

**TESTIMONY OF MERRICK T. MALONE REGARDING
RESIDENTIAL RECREATION SPACE REQUIREMENTS**

JUNE 27, 2005

Zoning Commission Case No. 05-02

Good evening, Chairperson Mitten and Members of the Zoning Commission. I am Merrick Malone, a Principal of Metropolis Development Company and also President of Harrison Malone Development Company a 100% minority owned Development Company which develops mixed use multifamily residential and retail projects in the City. I have previously served as the Deputy Mayor for Economic Development for the District of Columbia and Director of Housing and Community Development. As a result I have been involved in the development of a number of private and public multifamily residential projects downtown and in neighborhoods in the District for the past 13 years.

In the time allowed for my testimony, permit me to be direct and blunt. When the residential recreation space zoning requirements were adopted in the late 1970s they were probably a bad idea. In 2005 and going forward in the 21st century, they are definitely a bad idea and are no longer necessary or responsive to the expressed desires of our urban residents 25 plus years later. For that reason,

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we respectfully recommend that you immediately conduct a further proceeding and give favorable consideration to the elimination of all RRS requirements.

We recommend the elimination of all RRS requirements for the following reasons:

1. Residential tenants and condo unit purchasers of our projects simply don't want "party rooms", small exercise rooms, ping pong and card tables or other outdated facilities from the days of Ozzie and Harriet or The Brady Bunch. Our tenants and purchasers of today seek large private balconies, high ceilings, hard wood floors, high quality design and finishes, parking and storage spaces, concierge service and many other features associated with urban living. Equally important, they want to rent or own a unit in a vibrant neighborhood where they can go out-of-doors-- for entertainment and recreation -- to restaurants, theatres, shops, health clubs, coffee houses and other neighborhood facilities. They have no desire to go down the hall to a "party room."

2. The RRS requirements conflict with many other public policy objectives and requirements that have been adopted since the late 1970s. These include but are not limited to mandatory ground floor retail/service uses, architectural design requirements, use restrictions, FAR and building height limitations and linear street frontage restrictions just to name a few. The fact of the matter is that it is very

difficult to comply with residential recreation space requirements while, at the same time, providing ground floor retail and service uses, incorporating and retaining historic buildings into new construction, providing high ceilings on the ground floor and complying with all other zoning requirements, particularly including loading and lot occupancy maximums.

3. It is often very expensive, as well as difficult, to provide the required amount of RRS space. For example, it is very costly to a developer to bring an elevator to the roof of a building to provide a sun deck or other passive rooftop facilities just to satisfy RRS requirements. It is often difficult to bring an elevator to the roof while at the same time complying with building height, mechanical penthouse, roof setbacks, handicapped and other zoning and building code requirements and restrictions. Think of the cost to the condo associations, who inherit the responsibility for and the liability of dealing with RRS space, to operate, maintain, repair and replace RRS facilities and uses. Similarly, it is expensive for condo unit owners to pay for such operational and maintenance costs each and every month as part of their condo dues.

4. It is fundamentally unfair to require developers of residential buildings who are doing projects on land that is zoned C, SP or CR to provide residential recreation space while developers of residential projects on land that is

residentially-zoned have no such requirement. Similarly, it is unfair for condo associations and unit owners in one building to be forced to incur the costs of RRS while condo associations and unit owners in a building across the street have no such costs to bear. Equity and fairness demand a level playing field for all developers, condo associations and unit owners.

I sincerely hope that you will agree that the RRS requirement is antiquated public policy, which is no longer necessary or appropriate (if it ever was). It competes with other far more important public policy objectives and is unfair and unduly burdensome. If for some strange reason you disagree with the total elimination of RRS requirement we, the collective we of developers and our urban residents would hope that you will at a minimum reduce the RRS requirement to 5% or less of the residential space provided and also redefine residential recreation space so that private balconies or patio spaces are included within the meaning of RRS.

Thank you for your attention and consideration.