# STATEMENT OF BURDEN OF PROOF FOR VARIANCE RELIEF

Jubilee Housing, Inc. (the "Property Owner") and Good Shepherd Ministries ("Good Shepherd") request an area variance for three buildings located at 1630 Fuller Street, N.W., (Square 2576, Lot 62), 1650 Fuller Street, N.W., (Square 256, Lot 809) and 1631 Euclid Street N.W., (Square 2576, Lot 63), N.W. (the "Properties" or the "Buildings") so that Good Shepherd can continue to operate a private club on each of these Properties. Good Shepherd is entitled to variance relief pursuant to 11 DCMR §3103.2, because it can demonstrate: (1) an extraordinary or exceptional situation or condition of the Property; (2) practical difficulty in satisfying the strict application of the Zoning Regulations; and (3) no harm to the public or to the zone plan will occur as a result of the approval of these applications.

All of the Properties are located in the R-5-B Zone District. The R-5-B Zone District permits multi-family residential (apartment) and private club uses as a matter-of-right. At the present time the Buildings are used primarily as apartment buildings. All of the Buildings were constructed prior to the adoption of the Zoning Regulations and are non-conforming as to various provisions of the Zoning Regulations. None of the Buildings currently provides off-street parking.

Good Shepherd currently operates after-school programs for neighborhood children (the "Clubs") in each of the Buildings. Such use is properly deemed to be a "private club" under the Zoning Regulations, and such use is permitted by the Zoning Regulations as a matter-of-right in the R-5-B District. Under the Zoning Regulations, a private club is a facility "operated by an organization or association for some common avocational purpose." (11 DCMR § 199.1.) Examples of such avocational purposes include "a fraternal, social, educational, or recreational

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purpose." (*Id.*) In addition, a private club must be a non-profit corporation, and office uses must be limited to that which is incidental to maintaining the membership and financial records of the club. (*Id.*) The Clubs qualify as private clubs under this definition. They are operated by Good Shepherd, which is a non-profit corporation. Copies of Good Shepherd's certificate of incorporation, certificate of exemption, and letters from the United States Internal Revenue Service regarding Good Shepherd's tax-exempt status are attached to this statement. Moreover, the Clubs are operated by Good Shepherd for the common avocational purposes of providing educational and recreational opportunities to their members. Finally, office use is very limited. The Clubs employ a total of only thirteen staff-members, twelve full-time and one part-time, all of whom are engaged in maintaining the records and directing the educational and recreational programs of the Clubs.

Good Shepherd and the Property Owner have undertaken plans to renovate the Buildings to provide life/safety upgrades and to provide for the modernization of the Buildings' systems. The proposed renovation and modernization of those portions of the Buildings devoted to residential uses does not require any zoning relief. However, Good Shepherd's continued use of space in the Buildings will require obtaining variance relief from the off-street parking requirements of the Zoning Regulations.

The Applicant should receive a variance from the off-street parking requirements because the Properties are subject to an extraordinary or exceptional situation that creates a practical difficulty for Good Shepherd. Each of the Properties is subject to an extraordinary and exceptional situation because each is improved with an existing non-conforming Building which provides no parking and has no additional space to create parking spaces. Thus, Good Shepherd faces a practical difficulty in satisfying the off-street parking requirements established by the

Zoning Regulations. Moreover, the parking variance will not cause harm to the public or to the zone plan because the majority of the individuals who are members of the Good Shepherd programs live in the area and walk to the Buildings. The lack of parking is further mitigated because Good Shepherd rents five parking spaces behind the Festival Center building located on the corner of Mozart Place and Columbia Road, N.W. Those spaces are used to park the Good Shepherd van and provide spaces for four staff cars. Thus, Good Shepherd's continued operations in each of the Buildings will not generate any negative impact related to on-street parking availability in the area near the Properties.