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TESTIMONY OF EARLE C. HORTON, III
2015 JAN 27 OFFICE OF PLANNING AND THE CASE NUMBER: 14-11

Good evening, Director Bardin, Commissioners Hood, Cohen, May and Turnbull and the staff of the Zoning Commission. My name is Earle C. Horton, III and I am a District resident for over twenty (20) years and a partner at the law firm of Graves, Horton, Askew & Johns, LLC, a boutique firm with highly specialized attorneys engaged in providing professional services and counsel on corporate and legal issues. My practice also includes advising small and local businesses and CBFs on construction, zoning and land use, public and private financing, insurance, government contracts and litigation services. I am here to testify in opposition to Office of Planning Case Number 14-11 and to provide facts pertinent to the Commission's consideration of the proposed changes to Chapters 1, 3 and 4 and certain definitions and R-4 Zone Use Permissions.

The text amendments will have a deleterious impact on the marketplace for the development of condominiums in the District of Columbia because they would increase the costs associated with converting existing apartment buildings to condominiums. For example, the proposed reduction in the maximum height requirements in an R-4 zone from 40 feet to 35 feet would require that each time a proposed condominium conversion project exceeds the maximum allowed height, the project manager or developer would need to apply for a special exception and comply with the protocols to receive approval of the same. This required step would cost months of delays and tens of thousands of dollars in added expense for land use and interest expense costs. The text amendment however, imposes an even greater burden of proof of hardship by requiring that applicants use, "graphical representations.. to represent the relationship of the new or extended building or structure to adjacent buildings and views from public ways." This subjective standard gives the applicant no real certainty in renovating his/her home or the developer in redeveloping the property.

Projects for converting condominiums already require compliance with a wide variety of District of Columbia laws, including laws for verification of compliance with TOPA, laws providing for the type and information contained in the documentation developers must submit as part of their applications and corresponding application fees. This does not include the costs of retaining general contractors and subcontractors, acquiring building and other permits and, for many applications, communicating proposed construction to neighbors and obtaining their consent. Imposing additional zoning requirements would only increase the already heavy burden on developers. Further, for the many condominium applications my office has prepared and submitted, special exceptions have rarely, if ever, been required or sought. As an attorney who represents a number of small business clients, many of who are small real estate developers, the certainty of knowing what are the requirements for submitting applications for conversions is extremely important.

I am convinced that any additional legal requirements will dissuade many developers from purchasing and converting apartment buildings to condominiums. The result would be a loss of application fees, conversion fees, real estate, transfer and recordation taxes to the District of Columbia. More than the mere loss of revenue, these projects have other economic advantages, they create local jobs and stir the re-development of older neighborhoods in the District, infusing them and their residents with a sense of renewal that may have been lacking for decades. In short, the potential economic consequences to the District should not be ignored.

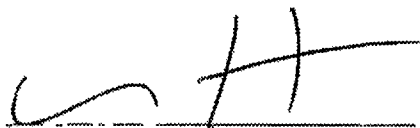
In addition to the economic impact discussed above, the District's economy will be

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negatively affected by these changes. The uncertainty and added costs will affect the volume of renovations or redevelopment of properties in the District. A lower number of construction projects means fewer jobs, less construction contracting and sub-contracting opportunities for DC small businesses, fewer construction materials purchased in the District, lower tax dollars (sales and income tax) going to the District's general fund. The picture is clear with these changes and it does not look good. There is a whole industry that relies on these small projects.

In conclusion, my experience leads me to believe that the proposed text amendments will not enhance the District economy by bringing economic benefits like new jobs and increased corporate spending, but will instead drive small businesses and real estate developers from the D.C. area.

Thank you for the opportunity to submit this testimony.



By Earle C. Horton, III, a District Resident