



Advisory Neighborhood Commission 2A

“Serving the Foggy Bottom and West End communities of Washington, D.C.”

December 23, 2015

Councilmember Anita Bonds
Chair, Committee on Housing and Community Development
Council of the District of Columbia
1350 Pennsylvania Avenue, NW
Washington, DC 20004

DC Council’s Committee on Housing and Community Development

Public Roundtable on ANC Great Weight, Testimony by ANC 2A

Thank you Councilmember Bonds and members of the Committee on Housing and Community Development for hosting this very important roundtable on “Great Weight”. My name is Patrick Kennedy and I am the Chair of ANC 2A. I would like to thank you for reaching out to us to participate today. I am pleased to convey our ANC’s thoughts on the current implementation of “Great Weight” and suggestions for further codifying so as to improve community input into municipal deliberations and actions.

First, to summarize the basis for our recommendations, it is our belief that, currently, the District’s various agencies operationalize the concept of great weight in vastly different ways. Please allow me to provide a couple of quick examples.

The first involves a community dialogue our ANC has been involved in for a number of years concerning the addition of an outdoor café to an existing hotel. Historically, the ANC opposed that addition on a number of grounds and the matter was apparently settled in 2002 when the then-zoning Administrator issued a Determination Letter saying the proposed café was disallowed by zoning ordinance. Fast forward to February 2015, when the ANC, and the community, were surprised to learn, via the ABRA notification processes, that a liquor license application was in-process for a sidewalk café at the disputed location. Apparently the current zoning administrator, Matt LeGrant, in response to a letter from the Hotel’s lawyer, had decided to overturn the previous zoning administrator’s ruling. He did this on the Monday before Thanksgiving, without notifying the ANC or posting the new decision to the DCRA website. Our understanding is the Zoning Administrator does not believe it is necessary to provide ANCs with the advance notice that would be provided for other actions.

The ANC joined community groups in an appeal of the finding to the Board of Zoning Adjustment, where it was overturned, but the time, energy and resources expended by both the community and the hotel in this case would have been much better served had there been a full and open discussion of the issues at the time the issue was first being considered by Zoning Administrator. It is also worthwhile to note that it was the ABRA notification process, which, in our experience, has been excellent, that first brought the lack of notice on the part of DCRA to the attention of the ANC.



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The second example (or examples) illustrates the way the process should work and involves our interactions with the Historic Protection Review Board. In the experience of our ANC, the Board has been first rate in terms of communicating its pending decisions and allowing the ANC to participate fully in deliberations. For example, our ANC was notified and heavily engaged in discussion surrounding the historic designation for the Interior of the Corcoran Museum and the development of the Potomac Hill Campus. We believe our input was fully valued and informed project planning on both of these important initiatives.

It is also worth noting, as an aside, that for the most part, agencies don't require legislation in order to better work with the community. Our experience with the District Department of Transportation has been considerably better under the present director than it was previously, even in cases where the agency has chosen not to follow our recommendations. Whereas previously it was considered an accomplishment if the agency merely acknowledged receiving a resolution, our experience recently has been that we not only get a reply letter to any resolution that we send, but that DDOT staff will take the time to issue a point-by-point response to our recommendations. Often, they will state which recommendations are achievable and the timetable on which they will be executed; when the agency demurs, they will state very specifically their logic for not acquiescing to a recommendation. This, in our view, is how the “great weight” model should work: ANCs should not expect unrequited deference, but on behalf of our constituents, we deserve thoughtful consideration and engagement.

The take home point from these examples is that, in our experience, some agencies – ABRA, HPRB, the Office of Zoning, and DDOT, for example – are very good at engaging the ANCs and some – DCRA stands out in our experience – make it difficult for the ANCs to find pertinent information and act on it. This uneven response sometimes leaves the Commissioners feeling as though their work as unpaid volunteers: hosting public meetings; seeking public input; creating, passing and submitting resolutions; is not valued by certain elements of the DC government.

It is our belief that further defining the requirement for Advance Notice and codifying an enforcement process for ANC interaction with District Government will vastly improve the efficiency and effectiveness of ANC and city operations. To that end, we make the following suggestions:

1. Legislation should clarify the requirement for notice by the Zoning Administrator (ZA) to the ANCs relative to findings in Determination Letters that change the existing implementation of zoning regulations. Determination letters have the force of law and the impact on community planning and quality of life can be just as great as with an actual change to the zoning regulations themselves. The issues dealt with in ZA Letters of Determination are often not cut and dry and since legal counsel for various real estate interests regularly provide input prior to the issuance of a Determination Letter, it stands to reason that ANCs should also have the opportunity to provide input and that great weight should be given to any recommendation made by impacted ANCs that have a valid, legal basis.
2. A web-based compliance-monitoring tool should be set up so ANCs can provide input on compliance on an Agency-by-Agency basis. Agency compliance ratings should be posted prominently on



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Agency websites and chronic non-compliance should have real repercussions for the performance reviews of top Agency leadership.

3. The ANC Office should work with the ANCs to publish an annual report rating each individual agency or commission that consults with the ANCs on their effectiveness at incorporating community input through the consultation process. The report will, in a manner similar to Grade.DC.gov, help the DC government to determine what agencies are exceling at community engagement.
4. Finally, the consequences of Agency noncompliance with the notification and consultation framework outlined in Section 1–309.10. of the District of Columbia Official Code: “Advisory Neighborhood Commissions - Duties and responsibilities; notice; great weight; access to documents; reports; contributions”, should be clear, actionable and enforceable *by an independent body*. ANC’s should also have the ability to turn to the Courts when other methods for pursuing compliance have been exhausted. If no other part of this testimony is adopted, we ask for serious consideration on this last point.

In closing, ANC 2A hopes our suggestions prove useful in these deliberations. We believe an increased focus on compliance and enforcement will, if codified into law, facilitate better service and promote a more efficient and responsive DC government. On behalf of my colleagues on ANC 2A and myself, thank you for your time and attention to this very important issue.