

JEFFREY A. BRUNE

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January 14, 2014

District of Columbia Zoning Commission

To the District of Columbia Zoning Commission:

I recently sent you a letter regarding an unintended consequence of your zoning proposal. My letter was sent to one of the most popular DC web sites, PoPville.com, and in less than a day generated more than sixty-three comments. I ask that you read these comments, most of which share my concerns about the proposal the commission has made. They are attached to this pdf document.

Please feel free to contact me if you have any further questions.

Thank you very much for your consideration.

Sincerely,



Jeffrey A. Brune, Ward 6 homeowner

cc: Mayor Muriel Bowser, Ward 6 council member Charles Allen

ZONING COMMISSION
District of Columbia
CASE NO. 14-11
EXHIBIT NO. 67
ZONING COMMISSION
District of Columbia
CASE NO. 14-11
EXHIBIT NO. 67



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DC Government

01/14/15 1:45pm

"Unintended consequence of anti-pop-up proposal"

by Prince Of Petworths 68 Comments

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Photo by PoPville flickr user Mr. TinDC

A reader shares this letter he wrote to the District of Columbia Zoning Commission:

"As a DC citizen and homeowner I am writing to comment on the Zoning Commission's proposal to revise the rules on pop-ups, ZC Case No. 14-11. While I am sympathetic to the concerns that have prompted this proposal, there is an unintended effect in the proposal that will have a negative impact on me personally and is one that I do not think any of the proposal supporters would like to see happen.

I live in the Capitol Hill historic district and that should mean I am not affected since pop-ups are not allowed here anyway, but this rule change would have a major detrimental effect on me as a homeowner with a two-flat C of O in an R-4 zone. Currently I have two legal flats in my R-4 row house and I plan to make the basement legal in a few years. If I am to do that it would not take away any family housing in DC since the basement is not even connected to any of the other two flats. There would be no loss to families in DC and it would be a gain for people wanting more affordable housing because it would bring a lower-cost basement unit onto the market, increase density, and help ease the rental crunch in this city. It would also benefit me as a homeowner and a landlord and would be a win for the city which would collect more tax revenue. It would be a win for the city, a win for renters, and a win for me as a landlord. There are no losers in this.

However, the new regulations appear as though they will inadvertently prevent people like me from doing this. The fourth part of the proposal is to only give permission to convert buildings to multi-family use if

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JS "Unintended consequence of anti-pop-up proposal"

yumi

laduvel Republic Kotache Coming to the District -

the building was non-residential. This would mean that I could not legally make my unused basement legal.

That part of the proposal was supposed to keep row houses from being split up into spaces in order to preserve housing for larger families. In my case, however, the effect would be very different. It would not result in preservation of family housing since the basement is not being used as part of a larger family-sized unit. Instead it would merely prevent me from making that space available as a legal rental. This was not the intent of those who advocated this change and it would punish me unfairly when I have the money to renovate the basement.

I do not oppose the other parts of the proposal, but this part must be changed or scrapped in order to allow two-flat row houses with no legal living space in the basement to be converted into three-unit dwellings with a legal C of O for basement units.

I implore you to make this change not only for my own benefit but also for the benefit of more affordable housing in DC and more density that conforms to historic preservation and does not detract from family-sized dwelling in R-4 zones.

Sincerely,
Ward 6 homeowner"

First Pop Up in Bloomingdale

It's the shape of his face, combined with his coloring. Just do a google images sear...

ChillyDC Keep Your Eyes Peered for Missing Cat, Misty, from Shaw UPDATE, Found

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Photos from PoPville -- Dope Sky

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63 Comment



Anonymous

January 14, 2015 at 1:59 pm

I don't get it - if the OP's house is already zoned for R-4, they have a "by right" ability to convert their house into two legal units (maybe even 3-4 if the lot is large enough). It seems that this was already done by a previous owner, so (assuming the lot is only big enough for 2 units), the OP would need to request a zoning variance for their basement regardless of this rule change.

Reply



sbc

January 14, 2015 at 2:08 pm

It's already a 2-unit. The letter writer wants to convert the basement so there are 3 units. I don't mind people being able to do this, but to say "there are no losers in this" neglects those neighbors who have to live through construction (often involving a basement dig-out when the ceiling is a little too low for occupancy) and have to compete for street parking. Those problems may be outweighed by the District's desire to densify and get more tax revenue, but they are problems.

Reply



jeffb

January 14, 2015 at 2:08 pm

There is now a right to convert into a 3 or 4 unit building in R-4, provided the property is large enough. However, under the proposal there will be no more conversions allowed, so R4 properties won't be able to have more than two C of Os. The reasoning is that developers are splitting up homes into smaller units and thus reducing spaces for larger families. In this case, however, it would not be a loss of a family unit. Thus it would be an unintended consequence of part 4 of the proposed regulation.

Reply



RKM

January 14, 2015 at 2:28 pm

It seems to me that often times the units are as big (if not bigger) than small row homes (not arguing for pop-ups/conversions, but just stating an observation). The developers usually add additions on the back as well as the pop-up. Also, what if a developer makes a 2 unit building. Would they be able to pop-up then?

Reply



jeffb

January 14, 2015 at 4:04 pm

But this case is about any exterior additions. The letter is simply about converting an existing basement and being caught up in a regulation intended for other situations.

Reply



Archduke of Argonne

January 14, 2015 at 2:18 pm

Part of the proposed R-4 "reform" will cap row houses at a maximum of two dwelling units. The OP has two already but wants to make his cellar / basement into a third dwelling. Which he says he can do now, by right, and without popping up. But if a two dwelling cap is enacted, he will need a zoning variance and there is no guarantee he will be able to get it. Objections to "ugly pop-ups" conceal some deeper objectives of "zoning reformers" — they don't want any increase in density that might create congestion, noise and competition for on street parking. Arguments about "aesthetics" and "saving family housing" are just eyewash.

Reply



Anonymous

January 14, 2015 at 2:42 pm

I just reread OP's post and I'm still not seeing where it states that he already has "by right" approval to build a 3rd dwelling.

For me personally, the "aesthetic" argument is the one that really sinks in.

Reply



jeffb

January 14, 2015 at 3:19 pm

Regulation 11-330.5 states that an R4 owner has the right for "The conversion of a building or other structure existing before May 12, 1958, to an apartment house as limited by §§ 401.3 and 403.2."

Reply



Anonymous

January 14, 2015 at 3:26 pm

jeffb – you missed my point. I'm not questioning the right to convert a SFH to a multi-unit building. I'm questioning why the proposed regulation/change would make any difference to the OP as it's not clear that they can create a third unit "by right" right now.



jeffb

January 14, 2015 at 3:21 pm

And there is no aesthetic issue here since there would be no change to the exterior and changes to the exterior are governed by different regulations. That is a separate issue, or at least it should be, but unfortunately the current proposal could have unintended consequences.

Reply



Anonymous

January 14, 2015 at 3:27 pm

The "aesthetic" comment was an aside to Archduke of Argonne re: "Arguments about "aesthetics" and "saving family housing" are just eyewash."



Matt

January 14, 2015 at 2:01 pm

There's a developer planning on turning a regular row house in my neighborhood into SEVEN two bedroom condos. To do so they plan on popping up, which honestly may not be that bad, but also plan on popping BACK, which will block pretty much all sunlight to the back yards of everyone else on the block. A lack of natural light in a small outdoor space is pretty detrimental to quality of life, especially for people who want to keep personal gardens. So, sorry if I don't have any sympathy for you right now.

Reply



AG

January 14, 2015 at 2:23 pm

You should have sympathy for someone trying to do it the right way while people get away with monstrosities like the one you're describing. That's exactly the point.

Reply



Anon

January 14, 2015 at 2:27 pm

Any details available on this project?

Reply



Matt

January 14, 2015 at 3:58 pm

If you search for "DC Permit Application Status Tracking" on Google it will take you straight to the DC government page that allows you to see the permits. Search there for B1411058.

Reply



Eric

January 14, 2015 at 2:57 pm

"A lack of natural light in a small outdoor space is pretty detrimental to quality of life"
Not always. I live in a townhouse that has pop-outs on either side, and I like the privacy I have in my backyard created by the extended walls on either side. Makes for a very private urban oasis.

Reply



Matt

January 14, 2015 at 3:59 pm

Well from my back yard I can see the sun setting over a couple of beautiful churches on 16th St. I am terrified that someone will buy one of the houses on the street next to mine, pop it back, and ruin the view I and my neighbors enjoy so much.

Reply



jeffb

January 14, 2015 at 3:15 pm

You have misunderstood the letter. This is not about wanting to pop up or out, which is banned in the historic district anyway. The point is that this basement improvement would not do any of that kind of harm that you are experiencing. This is not an inconsiderate developer trying to change the exterior of a building.

Reply



Anonymous

January 14, 2015 at 4:21 pm

It's a 6300 square foot lot. It's zoned for seven units. Not sure under what grounds you have to be upset. You knew about this when you bought/moved in (unless you bought prior to 1958).

Reply



Chris

January 14, 2015 at 2:02 pm

This is insane. I have a hard time believing there is any demand for housing for larger families in row houses. Most people with large families couldn't afford a row house in dc.

Reply



Duponter

January 14, 2015 at 2:06 pm

That's not even remotely true. There are plenty of dual income parents in the city with multiple children. Most of them have moved to Chevy Chase, Brookland and the like. The reason housing continues to rise in those locations is precisely because there is a demand for housing for people with children. And the options anywhere else in the city become more and more limited precisely because rowhomes are divided into 1200 square foot two bedroom condos that are insufficient for people with more than one child. Have you checked home prices in the parts of DC with free standing single family homes? High. And rising. Because there is less and less inventory. As for this letter, what the author seems to fail to notice is that there is always the option that the basement be finished and become part of the first floor, adding space for a family that would not otherwise fit there. Which again, is the point.

Reply



MMMkay

January 14, 2015 at 2:13 pm

Isn't that the point? Families can't afford row houses because the supply is dwindling because too many are being converted into multi-family buildings?

Reply



JS

January 14, 2015 at 2:17 pm

The reason that "families" by which, let's be real here, people mean your ideal two parent-two kid family, can't afford row houses is that the demand for rowhouse living exceeds supply. It's not that "too many" of them are being converted into multifamily buildings. Should we start prohibiting childless couples from bidding on row houses? They have more disposable income and can outbid "families" after all.

Reply



anon

January 14, 2015 at 2:53 pm

I think you hit the nail on the head. Forcing these row homes to stay intact means that only rich families or roommates will be able to live there. If DC wants to subsidize families, then they should encourage more development, not less.

Reply



PewPew

January 14, 2015 at 3:05 pm

Trust me as somebody in a DINK family who bought a townhome in NW, we could outbid many people with our household income. This happens all of the time in DC. Do I regret buying a larger house with no kids. Not one bit.

Reply



Duponter

January 14, 2015 at 4:24 pm

Um you understand those are two sides of the same coin. If demand for rowhomes exceeds supply, then clearly removing supply to create smaller condos reduces the ability of families to buy rowhomes. You seem confused.

Reply



JS

January 14, 2015 at 4:31 pm

Uh, if I have a fixed (or increasing!) number of buyers and decrease the number of available housing units, what do you think will happen to prices? Maybe I'm not the only one who's confused.



jeffb

January 14, 2015 at 2:15 pm

That is the goal of the proposed regulation change, MMMkay. But in this case the regulation is affecting some people who are not reducing family-friendly spaces. There should at least be an exception for people who are adding liveable space without reducing existing spaces for families and who aren't enlarging their structure with a pop-up (which could not happen in this historic district anyway).

Reply



Anon

January 14, 2015 at 2:53 pm

My next door neighbors moved out of their row house a few years ago when their two kids reached school age. They said they needed more space, but instead of popping up their row house for \$250,000 they bought a detached dwelling in far upper NW for \$1.1 million — in an area with better schools. So it's schools more than space that drives the great family exodus towards the suburbs (those inside and outside the District proper) at least for those who can afford it.

Reply



Duponter

January 14, 2015 at 4:26 pm

Your interesting anecdote aside, there are many areas of the city where people live and have children that are not upper NW. I have plenty of friends with kids living in rowhomes in Petworth, Shaw, Eckington, etc. Neighborhoods that, until recently, still had affordable rowhomes for families, which are quickly becoming unaffordable for most because of dwindling supply as more and more are converted to condos for people without children.

I'm not passing judgment on the trend. It is what it is. But if the point is to protect inventory for families, the regulation makes sense.

Reply



JS

January 14, 2015 at 4:34 pm

Who do you think is going to be able to pay a higher price for a 3 BR row house? A family with two small kids and one parent working part-time or two DINKs? This proposed regulation will not hold prices down or decrease competition for 3BR row homes.

Reply



SF

January 14, 2015 at 2:06 am

You lost me a "no losers". If somebody converted a rowhouse on either side of mine into a 3-unit building I'd be pretty unhappy, especially if I bought into a family-oriented area. It would be a loss to the city in general if everybody carves up the houses into apartment buildings and there aren't any single family homes left.

Also, under R-4 you can convert into only two legal units right now. It looks to me like you'd need to request a variance for another unit at the present time, so I'm not clear how this is different.

Reply



jeffb

January 14, 2015 at 2:14 pm

Currently you can convert to a three unit in R4 if you have more than 1,000 square feet per floor and that allowance is what the proposal intends to eliminate. In this case it is not about losing a single family home. This building already has two flats and the basement is not used. It would not take away from any of the other two spaces but would merely add a unit. Seems like you just don't want people living near you but there is a housing shortage in DC, rents are high, and we need to find ways to fit more people into this city. I doubt it would cause you much harm if you had a couple extra people living next door to you in a basement unit.

Reply



JS

January 14, 2015 at 2:18 pm

No — in R-4 zones it's one unit per 900 sq. feet of lot area provided lot coverage doesn't exceed 60%.

Reply



jeffb

January 14, 2015 at 2:50 pm

I just looked it up in regulation 11-401.3 and think you are partially correct, that it is 900 feet, but that is per "apartment or bachelor apartment," not per lot area as you state. So to convert to a three-unit in zone 4 each unit must be at least 900 square feet. There is no minimum width. For maximum lot occupancy it is a little confusing. 11-403.2 says the maximum percentage of lot occupancy for conversion to apartment house is "Greater of 60% or the lot occupancy as of the date of conversion." Not sure what they mean by the last part of that.

Reply



JS

January 14, 2015 at 3:08 pm

No - it's one unit per 900 feet of lot area. That's why a bunch of these conversions are happening on end unit properties - the lot area for those tends to be larger, allowing more by right development. Let me quote the DC's government's own summary on its zoning map tool: "Conversions of existing buildings to apartments are permitted for lots with a minimum lot area of 900 square feet per dwelling unit. Rear yard requirement is twenty (20) feet." Also, minimum lot width is 18 feet. I know this because my house is on a nonconforming lot (narrower) and I'd have to get a BZA exemption for renovations because of that.



JS

January 14, 2015 at 2:10 pm

Supporters of this proposal think that prohibiting pop up conversions will make rowhomes more affordable. It won't. Developers will still win bidding wars, except that instead of getting two 550 - 650K units, you get renovated row houses that sell for 850K plus.

Reply



PewPew

January 14, 2015 at 3:01 pm

Exactly. Smaller supply in the face of high demand is just going to make the single units much more expensive and put a crimp in total supply.

Reply



frickorfrack

January 14, 2015 at 2:35 pm

Losers would be schools that have a diminishing supply of children because of reduced supply of suitably sized family homes, over-abundance of SRO type housing stock (lowering rental value as more and more convert basements and row houses to multiple unit buildings (as landlords get desperate, rents are driven down and increasingly an appeal low-rent, transient populations); congested parking with more cars; appeal of a "family neighborhood greatly diminished; increase in policing costs as people on top of people tend to become like caged animals and fight; increased stress on infrastructure systems (a lot more crap going through the sewer system)... bad idea all around.

Reply



jeffb

January 14, 2015 at 3:08 pm

But in this case no family-size unit is being lost. This is about an unoccupied basement. It does not split up an existing family space. So there would be no loss for schools (possibly a gain with a tenant who has a child). As for increasing supply, there is a shortage of units and the impact would likely be nothing. Your other points indicate that you think a less-dense area should be the goal, but if that is the case then there are always the suburbs and exurbs. This city has decided that it needs to create more housing to meet the increasing demand.

Reply



The OP Anon

January 14, 2015 at 3:08 pm

Well that escalated quickly. I'm surprised you didn't use the word "undesirables" in that diatribe.

Reply



anonymous

January 14, 2015 at 2:41 pm

I think this is an excellent point.

Another point I would make is encouraging an exemption for owner-occupied units. One of my neighbors told me about their experience with the victorian they live in, and I have to say, I had really hoped to be able to replicate it myself. This proposal would likely make that impossible.

My neighbor bought the victorian as a three-unit building as a single guy in the very early 1980s. He

didn't need an entire house, and couldn't afford to live in it by himself, but liked the idea of the investment potential. So, he lived on the first floor and rented out the two units upstairs. After he married, when he and his wife wanted to have children, they "annexed" the middle unit to make the lower two floors a large 2.5 bedroom property. When they had another child later, they "annexed" the top floor, converted it into a master suite, and used the whole house. After the children moved away, they converted the first floor back to an apartment and downsized to the upper unit. They are now older, own the house outright, and thinking about moving back to the first floor to avoid the stairs and either renting the large upper unit or converting it back to two smaller apartments. He often says he's been in that house over 35 years, and he's adapted it to whatever phase of life he was in at the time, and loved it. But, it sounds like that might not be allowable if this bill passes.

So, I'd encourage an exemption from the entire bill for owner-occupied properties. That would still preclude developers from whatever "evils" they want to inflict on the neighborhoods, but it would allow the actual intent of the bill to happen - maintaining flexible space for families. It would also allow a family that's growing to add an addition that lets an older generation move in with them or provide bedrooms for new children. It's a shame to lose long-time community members because the city won't allow them to adapt their own properties to their own needs.

Reply



The OP Anon

January 14, 2015 at 3:12 pm

I totally agree with what you're saying. BUT - it will be nearly impossible to adequately police and enforce the "owner-occupied" clause. DCRA can't even properly supervise and fine un-permitted work. You think they'll be able to ensure that a home is "owner-occupied"? An investor will just claim it is his home, but never live there.

Reply



jcap

January 14, 2015 at 3:51 pm

Couldn't you just link the "owner-occupied" clause to the homestead deduction? i.e., if an owner is claiming the homestead deduction, DCRA assumes it's owner occupied. DCRA doesn't have to actively enforce because, presumably, the OTR has some enforcement mechanism. So people falsely claiming "owner-occupied" would be liable for whatever civil and criminal penalties that go along with tax fraud/lying to OTR. Do you think many non-resident investors claim the homestead deduction now? Seems risky to me.

Reply



anon

January 14, 2015 at 4:07 pm

"Do you think many non-resident investors claim the homestead deduction now?" The owners of the houses on both sides of mine are doing so.

Reply



mphs

January 14, 2015 at 2:48 pm

Would the owner be willing to execute a deed covenant guaranteeing that one of the units is affordable, by government standards? No friggin way. They may charge less than upstairs, but not likely to rent below the affordable limit. And, even if they have a kind heart, what about the next owner?

Reply



Accountering

January 14, 2015 at 2:56 pm

Why should he have to do this? Affordable housing is a city-wide issue, not this persons issue. It is amazing the lengths that people who want to tell other people what to do with their property will go to make their argument.

Reply



jeffb

January 14, 2015 at 2:58 pm

Basement units rent for less money due to the forces of the market. Basement units have smaller windows, lower ceilings, and often less space because boiler/utility rooms are in the basement. I'm sure there are some exceptions, but on Craig's List 2 bedroom basement units usually cost about \$1900 or 2000 whereas upper unit two-bedroom apartments usually rent for at least \$400 or \$500 more and have a much higher rent ceiling. A unit with a seven foot ceiling and small units will always be cheaper; it's just common sense.

Reply



zartan

January 14, 2015 at 3:02 pm

why the heck would an owner do something crazy like that?

Reply



PewPew

January 14, 2015 at 2:59 pm

Those who are foolish enough to think that the anti-pop-up provision is going to drive down or stabilize the prices of row homes and other homes in DC is foolish and does not understand the nature of real estate. This will likely drive up the cost of housing since it will put a limit on supply of housing in DC. While this is great for homeowners in DC. It does not in any way make 3 BR+ housing more affordable in the district. In fact it will do the opposite, which is drive up the cost of housing. This is downzoning pure and simple, and the lesson from downzoning in SF is that it increases the cost of housing. But even SF was not stupid enough to disallow the subdividing of row homes to such an extent. This movement does not properly understand the simple economics of supply and demand, and the reality is that this will not drive down the cost of housing. If anything it will push those who may have been satisfied with a subdivided condo into competing for the same houses as those who are looking for homes for their families, with a smaller amount of total supply on the market. As a homeowner in a house that cannot be subdivided this suits me fine, I will make out like a bandit, but as somebody who generally thinks pushing down available supply through dumb downzoning provisions which are not just economically misguided, but deeply problematic, this provision strikes me as deeply wrong. The residents who are pushing for the downzoning frankly do not know what they are talking about, this provision will drive up housing costs, not make it more affordable.

Reply



The OP Anon

January 14, 2015 at 3:20 pm

The real ways to control housing costs are anathema to America's aspiring "rentier" class. You want to know what actually works in other countries to control housing costs?

- Massive punitive taxes on flippers/investors who buy and sell property with 5 years
- Large down payment requirements on any home second home (50% LTV or lower)
- Restricting ownership to no more than two individual housing units within a given geography
- Not allowing investors to purchase a SFH or individual apartment units (i.e., force them to purchase or build multi-family properties)

These are ways that governments around the world frequently control costs. If I had my druthers, I'd start by restricting purchases of SFHs or individual apartment units by investors (and yes, you're an "investor" even if you only own one extra unit of housing). Of course, this would have a dampening effect on housing prices and reduce transactions, thus the real estate and banking/lending industry would violently oppose it ("I love the smell of commissions and closing costs in the spring....")

Reply



Accountering

January 14, 2015 at 3:34 pm

This is interesting. I am going to be honest and say I am glad I live in America, and not the countries you are referencing in your post.

Reply



ParkViewRes

January 14, 2015 at 3:52 pm

LOL, I had the same thoughts. That sounds TERRIBLE!

Reply



The OP Anon

January 14, 2015 at 3:56 pm

Well yeah, who doesn't want free money?



The OP Anon

January 14, 2015 at 3:54 pm

The point of many of these regulations is that those governments see housing as something everyone needs to live. They prefer to have housing "investors" focused on multi-family properties. IMHO, investors shouldn't be competing with individual home owners for the same housing units. They should be separate, segregated markets. It would alleviate A LOT of the pressure on prices in urban markets.

The situation is not helped by banks and homeowners having a de-facto subsidy from the federal government that leads to the underpricing of risk. So we must admit from the outset that housing in the U.S. does not exist in anything that resembles a "free market."

Of course, you need to combine such policies with incentives. For instance, provide preferential tax rates for new in-fill development by investors (that is, incentivize the building of brand new structures). That, in combination with ownership restrictions, would still leave you with a housing market free of artificial price controls but still increasing supply. Regardless, Americans