

THE DEVELOPER ROUNDTABLE

September 30, 2015

Chairman Anthony Hood
District of Columbia Commission
441 4th Street, NW, Suite 210S
Washington, DC 20001

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Re: Z C Case No 14-13 – Comments on Proposed Penthouse Regulations

Dear Chairman Hood and Members of the Commission

The undersigned members of The Developer Roundtable greatly appreciate the time and effort that both the Office of Planning (“OP”) and the Commission have invested in revising the regulations governing penthouses. As proposed, the regulations will clearly provide more flexibility and result in an opportunity for superior design. We do, however, respectfully urge a change to one specific aspect of the proposed regulations that we believe will further improve the ability to minimize the appearance of penthouses and reduce the proliferation of BZA cases.

Our recommendation concerns § 411.9 of the proposed regulations. Specifically, we recommend revising the language to allow lower, where possible, wall heights for portions of mechanical equipment penthouses.

Under the existing regulations (§ 411.6), a penthouse must be enclosed with walls of equal height. However, as OP noted in its October 17, 2014 hearing report (Exhibit 6 of the record), this requirement leads to instances where owners must construct taller penthouse walls than necessary, resulting in penthouses that are larger than functionally required. In many instances, only a small amount of space is necessary to accommodate the tallest of the mechanical equipment, but the entire penthouse must conform to this uniform height regulation. Indeed, as OP noted, relief from this section is the most common penthouse relief requested from and granted by the BZA. In the last five years alone, the BZA has received and granted 21 requests for relief from § 411.6. The BZA has not denied any such cases.

The proposed regulations somewhat improve the current situation because in certain instances multiple wall heights are permitted. Specifically, the proposed § 411.9 permits a penthouse with multiple wall heights for the different uses in the penthouse: the height for the mechanical portion of the penthouse may have a different wall height than the habitable portion of the penthouse. As drafted, § 411.9 allows one uniform height for the habitable space and a different but still uniform height for the mechanical space, provided that the entire penthouse height is lower than the overall penthouse height permitted.

However, the proposed § 411.9 does not completely rectify the problem. The plain language of the proposed section requires that each use (habitable space, mechanical, screening) have its own uniform height or that the entire penthouse be one height. A penthouse with both habitable space and mechanical

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equipment may have two heights: one for each use. **But because the proposed section requires uniform height for each use, it necessarily does not permit multiple heights for a single-use penthouse, such as an entirely mechanical penthouse** Instead, a single-use penthouse must, as proposed, have a single uniform height For example, when only a very small area of a solely mechanical penthouse is necessary for an elevator overrun, the proposed regulation would not permit the penthouse to have two heights In that case, the walls of the entire penthouse would have to be a uniform height The result is that solely mechanical penthouses will continue to be excessively large and developers will continue to be required to devote resources to constructing unnecessary structure (or will continually seek BZA relief) We believe that the one of the objectives of the proposed changes is to decrease the unnecessary mass of all penthouses, regardless of use, but as proposed, § 411.9 would simply not achieve that goal

Therefore, we request that the proposed § 411.9 be clarified and changed to allow a penthouse to have walls of multiple heights, regardless of the uses within it Accordingly, we propose that the following sentence be added to § 411.9

“For a penthouse devoted entirely to mechanical space, uniform wall height is required only if necessary to fully enclose all of the mechanical equipment.”

Thank you very much for the opportunity to comment on these regulations

Sincerely,

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cc Eric D. Shaw, Director
Office of Planning