

**ADVISORY NEIGHBORHOOD COMMISSION 4D'S
TESTIMONY URGING PROCEDURAL CHANGES TO ZONING
LAW TO AFFORD ANCS TIME FOR MORE EFFECTIVE INPUT**

Good afternoon and thank you for holding these hearings. My name is Renee Bowser. I am Vice Chair of Advisory Neighborhood Commission 4D and Commissioner of Single Member District 4D02. Today I am testifying on behalf of ANC 4D which passed a resolution on October 15, 2013 at a duly noticed monthly meeting before a quorum, urging the Zoning Commission to adopt procedural regulations which will allow Advisory Neighborhood Commissions to provide more studied input in taking positions on matters before the Zoning Commission and Board of Zoning Adjustment on which ANCs are afforded great weight.

At the outset, we request additional public hearing dates at which the public and ANCs can testify on the sweeping 1100-page Zoning re-write. Such additional hearing dates should be scheduled only after ANCs across DC are given time to discuss the proposed changes in detail with their constituents, including evaluating their impact on their communities, review studies and reports, and draft positions to be voted by their Commissions for great weight consideration. ANCs were not given adequate time to evaluate the final draft of the rewrite, as the final draft was set down in September and copies of the final draft were available in public libraries only in October. Accordingly, we request an additional period of 90 days to review and formulate positions on the final draft of changes before the scheduling of additional hearings.

ANC 4D proposes a procedural change in the length of time agency reports are due before the Zoning Commission ("Commission") holds public hearings on cases. Pursuant to DCMR Title 11-3012, the Zoning Commission may request the Office of Planning and other public agencies to provide information and assistance in contested cases and rulemaking cases to be heard by the Commission. At DCMR Title 11-3012.5, ANCs are authorized to participate in the contested case and rulemaking case process and file a written report. Currently, pursuant to DCMR Title 11-3012.3, the Director of the Office of Planning can file a report up to 10 days before the hearing. ANC 4D believes that the filing of agency reports so close to hearing dates deprives ANCs of the opportunity to consider public agency reports in their ANC decision making. ANC 4D therefore urges the Zoning Commission to change what is currently DCMR Title 11-3012.3 to provide that written reports by the Director of the Office of Planning and other agencies *must be filed at least 60 days in advance of public hearing*.

ANC 4D proposes a similar procedural change in the length of time agency reports are due prior to Board of Zoning Adjustment ("BZA") public hearings. Pursuant to DCMR Title 11-3100, BZA has jurisdiction to grant variances and special exceptions. BZA can refer applications for variances and special exceptions to any public agency for a report or recommendation. ANCs are part of this process and are to be accorded "great weight" when they submit reports to BZA. Yet DCMR Title 11-3114.2 authorizes public agencies to file their

reports or recommendations up to 7 days prior to the hearing date. ANC 4D believes that the filing of agency reports so close to hearing dates deprives ANCs of the opportunity to consider public agency reports in ANC decision making. Therefore, ANC 4D urges the Commission to change what is currently DCMR Title 11-3114.2 so as to provide that reports or recommendations ***must be filed at least 60 days in advance of public hearing.***

Finally, there have been situations in which the BZA has issued oral decisions in a proceeding; but has failed to issue a written decision until long after the oral decision. In the meantime, the party who received the favorable decision initiates action based on the oral decision. Yet the party wishing to appeal, including ANCs, can only appeal after a written final order has issued. This situation has effectively rendered ANC appeal rights a nullity. Therefore, ANC 4D urges the Commission to change what is currently DCMR Title 11-3125.6 so that ***a decision or order of BZA shall become final upon its filing in the record and service upon the parties within 60 days.***

Dated: November 4, 2013

Thank you,
Renee Bowser
ANC 4D02 Commissioner
ANC 4D Vice Chair