserved for the use of a certain number of condominium units, such as special corridors, stairways, and elevators, sanitary services common to the apartments of a particular floor, and the like.

(h) "Majority of co-owners", "two-thirds of the co-owners", and "three-fourths of the co-owners" means, respectively, 61, 66%, and 75 per centum or more of the votes of the co-owners computed in accordance with their percentage interests as established under section 5-906.

(i) "Plat of condominium subdivision" means the plat of the surveyor of the District of Columbia establishing the condominium units, accessory units, general common elements, and limited common elements.

(j) "Person" means a natural individual, corporation, trustee, or other legal entity or any combination thereof.

(k) "Developer" means a person that undertakes to develop a real estate condominium project.

(l) "Property" means and includes the lands whether leasehold, if separable as defined in (f) (1) of this section, or in fee simple, the building, all improvements and structures thereon, and all easements, rights, and appurtenances thereunto belonging.

(m) "To record" means to record in accordance with the provisions of section 45-501.

(n) "Common expenses" means and includes—

(1) all sums lawfully assessed against the unit owners by the council of co-owners;

(2) expenses of administration, maintenance, repair, or replacement of the common areas and facilities, including repair and replacement funds as may be established;

(3) expenses agreed upon as common expenses by the council of co-owners;

(4) expenses declared common expenses by the provisions of this chapter or by the bylaws.

(o) "Common profits" means the balance of all income, rents, profits, and revenues from the common areas and facilities remaining after deduction of the common expenses.

(p) All words used herein include the masculine, feminine, and neuter genders and include the singular or plural numbers, as the case may be. (Dec. 21, 1963, 77 Stat. 449, Pub. L. 88-218, § 2; Aug. 21, 1964, 78 Stat. 586, Pub. L. 88-475, § 1(a)(b).)

AMENDMENTS

1964—Section 1(a)(b) of act Aug. 21, 1964, amended paragraph (a) by striking "a floor" and inserting in lieu thereof "one or more floors," also amended paragraph (e) by striking the reference (k) and inserting in lieu thereof (h).

§ 5-903. Horizontal property regimes.

Whenever the owners or the co-owners of any square or lot shall subdivide the same into a condominium project in conformity with section 5-909 with a plat of condominium subdivision there shall be established a horizontal property regime. (Dec. 21, 1963, 77 Stat. 451, Pub. L. 88-218, § 3.)

§ 5-904. Status of condominium units within a horizontal property regime.

Once the property is subdivided into the horizontal property regime, a condominium unit in the building may be individually conveyed, leased, and encumbered and may be inherited or devised by will, as if it were sole and entirely independent of the other condominium units in the building of which it forms a part; the said separate units shall have the same incidents as real property and the corresponding individual titles and interests therein shall be recordable. (Dec. 21, 1963, 77 Stat. 451, Pub. L. 88-218, § 4.)

§ 5-905. Joint tenancies, tenancies in common, tenancies by the entirety.

Any condominium unit may be held and owned by more than one person as joint tenants, as tenants in common, as tenants by the entirety (in the case of husband and wife), or in any other real property tenancy relationship recognized under the laws of the District of Columbia. (Dec. 21, 1963, 77 Stat. 451, Pub. L. 88-218, § 5.)

§ 5-906. Ownership of condominium units, of common elements—Declaration—Voting—Individual unit deeds.

(a) A condominium unit owner shall have the exclusive fee simple ownership of his unit and shall have a common right to a share, with the other co-owners, of an undivided fee simple interest in the common elements of the property, equivalent to the percentage representing the value of the unit to the value of the whole property.

(b) Said percentage interest shall not be separated from the unit to which it appertains.

(c) The individual percentages shall be established at the time the horizontal property regime is constituted by the recording among the land records of the District of Columbia, of a declaration setting forth said percentages, shall have a permanent character, and shall not be changed without the acquiescence of the co-owners representing all the condominium units in the building, which said change shall be evidenced by an appropriate amendatory declaration to such effect recorded among the land records of the District of Columbia. Said share interest shall be set forth of record, in the initial individual condominium unit deeds. Said share interests in the common elements shall, nevertheless, be subject to mutual rights of ingress, egress, and regress of use and enjoyment of the other co-owners and a right of entry to officers, agents, and employees of the Government of the United States and the government of the District of Columbia acting in the performance of their official duties.

(d) The said basic value of said undivided common interest shall be fixed for the purposes of this chapter and shall not fix the market value of the individual condominium units and undivided share interests and shall not prevent each co-owner from fixing a different circumstantial value to his condominium unit and undivided share interest in the common elements, in all types of acts and contracts.

(e) In addition to the foregoing provisions, the declaration may contain other provisions and attachments relating to the condominium and to the units which are not consistent with this chapter.

(f) Voting at all meetings of the co-owners shall be on a percentage basis, and the percentage of the vote to which each co-owner is entitled shall be the individual percentage assigned to his unit in the declaration.

(g) Individual condominium unit deeds may make reference to this chapter, the condominium subdivision and land subdivision plats referred to in section 5-910 hereof, the declaration provided for in this section, the bylaws of the council co-owners, and the deeds may include any further details which the grantor and grantee may deem desirable to set forth consistent with the declaration and this chapter. (Dec. 21, 1963, 77 Stat. 451, Pub. L. 88-218, § 6.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5-902, 5-911, 5-913, 5-914, 5-916, 5-923 to 5-925, 5-930.

§ 5-907. Indivisibility of common elements—Limitation upon partition.

(a) The common elements, both general and limited, shall remain undivided. No unit owner, or any other person, shall bring any action for partition or division of the co-ownership permitted under section 93 and related provisions of the Act of March 3, 1901 (31 Stat. 1203), as amended by the Act of June 30, 1902 (32 Stat. 523, ch. 1329), against any other owner or owners of any interest or interests in the same horizontal property regime so as to terminate the regime.

(b) Nothing contained in this section shall be construed as a limitation on partition by the owners of one or more units in a regime as to the individual ownership of such unit or units without terminating the regime or as to the ownership of property outside the regime: *Provided*, That upon partition of any such individual unit the same shall be sold as an entity and shall not be partitioned in kind. (Dec. 21, 1963, 77 Stat. 452, Pub. L. 88-218, § 7.)

REFERENCES IN TEXT

The section of the act referred to in the text is now set out as section 16-2901 of the Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5-911.

§ 5-908. Use of elements held in common, right to repair common elements.

(a) Each co-owner may use the elements held in common in accordance with the purposes for which they are intended, without hindering or encroaching upon the lawful rights of the other co-owners.

(b) The manager, board of directors or of administration, as the case may be, shall have an irrevocable right and an easement to enter units to make repairs to common elements or when repairs reasonably appear to be necessary for public safety or to prevent damage to property other than the unit. (Dec. 21, 1963, 77 Stat. 452, Pub. L. 88-218, § 8.)

§ 5-909. Condominium subdivision.

(a) Whenever the owner or the co-owners of any square or lot duly subdivided in conformity with section 1-620 or other applicable laws of the District of Columbia, shall deem it necessary to subdivide the same into a condominium project of convenient condominium units for sale and occupancy and means of access for their accommodation, he may cause a plat or plats to be made by the surveyor of the District of Columbia, on which said plats, together, shall be expressed—

(1) the ground dimensions as set forth under such section 1-620 and the exterior lengths of all lines of the building;

(2) for each floor or floors, in the instance of condominium units consisting of more than one floor, of the condominium subdivision, the number or letter, dimensions, and lengths of finished interior surfaces of unit dividing walls of the individual condominium units; the elevations (or average elevation, in case of slight variance) from a fixed known point, of finished floors and of finished ceilings of such condominium units situate upon the same floor, and further expressing the area, the relationship of each unit to the other upon the same floor and their relationship to the common elements upon said floor: *Provided*, That when a unit is situated on more than one floor, access shall be provided within the unit between the portion of the unit on any one floor and the portion of the unit on any other floor in addition to any outside access which might be provided to any portion of the unit;

(3) the dimensions and lengths of the interior finished surface of walls, elevations, from said same fixed known point, of the finished floors and of the finished ceilings of the general common elements of the building, and, in proper case, of the limited common elements restricted to a given number of condominium units, expressing which are those units;

(4) any other data necessary for the identification of the individual condominium units and the general and limited common elements.

(b) And said owners or co-owners may certify such condominium subdivisions under their hands and seals in the presence of two credible witnesses, upon the same plat or on a paper or a parchment attached thereto. And the same shall thereupon be put up, labeled, indexed, and preserved for record and deposit with the office of the surveyor for the District of Columbia in like manner as land subdivisions have been heretofore recorded or in such other books as the said surveyor may prescribe. (Dec. 21, 1963, 77 Stat. 452, Pub. L. 88-218, § 9; Aug. 21, 1964, 78 Stat. 586, Pub. L. 88-475, § 1(c).)

AMENDMENTS

1964—Section 1(c) of act Aug. 21, 1964, amended subsection (a)(2) by inserting after "for each floor", the words, "or floors, in the instance of condominium units consisting of more than one floor," and by adding at the end the Proviso clause.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5-903.

§ 5-910. Reference to plat.

When a plat of a condominium project and subdivision shall be so certified, examined, and recorded, the purchaser of any condominium unit thereof or any person interested therein, may refer to the plat and record for description in the same manner as to squares and lots divided between the Commissioner of the District of Columbia and the original proprietors and in the same manner as has been heretofore the practice for land subdivisions: *Provided*, That said purchaser or other person interested therein shall also make reference to the plat of land subdivision appearing prior to the establishment of the condominium subdivision thereupon. Any such conveyance of an individual condominium unit shall be deemed to also convey the undivided interest of the owner in the common elements, both general and limited, and of any accessory units, if any, appertaining to said condominium unit without specifically or particularly referring to the same. (Dec. 21, 1963, 77 Stat. 453, Pub. L. 88-218, § 10.)

TRANSFER OF FUNCTIONS TO COMMISSIONER

See § 401 of Reorg. Plan No. 3 of 1967, eff. Nov. 3, 1967, set out in the appendix to title 1. See also §§ 301 and 503 of the Plan.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5-906, 5-911.

§ 5-911. Termination and waiver of regime.

(a) All the co-owners or the sole owner of a building constituted into a horizontal property regime may terminate and waive this regime and regroup or merge the individual and several condominium units with the principal property: such termination and waiver shall be by certification to such effect upon the plat of condominium subdivision establishing the particular horizontal property regime under the hands and seals of the said sole owner or co-owners, in the presence of two credible witnesses, upon the same plat or upon a paper or parchment thereto: *Provided*, That the said individual condominium units are unencumbered, or if encumbered, that the credits in whose behalf the encumbrances are recorded agree to accept as security the undivided interest in the property of the debtor co-owner and said creditors or trustees under duly recorded deeds of trust, shall signify their assent to such termination and waiver upon the aforesaid plat, paper, or parchment: *Provided further*, That should the buildings or other improvements in a condominium project be more than two-thirds destroyed by fire or other disaster, the co-owners of three-fourths of the condominium project may waive and terminate the horizontal property regime and may certify to such termination and waiver: *Provided further*, That if within ninety days of the date of such damage or destruction:

(1) the council of co-owners does not determine to repair, reconstruct or rebuild as provided in sections 5-921 and 5-922 or,

(2) the insurance indemnity is delivered pro rata to the co-owners in conformity with the provisions of section 5-921 and if the co-owners do not terminate and waive the regime in conformity with this section, then any unit owner or any other person aggrieved thereby may file a petition in the Superior Court of the District of Columbia, setting forth under oath such facts as may be necessary to entitle the petitioner to the relief prayed and praying judicial termination of the horizontal property regime. Said petition may be served on the person designated in the bylaws in conformity with section 5-914(a) (7). The court may thereupon lay a rule upon the council of co-owners, unless they shall voluntarily appear and admit the allegations of the petition, to show cause, under oath, on or before the tenth day, exclusive of Sundays and legal holidays, after service of such rule, why the prayers of said petition should not be granted. If no cause be shown against the prayer of the petition by the council of co-owners, or by any one of the co-owners, the court may determine in a summary way whether the facts warrant termination and thereupon the court may decree the particular horizontal property regime terminated.

(b) In the event a horizontal property regime is terminated or waived, the property shall be deemed to be owned in common by the co-owners, and the undivided interest in the property owned in common which shall appertain to each co-owner shall be the percentage of undivided interest previously owned by such co-owner in the common elements in the property as set forth in the declaration under section 5-906.

(c) Upon such termination and waiver the provisions of section 5-910 shall no longer be applicable and reference to the principal property thereupon, shall be to the plat and record of the prior land subdivision and thereupon the restraint against partition or division of the co-ownership imposed by section 5-907 shall no longer apply. In the event of such partition suit the net proceeds shall be divided among all the unit owners, in proportion to their respective undivided ownership of the common elements, after first paying off, out of the respective shares of the unit owners, all liens on the unit of each unit owner. To be valid such termination shall be recorded among the land records of the District of Columbia. (Dec. 21, 1963, 77 Stat. 453, Pub. L. 8-218, § 11; Aug. 21, 1964, 78 Stat. 586, Pub. L. 88-475, § 1(d); July 29, 1970, Pub. L. 91-358, title I, § 155(c) (20), 84 Stat. 571.)

AMENDMENTS

1970—Section 155(c) (20) of Act July 29, 1970, Public Law 91-358, amended the third proviso in subsec. (a) by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia."

1964—Section 1(d) of act Aug. 21, 1964, amended subsection (a) (2) by striking out "as provided in section 5-914(g)" and inserted in lieu thereof "on the person designated in the bylaws in conformity with section 5-914(a) (7)."

EFFECTIVE DATE OF 1970 AMENDMENT

See note preceding section 11-101.

§ 5-912. Merger no bar to reconstitution.

The merger provided for in the preceding section shall in no way bar the subsequent constitution of the property into another horizontal property regime whenever so desired and upon observance of the provisions of this chapter. (Dec. 21, 1963, 77 Stat. 454, Pub. L. 88-210, § 12.)

§ 5-913. Bylaws, availability for examination.

(a) The administration of every building constituted into a horizontal property regime shall be governed by the bylaws as the council of co-owners may from time to time adopt, which said bylaws together with the declaration, including recorded attachments thereto, referred to in section 5-906 shall be available for examination by all the co-owners, their duly authorized attorneys or agents, at convenient hours on working days that shall be set and announced for general knowledge.

(b) A true copy of said bylaws shall be annexed to the declaration referred to in section 5-906 and made a part thereof. No modification of or amendment to the bylaws shall be valid unless set forth in an amendment to the declaration and such amendment is duly recorded.

(c) Each unit owner shall comply strictly with the bylaws and with the administrative rules and regulations adopted pursuant thereto, as either of the

same may be lawfully amended from time to time. Failure to comply with any of the same shall be ground for an action to recover sums due, for damages or injunctive relief, or both, maintainable by the manager, the administrator, board of directors or of administration, or as specified in the bylaws or in proper case, by an aggrieved unit owner. (Dec. 21, 1963, 77 Stat. 454, Pub. L. 88-218, § 13.)

§ 5-914. Necessary contents of bylaws—Modification of system.

(a) The bylaws must necessarily provide for at least the following:

(1) Form of administration, indicating whether this shall be in charge of an administrator, manager, or of a board of directors, or of administration, or otherwise, and specifying the powers, manner of removal, and, where proper, the compensation thereof.

(2) Method of calling or summoning the co-owners to assemble; that a majority of co-owners is required to adopt decisions, except as otherwise provided in this chapter; who is to preside over the meeting and who will keep the minute book wherein the resolutions shall be recorded.

(3) Care, upkeep, and surveillance of the building and its general or limited common elements and services.

(4) Manner of collecting from the co-owners for the payment of common expenses.

(5) Designation, hiring, and dismissal of the personnel necessary for the good working order of the building and for the proper care of the general or limited common elements and to provide services for the building.

(6) Such restrictions on or requirements respecting the use and maintenance of the units and the use of the common elements as are designed to prevent unreasonable interference with the use of the respective units and of the common elements by the several unit owners.

(7) Designation of person authorized to accept service of process in any action relating to two or more units or to the common elements as authorized under section 5-924. Such person must be a resident of and maintain an office in the District of Columbia.

(8) Notice as to the existence or nonexistence of a declaration in trust for the enforcement of the lien for common expenses permitted under section 5-919.

(b) The sole owner of the building, or if there be more than one, the co-owners representing two-thirds of the votes provided for in section 5-906 may at any time modify the system of administration, but each one of the particulars set forth in this section shall always be embodied in the bylaws. (Dec. 21, 1963, 77 Stat. 455, Pub. L. 88-218, § 14.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5-911, 5-924, 5-925.

§ 5-915. Books of receipts and expenditures—Availability for examination.

The manager, administrator, or the board of directors, or of administration, or other form of administration specified in the bylaws, shall keep books with detailed accounts in chronological order, of the receipts and of the expenditures affecting the building and its administration and specifying the maintenance and repair expenses of the common elements and any other expenses incurred. Both said books and the vouchers accrediting the entries made thereupon shall be available for examination by the co-owners, their duly authorized agents or attorneys, at convenient hours on working days that shall be set and announced for general knowledge. All books and records shall be kept in accordance with good accounting practice and shall be audited at least once a year by an auditor outside the organization. (Dec. 21, 1963, 77 Stat. 455, Pub. L. 88-218, § 15.)

§ 5-916. Common profits, contributions for payment of common expenses of administration and maintenance.

(a) The common profits of the property shall be distributed among and the common expenses shall be charged to the unit owners according to the percentages established by section 5-906: *Provided*, That for purposes of the application of subchapter II of chapter 15 of title 47, the council of co-owners shall, in accordance, with the provisions of said Act, be regarded as constituting an unincorporated business and shall file returns and pay taxes upon the taxable income derived from the common areas without regard to the "common profits" as defined in this chapter.

(b) All co-owners are bound to contribute in accordance with the said percentages toward the expenses of administration and of maintenance and repairs of the general common elements, and, in proper case, of the limited common elements of the building and toward any other expenses lawfully agreed upon by the council of co-owners.

(c) No owner shall be exempt from contributing toward such common expenses by waiver of the use or enjoyment of the common elements both general and limited, or by the abandonment of the condominium unit belonging to him.

(d) Said contribution may be determined, levied, and assessed as a lien on the first day of each calendar or fiscal year, and may become and be due and payable in such installments as the bylaws may provide, and said bylaws may further provide that upon default in the payment of any one or more of such installments, the balance of said lien may be accelerated at the option of the manager, board of directors, or of management and be declared due and payable in full. (Dec. 21, 1963, 77 Stat. 456, Pub. L. 88-218, § 16.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5-917, 5-918, 5-919.

§ 5-917. Priority of liens.

The lien determined, levied and assessed in accordance with section 5-916 shall have preference over any other assessments, liens, judgments, or charges of whatever nature, except the following:

(a) Real estate taxes, other taxes arising out of or resulting from the ownership, use, or operation of the common areas, special assessments, including, but not limited to, special assessments for sewer mains, water mains, curbs, gutters, sidewalks, alleys, paving of streets, roads and avenues, removal or abatement of nuisances, and special assessments levied in connection with condemnation proceedings instituted by the District of Columbia, and water charges and sanitary sewer service charges levied on the condominium unit, and judgments, liens, preferences, and priorities for any tax assessed against a co-owner by the United States or the District of Columbia or due from or payable by a co-owner to the United States or the District of Columbia, and judgments, liens, preferences, and priorities in favor of the District of Columbia for assessments or charges referred to in this subparagraph.

(b) The liens of any deed of trust, mortgage instruments, or encumbrances duly recorded on the condominium unit prior to the assessment of the lien thereon or duly recorded on said unit after receipt of a written statement from the manager, board of directors, or of management reflecting that payments on said lien were current as of the date of recordation of said deed of trust, mortgage instrument, or encumbrance.

Upon a voluntary sale or conveyance of a condominium unit all unpaid assessments against a grantor to which section 5-916 refers shall first be paid out of the sales price or by the grantee in the order of preference set forth above. Upon an involuntary sale through foreclosure of a deed of trust, mortgage, or encumbrance having preference as set forth in subparagraph (b) of this section a purchaser thereunder shall not be liable for any installments of such lien as became due prior to his acquisition of title. Such arrears shall be deemed common expenses, collectible from all co-owners including such purchaser. (Dec. 21, 1963, 77 Stat. 456, Pub. L. 88-218, § 17.)

§ 5-918. Joint and several liability of purchaser and seller for amounts owing under section 5-916—Purchaser's recovery, purchaser's or lender's right to a statement setting forth amount due.

The purchaser of a condominium unit in a voluntary sale shall be jointly and severally liable with the seller for amounts owing by the latter under section 5-916 upon his interest in the condominium unit up to the time of conveyance; without prejudice to the purchaser's right to recover from the other party the amounts paid by him as such joint debtor: *Provided*, That any such purchaser, or a lender under a deed of trust, mortgage, or encumbrance, or parties designated by them, shall be entitled to a statement from the manager, board of directors, or of administration, as the case may be, setting forth the amount of unpaid assessments against the seller or borrower, and the unit conveyed or encumbered shall not be subject to a lien for any unpaid assessment in excess of the amount set forth. (Dec. 21, 1963, 77 Stat. 457, Pub. L. 88-219, § 18.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5-919.

§ 5-919. Supplemental method of enforcement of lien.

(a) In addition to proceedings available at law or equity for the enforcement of the lien established by section 5-916, all the owners of property constituted into a horizontal property regime may execute bonds conditioned upon the faithful performance and payment of the installments of the lien permitted by section 5-916 and may secure the payment of such obligations by a declaration in trust recorded among the land records of the District of Columbia, granting unto a trustee or trustees appropriate powers to the end that upon default in the performance of such bond, said declaration in trust may be foreclosed by said trustee or trustees, acting at the direction of the manager, board of directors, or of management, as is proper practice in the District of Columbia in foreclosing a deed of trust.

(b) And the bylaws may require in the event such bonds have been executed and such declaration in trust is recorded that any subsequent purchaser of a condominium unit in said horizontal property regime shall take title subject thereto and shall assume such obligations: *Provided*, That the said lien, bond, and declaration in trust shall be subordinate to and a junior lien to liens for real estate taxes and other taxes arising out of or resulting from the ownership, use, or operation of the common areas, liens for special assessments, including, but not limited to, special assessments for sewer mains, water mains, curbs, gutters, sidewalks, alleys, paving of streets, roads, and avenues, removal or abatement of nuisances, and special assessments levied in connection with condemnation proceedings instituted by the District of Columbia, and liens for water charges and sanitary sewer service charges levied on the condominium unit, and to judgments, liens, preferences, and priorities for any tax assessed against a co-owner by the United States or the District of Columbia or due from or payable by a co-owner to the United States or the District of Columbia for assessments or charges referred to in this section then or thereafter accruing against the unit and to the lien of any duly recorded deeds of trust, mortgages, or encumbrances previously placed upon the unit and said lien, bond, and declaration in trust shall be and become subordinate to any subsequently recorded deeds of trust, mortgages, or encumbrances: *Provided*, That the lender thereunder shall first obtain from the manager, board of directors, or of administration a written statement as provided in section 5-918 reflecting that payments due under this lien are current as of the date of recordation of such subsequent deed of trust, mortgage, or encumbrance. (Dec. 21, 1963, 77 Stat. 457, Pub. L. 88-218, § 19.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5-914.

§ 5-920. Insuring building against risks—Individual rights of co-owners.

The manager or the board of directors, if required by the bylaws or by a majority of the co-owners, or at the request of a mortgagee having a first mortgage of record covering a unit, shall have the authority to, and shall, obtain insurance for the property against loss or damage by fire and such other hazards under such terms and for such amounts as shall be required or requested. Such insurance coverage shall be written on the property in the name of such manager or of the board of directors of the council of co-owners, as trustee for each of the unit owners in the percentages established in the declaration. Premiums shall be common expenses. Provision for such insurance shall be without prejudice to the right of each unit owner to insure his own unit for his benefit. (Dec. 21, 1963, 77 Stat. 458, Pub. L. 88-218, § 20.)

§ 5-921. Application of insurance proceeds to reconstruction—Pro rata distribution in certain cases—Rules governing.

(a) In case of fire or other disaster the insurance indemnity shall, except as provided in the next succeeding paragraph of this section, be applied to reconstruct the building.

(b) Reconstruction shall not be compulsory where destruction comprises the whole or more than two-thirds of the buildings and other improvements in a condominium project. In such cases, and unless otherwise unanimously agreed upon by the co-owners, the indemnity shall be delivered pro rata to the co-

owners entitled to it in accordance with provisions made by the bylaws or in accordance with a decision of three-fourths of the co-owners, if there be no bylaw provision, after first paying off, out of the respective shares of the unit owners, to the extent sufficient for the purpose, all liens on the unit of each co-owner. Should it be proper to proceed with the reconstruction, the provision for such eventuality made in the bylaws shall be observed, or in lieu thereof, the decision of the council of co-owners shall prevail, subject to all provisions of law and regulations of the District of Columbia then in effect. (Dec. 21, 1963, 77 Stat. 458, Pub. L. 88-218, § 21.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5-911.

§ 5-922. Sharing of reconstruction cost where building is not insured or insurance indemnity is insufficient.

Where the building is not insured or where the insurance indemnity is insufficient to cover the cost of reconstruction the new building costs shall be paid by all the co-owners in the same proportion as their proportionate ownership of the common elements of the condominium project, and if any one or more of those composing the minority shall refuse to make such payments, the majority may proceed with the reconstruction at the expense of all the co-owners and the share of the resulting common expense may be assessed against all the co-owners and such assessment for this expense shall have the same priority as provided under section 5-917. (Dec. 21, 1963, 77 Stat. 458, Pub. L. 88-218, § 22.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5-911.

§ 5-923. Separate taxation.

(a) For the purposes of assessment and taxation of property constituted into a horizontal property regime and to conform to the system of numbering squares, lots, blocks, and parcels for taxation purposes in effect in the District of Columbia, each condominium unit duly situate upon a subdivided lot and square shall bear a number or letter that will distinguish it from every other condominium unit situate in said lot and square.

(b) Each of said condominium units shall be carried on the records of the District of Columbia as a separate and distinct entity and all real estate taxes, other taxes arising out of or resulting from the ownership, use, or operation of the common areas, special assessments, including, but not limited to, special assessments for sewer mains, water mains, curbs, gutters, sidewalks, alleys, paving of streets, roads, and avenues, removal or abatement of nuisances, and special assessments levied in connection with condemnation proceedings instituted by the District of Columbia, shall be assessed, levied, and collected against each of said several separate and distinct units in conformity with the percentages of co-ownership established by section 5-906, and in accordance with the provisions of law in effect in the District of Columbia relating to assessment, levying, and collection of real property taxes.

(c) The council of co-owners shall be liable for the filing of returns and payment of the tax on personal property located in the common areas and held for use or used in a trade or business or held for sale or rent.

(d) The title to an individual condominium unit shall not be divested or in anywise affected by the forfeiture or sale of any or all of the other condominium units for delinquent real estate taxes, other taxes arising out of or resulting from the ownership, use, or operation of the common areas; special assessments, including, but not limited to, special assessments for sewer mains, water mains, curbs, gutters, sidewalks, alleys, paving of streets, roads, and avenues, removal or abatement of nuisances, special assessments levied in connection with condemnation proceedings instituted by the District of Columbia, or water charges and sanitary sewer service charges: *Provided*, That the real estate taxes, the duly levied share of such other taxes and of such special assessments, and the water and sanitary sewer service charges on or against said individual condominium unit are currently paid. (Dec. 21, 1963, 77 Stat. 458, Pub. L. 88-218, § 23.)

§ 5-924. Actions—Right to separate release of judgment.

(a) Without limiting the right of any co-owner, actions may be brought on behalf of two or more of the unit owners, as their respective interests may appear,

by the manager, or board of directors, or of administration with respect to any cause of action relating to the common elements of more than one unit.

(b) Service of process on two or more unit owners in any action relating to the common elements may be made on the person designated in the bylaws in conformity with section 5-914(a) (7).

(c) In the event of entry of a final judgment as a lien against two or more unit owners, the unit owners of the separate units may remove their unit and their percentage interest in the common elements from the lien thereof by payment of the fractional proportional amounts attributable to each of the units affected. Said individual payment shall be computed by reference to the percentage established pursuant to section 5-906. After such partial payment, partial discharge, or release or other satisfaction, the unit and its percentage interest in the common elements shall thereafter be free and clear of the lien of such judgment.

(d) Such partial payment, satisfaction, or discharge shall not prevent such a judgment creditor from proceeding to enforce his rights against any unit and its percentage interest in the common elements not so paid, satisfied, or discharged. (Dec. 21, 1963, 77 Stat. 459, Pub. L. 88-218, § 24; Aug. 21, 1964, 78 Stat. 586, Pub. L. 88-475, § 1(e).)

AMENDMENT

1964—Section 1(e) of act Aug. 21, 1964, amended the section by striking out "section 5-914(g)" and inserting "section 5-914(a) (7)."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5-914.

§ 5-925. Mechanics' and materialmen's liens, enforcement thereof—Removal from lien—Effect of part payment.

(a) Subsequent to establishment of a horizontal property regime as provided in this chapter, and while the property remains subject to this chapter, no lien shall therefore arise or be effective against the property. During such period liens or encumbrances shall arise or be created and enforced only against each unit and the percentage of undivided interest in the common areas and facilities appurtenant to such unit in the same manner and under the same conditions in every respect as liens or encumbrances may arise or be created upon or against any other separate parcel or real property subject to individual ownership: *Provided*, That no labor performed or materials furnished with the consent or at the request of a unit owner or his agent or his contractor or subcontractor, shall be the basis for the filing of a lien pursuant to the provisions of section 38-101, against the unit or any other property of any other unit owner not expressly consenting to or requesting the same, except that such express consent shall be deemed to be given by the owner of any unit in the case of emergency repairs thereto. Labor performed or materials furnished for the common areas and facilities, if duly authorized by the council of co-owners, the manager, or board of directors in accordance with this chapter, the declaration or bylaws, shall be deemed to be performed or furnished with the express consent of each unit owner and shall be the basis for the filing of a lien pursuant to the provisions of section 38-101, against each of the units and shall be subject to the provisions of subparagraph (b) hereunder. Notice of said lien may be served on the person designated in conformity with section 5-914(a) (7).

(b) In the event of filing of a lien against two or more units and their respective percentage interest in the common elements, the unit owners of the separate units may remove their unit and their percentage interest in the common elements appurtenant thereto from the said lien by payment, or may file a written undertaking with surety approved by the court as provided in section 38-118, of the fractional or proportional amounts attributable to each of the units affected. Said individual payment, or amount of bond, shall be computed by reference to the percentage established pursuant to section 5-906. After such partial payment, filing of bond, partial discharge, or release, or other satisfaction, the unit and its percentage interest in the common elements shall thereafter be free and clear of such lien. Such partial payment, indemnity, satisfaction, or discharge shall not prevent the lienor from proceeding to enforce his rights against any unit and its percentage interest in the common elements not so paid, indemnified, satisfied, or discharged. (Dec. 21, 1963, 77 Stat. 459, Pub. L. 88-215, § 25; Aug. 21, 1964, 78 Stat. 586, Pub. L. 88-475, § 1(f).)

AMENDMENT

1964—Section 1(f) act Aug. 21, 1964, amended subsection (a) by striking out "section 5-915(g)" and inserting "section 5-914(a)(7)."

§ 5-926. Nonapplication of rule against perpetuities and of rule against unreasonable restraints on alienation, to horizontal property regimes.

The rule of property known as the rule against perpetuities, and the rule of property known as the rule restricting unreasonable restraints on alienation, sections 45-102 and 45-104, shall not be applied to defeat any of the provisions of this chapter, or of any declaration, bylaws, or other document executed in accordance with this chapter as to the condominium project. This exemption shall not apply to estates in the individual condominium units. (Dec. 21, 1963, 77 Stat. 460, Pub. L. 88-218, § 26.)

§ 5-927. Supplement of existing code provisions.

The provisions of the chapter shall be in addition to and supplemental to all other provisions of law of the District of Columbia and wheresoever there appears in the provisions the words "square", "lot", "land", "ground", "parcel", "property", "block", or other designation denoting a unit of land, where appropriate to implement this chapter, after such descriptive terms, there shall be deemed inserted reference to a condominium unit, condominium subdivision, or horizontal property regime, whichever shall be appropriate to effect the end and purposes of this chapter: *Provided*, That wherever the application of the provisions of this chapter conflict with the application of such other provisions, the provisions of law generally applicable to buildings in like use in the District of Columbia shall prevail. (Dec. 21, 1963, 77 Stat. 460, Pub. L. 88-218, § 27.)

§ 5-928. Regulations of the Council and the Zoning Commission.

In order to bring horizontal property regimes into compliance with the laws and regulations in effect in the District of Columbia, the District of Columbia Council and the Zoning Commission of the District of Columbia are each hereby authorized to adopt such regulations as either deems proper, within its respective general authority, and the Commissioner of the District of Columbia and the Zoning Commission are each hereby authorized to enforce such regulations, within its respective general authority. (Dec. 21, 1963, 77 Stat. 461, Pub. L. 88-218, § 28.)

TRANSFER OF FUNCTIONS TO COMMISSIONER AND COUNCIL

Section 402(132) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the function of the Board of Commissioners, of adopting regulations under this section, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of the Plan No. 3 of 1967, set out in the appendix to title 1. Section 401 of the Plan transferred the function of enforcing such regulations to the Commissioner of the District of Columbia.

§ 5-929. Interpretation.

(a) This chapter shall be interpreted in such a manner as to require each condominium unit and each horizontal property regime to be in compliance with all District of Columbia laws and regulations relating to property of like type, whether it be designed for residence, for office, for the operation of any industry or business, or for any other use. The owner of each condominium unit shall be responsible for the compliance of his unit with such laws and regulations, and the council of co-owners and any person designated by them to manage the regime shall be jointly and severally liable for compliance with all such laws and regulations in all matters relating to the common elements of the regime.

(b) Notwithstanding any provision of this chapter, the owner of each condominium unit shall have the same responsibility for the payments of all taxes, assessments, and other charges due to the District of Columbia as does any other person or property owner similarly situated.

(c) Notwithstanding any provision of this chapter, the method of enforcement available to the District of Columbia to collect any tax or assessment or any charge from any individual property owner or any building owner shall be available to collect taxes, assessments, and charges from individual condominium unit owners and from the council of co-owners.

(d) Nothing contained in this chapter shall in any way be construed as affecting the right to institute and maintain eminent domain proceedings. (Dec. 21, 1963, 77 Stat. 461, Pub. L. 88-218, § 29.)

§5-930. Supplemental provisions relating to sewer and water services.

(a) Notwithstanding any provision of this chapter, the developer or co-owners of any horizontal property regime shall have the right to have installed for each and every individual unit a separately metered water service. Such installations shall be subject to all laws and regulations then or thereafter in effect in the District of Columbia. Upon the establishment of such separate water services each unit owner and his successor in title and persons occupying such units shall be responsible for the payment to the District of Columbia of all water and sewer charges rendered and the Commissioner of the District of Columbia is authorized to enforce any and all of the remedies for collection of such charges as are authorized by law.

(b) A common water service is hereby expressly authorized for any horizontal property regime and in the event that a horizontal property regime is provided with a common water service to the charges for sewer and water service shall be billed to the person designated by the co-owners, pursuant to the bylaws, to manage the regime. In the event that the entire sewer and water charges are not paid within the time specified by law for the payment of sewer and water charges, the Commissioner shall be authorized to enforce payment in any manner authorized by law, including, but not limited to, the assessment of an additional charge for late payment, the shutting off of water to the regime and the enforcement of the liens for nonpayment of such charges against the individual units in conformity with the percentage of co-ownership established by section 5-906. (Dec. 21, 1963, 77 Stat. 461, Pub. L. 88-218, § 30.)

TRANSFER OF FUNCTIONS TO COMMISSIONER

See § 401 of Reorg. Plan No. 3 of 1967, eff. Nov. 3, 1967, set out in the appendix to title 1. See also §§ 301 and 503 of the Plan.

§5-931. Authority of Board of Commissioners under Reorganization Plan Numbered 5 of 1952.

Nothing in this chapter or in any amendments made by this chapter shall be construed so as to affect the authority vested in the Board of Commissioners of the District of Columbia by Reorganization Plan Numbered 5 of 1952 (66 Stat. 824). The performance of any function vested by this chapter in the Board of Commissioners or in any office or agency under the jurisdiction and control of said Board of Commissioners may be delegated by said Board of Commissioners in accordance with section 3 of such plan. (Dec. 21, 1963, 77 Stat. 462, Pub. L. 88-218, § 31.)

REFERENCE IN TEXT

Reorganization Plan No. 5 of 1952, referred to in text, is set out in the Appendix to title 1.

TRANSFER OF FUNCTIONS TO COMMISSIONER

See § 401 of Reorg. Plan No. 3 of 1967, eff. Nov. 3, 1967, set out in the appendix to title 1. See also §§ 301 and 503 of the Plan.

CROSS REFERENCE

Authority to District Commissioner and Council to delegate functions vested in them by Reorg. Plan No. 3 of 1967, see §§ 205 and 305 of the Plan set out in the Appendix to title 1.

§5-932. Severability.

If any provision of this chapter, or any section, sentence, clause, phrase, or word or the application thereof, in any circumstances is held invalid, the validity of the remainder of this chapter, and of the application of any such provision, section, sentence, clause, phrase, or word in any other circumstances shall not be affected thereby and to this end, the provisions of this chapter are declared severable. (Dec. 21, 1963, 77 Stat. 462, Pub. L. 88-218, § 32.)

§5-933. Effective date.

This chapter shall take effect one hundred and twenty days after its enactment. [December 21, 1963.] (Dec. 21, 1963, 77 Stat. 462, Pub. L. 88-218, § 33.)

