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CHANGES TO THE HEIGHTS ACT: SHAPING WASHINGTON, D.C., FOR THE FUTURE

HEARING

BEFORE THE

SUBCOMMITTEE ON HEALTH CARE, DISTRICT OF COLUMBIA, CENSUS AND THE NATIONAL ARCHIVES

OF THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

JULY 19, 2012

Serial No. 112–184

Printed for the use of the Committee on Oversight and Government Reform

Available via the World Wide Web: http://www.fdsys.gov
http://www.house.gov/reform

U.S. GOVERNMENT PRINTING OFFICE

76–367 PDF WASHINGTON : 2012

For sale by the Superintendent of Documents, U.S. Government Printing Office
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CONTENTS

	Page
Hearing held on July 19, 2012	1

WITNESSES

Ms. Harriet Tregoning, Director, District of Columbia Office of Planning	
Oral Statement	5
Written Statement	7
Mr. Natwar M. Gandhi, Ph.D., Chief Financial Officer, District of Columbia	
Oral Statement	10
Written Statement	12
Mr. Marcel C. Acosta, Executive Director, National Capital Planning Commission	
Oral Statement	18
Written Statement	20
Mr. Roger K. Lewis, Professor Emeritus, University of Maryland School of Architecture	
Oral Statement	25
Written Statement	27
Mr. Christopher H. Collins, Counsel, District of Columbia Building Industry Association	
Oral Statement	30
Written Statement	32
Ms. Laura M. Richards, Member, Board of Trustees, and Past Chairman, Committee of 100 on the Federal City	
Oral Statement	37
Written Statement	39

APPENDIX

The Honorable Trey Gowdy, a Member of Congress from the State of South Carolina, Opening Statement	69
Mr. Charles Wilson, Historic Anacostia Block Association, Retain the Height of Buildings Act of 1910	70

CHANGES TO THE HEIGHTS ACT: SHAPING WASHINGTON, D.C., FOR THE FUTURE

Thursday, July 19, 2012

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON HEALTH CARE, DISTRICT OF COLUMBIA, CENSUS, AND THE NATIONAL ARCHIVES,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, D.C.

The subcommittee met, pursuant to call, at 1:34 p.m., in Room 2154, Rayburn House Office Building, Hon. Trey Gowdy [chairman of the subcommittee] presiding.

Present: Representatives Gowdy, Issa (ex officio), Davis and Norton.

Staff Present: Ali Ahmad, Communications Advisor; Molly Boyl, Parliamentarian; Lawrence J. Brady, Staff Director; Howard A. Denis, Senior Counsel; Linda Good, Chief Clerk; Mary Pritchau, Professional Staff Member; James Robertson, Professional Staff Member; Noelle Turbitt, Assistant Clerk; Peter Warren, Legislative Policy Director; Jaron Bourke, Minority Director of Administration; Kevin Corbin, Minority Deputy Clerk; Yvette Cravins, Minority Counsel; Devon Hill, Minority Staff Assistant; William Miles, Minority Professional Staff Member; Suzanne Owen, Minority Health Policy Advisor; and Safiya Simmons, Minority Press Secretary.

Mr. GOWDY. This is a hearing entitled "Changes to the Heights Act: Shaping Washington, D.C., for the Future." The committee will come to order, and I recognize myself for the purpose of making an opening statement.

This hearing is important to the residents of the District of Columbia, as well as all Americans who come to the Nation's Capital. We are here to examine the 100-year-old law that governs building heights in the District to determine what, comma, emphasis, if any, comma, modifications should be made to it.

Passed in 1910 to address public safety concerns, the Heights Act generally limits building heights to the width of the street on which it is located, with a maximum limit of 90 feet, and residential areas at 130 feet, and commercial ones with a few exceptions throughout the city. The District was not unique in limiting the size of its structures; however, when other cities eased their laws, D.C. held firm to the limitations. This has helped shape our Capital City, but, as some have argued, may have also stunted its potential.

While significant technological improvements have been made over the years to address 20th century safety issues, it is vital to this debate that we look at every potential ramification of opening

this law. For instance, it is a sad fact that D.C. is a terrorist target. I understand the Secret Service and Capitol Police have had concerns in the past about the height of certain buildings near the White House and Capitol complexes respectively. Before any modifications are considered, the safety concerns of our Federal city must be addressed.

In addition, we need to look at the overall economic impact any proposal to raise limits would have on the District. There are obvious potential fiscal benefits to the city and the construction community. Higher buildings could also help make housing more affordable, especially for low-income families and younger residents who seek to make D.C. their adopted home.

Finally, I want to be clear, this committee has no desire to turn D.C. Into the next New York. Our Nation's monuments and memorials will not be overshadowed by condos and co-ops.

With that in mind, I look forward to hearing from our witnesses. We have a very distinguished panel. We are grateful, all of us, for your presence. We look forward to hearing from you on what may potentially come from this hearing.

I want to thank everyone for being with us today and sharing your expertise. And now it is my great pleasure to recognize the gentlelady from the District of Columbia, who will be serving as the ranking member for purposes of this hearing, Ms. Holmes Norton.

Ms. NORTON. Thank you very much, Chairman Gowdy. And you're right, I love New York, but this is the District of Columbia.

I particularly want to thank you for this hearing, though, because it's the first hearing in decades about the Height Act. We know that it sets limits. If you were to hear those dimensions, they wouldn't mean a lot to you, and we could not find in the record what they were based on. Perhaps some of the witnesses know. The only basis we can come upon for the present limits really are by adoption from other cities or something to that effect.

The record does not show that when these standards were adopted, there were hearings and the like. Now, of course, this was before home rule, and I don't know much about the commissioners, but I imagine that somebody must have sat down to decide about these dimensions. In any case, in over 100 years, we cannot find any evidence that the Height Act has been seriously analyzed.

I looked for changes in the Height Act and found that there had been seven amendments. Most of those seem to have been special exceptions; only two were of general applicability. I also don't know the reason for those changes, both to residential buildings, one to increase the limit by 5 feet, and the other to permit buildings to have 10 floors rather than 8. I don't know the basis for that, but those were the only changes we could find.

Now, we are well aware of the Federal interest in protecting the views of its signature buildings and historic sites. Those, of course, are located in the monumental core. There is little information, however, on the public record concerning the uses and purposes of the Height Act today apart from that important purpose.

We do know this, that the discipline on height of buildings that is embedded in the Height Act seems to flow naturally enough from the original vision of the city from the L'Enfant plan and the Mc-

Millan plan. We have the Height Act to thank for the livable scale of this city that is so apprised; and, for that matter, for the vistas that give our city its unique place in the world, and that draw visitors and, if I may so, revenue to the District as well.

Something interesting seems to have happened, though, over the years. There seems to have developed a nearly common understanding that our identity as a city is wrapped up in part in the Height Act. That's the only reason I can think of that in my service in the Congress for over 20 years, no one has ever approached my office for changes in the Height Act.

The only specific change I know of is one that would call for human occupancy of a space already on the top of buildings, and that space is now occupied by mechanical equipment. It's known as the mechanical penthouse. Now, on its face this change would appear to offer some benefit if you could occupy that space without interrupting the current views or vistas that are so prized.

At the same time, I certainly, for me, have no information on what the effects of this change would be. I don't even know why the decision was made to place the mechanical equipment on the top of buildings. I am told that elevators pulled up, and therefore it was on the top of buildings. I don't know whether if that space was not used for mechanical equipment, but was occupied, whether the mechanical equipment could go elsewhere. I don't know what the cost of that, what it would do to the attractiveness of buildings. In other words, this hearing, for me, is largely technical.

The Height Act is like a symbol. It's discussed, it's even revered, but I don't know many people, expert or not, in this city who know very much about the Height Act or have spent any considerable time understanding it. It's very much worth understanding if the identity of your city may be closely aligned with the Height Act.

Far more difficult than this single notion of occupying the space that's already allowed on buildings is the notion of whether there should be any further relaxation of the Height Act. That, of course, implicates almost exclusively residential D.C. That is an issue that I would approach with caution. The city would ask itself does it feel a need for relaxation of the Height Act? It would ask itself what are the implications, economic implications, planning implications, and particularly what are the neighborhood-by-neighborhood implications? The topography of the city is very different. It's hard to imagine that, as with today's Height Act, which is uniform, you could have a change in the Height Act that treated the rest of the city uniformly.

As someone who has supported smart growth, I would be interested to know how the city, which also encourages smart growth, squares smart growth with the existing Height Act constraints.

I think that no matter how you view the Height Act, its effect on the city at large would need to bear in mind many factors: the identity of the city, its shape, its history, its future. And my only sense is that if in residential D.C. one wanted to alter the Height Act, one would require extensive comprehensive studies and hearings involving the full range of actors, from many experts to many residents. That's a very weighty task beyond the full measure of this hearing, but I thought it should be raised.

In any case, I will be very satisfied if I can feel comfortable with the single notion, the single idea that has been raised of occupying the space that's already allowed at the top of buildings.

Mr. Chairman, one resident, the advisory neighborhood commissioner and president of the Historic Anacostia Block Association, has submitted a statement, and I ask that it be included in the record.

Mr. GOWDY. Without objection.

Ms. NORTON. I thank today's witnesses and look forward to learning from each them.

Mr. GOWDY. I thank the gentlelady from the District of Columbia.

I also would like to recognize the gentleman from Illinois Mr. Davis, who is joining us today, and on behalf of all three of us and anyone else who may come, we welcome our distinguished panel of witnesses.

Other Members who wish to may have 7 days to submit opening statements and extraneous material for the record.

I will introduce you from my left to right, your right to left, and I will introduce you en bloc, and then you will have 5 minutes for your opening statement. There is a light system. Red means stop; yellow, go as fast as you can; and green means go.

So it is my pleasure on behalf of all of us to welcome our panel, and I apologize in advance if I mispronounce anyone's name. You are welcomed to correct me. I have three sisters, so I am used to it.

Ms. Harriet Tregoning is the director of the D.C. Office of Planning.

Dr. Natwar Gandhi is the chief financial officer of the District of Columbia. I read recently that Robert Griffin signed a contract for 4 years with the Washington Redskins. I know Bryce Harper was signed by the Nationals. I believe you may also have re-upped for a period of time?

Mr. GANDHI. Yes, sir.

Mr. GOWDY. It may not have been done with as much fanfare as those two, but ultimately for the health of the city, yours may well be the most important of all three of those. So we congratulate you and welcome you.

Mr. GANDHI. Thank you, sir. That is very kind of you.

Mr. GOWDY. Mr. Marcel Acosta is the executive director of the National Capital Planning Commission.

Mr. Roger Lewis is professor emeritus of the University of Maryland School of Architecture.

Mr. Christopher Collins is counsel to the District of Columbia Building Industry Association.

Ms. Laura Richards is a member of the board of trustees and past chairman of the Committee of 100 on the Federal City.

We welcome all of you.

And I will, pursuant to committee rules, need to ask if you would stand and please take the oath.

Do you solemnly swear or affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

May the record reflect that all witnesses answered in the affirmative.

You may be seated. Thank you.

With that, we will recognize Ms. Tregoning for her opening statement.

WITNESS STATEMENTS

STATEMENT OF HARRIET TREGONING

Ms. TREGONING. Thank you very much.

Good afternoon, Chairman Gowdy, Congresswoman Norton, Congressman Davis, members and staff of the subcommittee. I am Harriet Tregoning. I am the director of the D.C. Office of Planning. Thank you very much for this opportunity to appear before your subcommittee on behalf of Mayor Vincent C. Gray in support of modest proposed changes to the 1910 Federal Height Act.

As you may know, rooftop structures, as Congresswoman Norton mentioned, are already permitted under the Height Act. While allowed, these roof structures have been limited in their use to mechanical equipment, elevator overrides, building mechanicals, and are currently prohibited from any use that qualifies as human occupancy, like a recreational room or an office space. Allowing their use for more active purposes will have no real impact on the overall maximum height of buildings as permitted by the 1910 Height Act, and will not impact the District's recognizable and historic skyline.

The Height Act has been a defining element in creating the city's skyline, and has resulted in an iconic form in the Nation's Capital. I believe that the District of Columbia will always limit the height of buildings, whatever the fate of a Federal Height Act. This relationship between the width of streets and the height of buildings is a very important one. But let me underscore something that Congresswoman Norton said, that there is nothing particularly sacred about the numbers that were selected—the width of the street, plus 10 feet for residential streets; the width plus 20 for commercial streets; rather, that there is a notion and a relationship between the height of the buildings and the scale of the streets so it gives you something that's human and pedestrian scaled and is relatively unique among cities.

In fact, on Pennsylvania Avenue, which, as the Presidential inaugural route is one of the most symbolic streets of public avenue anywhere in the country, it actually already hosts buildings of 160 feet, and many of those have on top of the 160 feet additional roof structures. And the additional 30 feet is not particularly noticeable, and that's within the Federal city.

This human-scaled city that's been created through an intimate relationship between the width of streets and boulevards and the corresponding heights of buildings on those streets is a more walkable, I think, more beautiful, more unique place as a result. Allowing other uses of rooftop structures wouldn't change any of that.

The act has created great views and vistas that are underscored by the city's wonderful topography. Restricting the use of roof structures to purely mechanical purposes actually forbids people's

enjoyment of some of the city's greatest spaces and most striking views.

These views and these amazing spaces might also be among the city's most valuable, given their scarcity and their largely unobstructed vistas. With almost 40 percent of the District's land tax exempt or otherwise off our city's tax rolls, this is an opportunity to increase the tax base and our fiscal stability by allowing this building area to be occupied with no impact on land, height, or neighborhood character.

I will note that a Federal action to amend the Height Act will need to be followed by local action to consider amendments to the District's zoning code to allow such a change in use, with all of the public notice and public input that such an action would entail.

While not prejudging the outcome of the process at the local level, we do urge your support of a Federal action to permit use of roof structures for other than mechanical purposes, which would then allow the home rule and self-governance determinations of the District of Columbia to proceed.

In conclusion, I respectfully ask for your support for this modest proposal to change the Height Act, one that has the potential to substantially enhance the District of Columbia's tax base, while continuing to respect the city's existing horizontal and human scale.

Thank you.

Mr. GOWDY. Thank you, ma'am.

[Prepared statement of Ms. Tregoning follows:]

Good afternoon, Chairman Gowdy, and Members and staff of the Subcommittee. I am Harriet Tregoning, Director of the District of Columbia Office of Planning. Thank you for this opportunity to appear before your subcommittee today on behalf of Mayor Vincent Gray in support of modest proposed changes to the 1910 federal Height Act.

As you may know, roof top structures are already permitted under the Height Act. While allowed, these roof structures have been limited in their use to mechanical purposes (elevator overrides, building mechanicals) and are currently prohibited from uses that qualify as "human occupancy" such as recreation rooms or office space. Allowing their use for more active purposes will have no real impact on the overall maximum heights of buildings as permitted by the 1910 Height Act and will not impact the District's recognizable and historic skyline.

The Height Act has been a defining element in creating the city's skyline and has resulted in an iconic form for the Nation's Capital. I believe that the District of Columbia will always limit the height of buildings, whatever the ultimate fate of a federal Height Act. This relationship between the width of streets and the height of buildings is an important one, but let me underscore that there is nothing sacred about the particular numbers (the width of the street + 10 feet for residential streets, and + 20 feet for commercial streets); rather that the notion of a relationship and a relatively low and human scale is the key. In fact, Pennsylvania Avenue, NW, which as the Presidential Inauguration route is one of the nation's most symbolic stretches of public avenue, already hosts buildings with heights up to 160 feet, and may then have roof structures; the additional 30+ feet of height is not particularly noticeable.

The human-scaled city that has been created through an intimate relationship between the width of streets and boulevards and the corresponding heights of buildings on those streets is more walkable, more beautiful and more unique as a result. Allowing other uses of roof top structures would not change that. The Act has created great views and vistas that are underscored by the city's topography. Restricting the use of roof structures to purely mechanical purposes forbids peoples' enjoyment of some of the city's greatest spaces and most striking views.

These views and these amazing spaces might also be among the city's most valuable, given their scarcity and their largely unobstructed vistas. With almost 40% of the District's land tax exempt[1] or otherwise off the city's tax rolls, this is an opportunity to increase the tax base and our fiscal stability by allowing this building area to be occupied with no impact on land, height or neighborhood character. I will note that a federal action to amend the Height Act will need to be followed by local action to consider amendments to the District's zoning code to allow such a change in use, with all the public notice and public input that such an action would entail. While not pre-judging the outcome of that local process, we urge your support of a federal action to , permit use of the roof structures for other than mechanical space which will then allow the Home Rule and self-governance determinations of the District of Columbia to proceed.

[1] Includes: Hospitals, WMATA, DC and Federal government, embassies, universities, religious and military lands

In conclusion, I respectfully ask your support for this modest amendment to the Height Act, one that has the potential to substantially enhance the District of Columbia's tax base while continuing to respect the city's existing horizontal and human scale.

Mr. GOWDY. Dr. Gandhi.

STATEMENT OF NATWAR M. GANDHI

Mr. GANDHI. Thank you, Mr. Chairman.

Good afternoon, Chairman Gowdy, Ms. Norton, Mr. Davis, and members of the subcommittee. I am Natwar Gandhi, chief financial officer of the District of Columbia Government, and I'm pleased to be here for the committee's hearing on the proposed changes to the Congressional Heights of Buildings Act of 1910, the so-called Heights Act.

The District of Columbia is a dynamic and growing city. Since 1996, despite 2 recessions, the District's population increased by 8 percent by adding 46,000 residents. In 2011, the District added more than 1,000 residents per month, the greatest annual increase in D.C.'s population since 1946. From April 2010 to July 2011, the 2.7 percentage growth in population was three times the U.S. population growth rate, and the District was among the top-gaining large U.S. cities. Yet our potential for growth is nowhere near exhausted. At 618,000 residents, we are still considerably short of our 750,000 population level in the early 1970s.

Since 1996, the District's economy has grown significantly. Jobs located in the city increased by 112,100, or about 18 percent, and the average personal income of D.C. residents now stands at $73,105, or 175 percent of national average. This growth has been accompanied by a strong expansion in construction. In 2011, the District had 7.5 percent more apartments units and 26.6 percent more commercial office space than in 2001. Over 8,000 residential units are currently under construction.

With a small footprint of 46 square miles, the District already commands the second highest commercial office rental rates in the Nation, and has only a 4.7 percent vacancy rate for Class A apartments. The District's limited real property base is further constrained by height and density restrictions, which pose a risk to the city's ability to accommodate further growth in population and jobs.

Today, in my testimony, I would like to focus on three points. First, Federal legislation that eases the city's building height restriction is necessary, but not sufficient to expand building capacity beyond what is currently allowed in the District of Columbia. Amendments to the city's zoning regulations must accompany such Federal legislation.

Second, while the relaxing or eliminating height and density restrictions could eventually have positive financial implications on the city's future tax revenues, the policy is especially important for the city's continued growth. By allowing the District to support more residential units and office space, this change would afford more flexibility to the District in accommodating growing jobs and population. To be clear, changes in the height and density restrictions would increase the value of the real property tax base, which accounts for over $1.8 billion in annual tax revenues. But these increases would also be tempered by local property tax relief policies, such as residential and commercial property tax caps.

Third, real property tax revenues are ultimately determined by economic factors such as number of jobs, office rents, and household incomes, which may or may not be immediately affected by

changes in the height limits. Accordingly, the realization of higher taxes from increased density will take time, especially given the slow recovery from the great recession and the underlying economic uncertainty. Additionally, we are facing the possibility of Federal automatic spending cuts, known as a sequestration, totaling $1.2 trillion over the next 10 years beginning January 1, 2013. For the District, where Federal spending is around 60 percent of the city's gross domestic product, Federal cutbacks could drastically slow job and income growth in the District.

Within the congressional parameters, it is the District's zoning commission, with significant input from residents, that set the specific building height and density restriction for every building. Even the few federally initiated exceptions to the height restrictions, such as the Basilica and the Old Post Office Pavilion, were followed by enabling amendments to the city's zoning regulations.

Given the extensive public hearings that characterize the zoning commission's operations, the rezoning process can be long and contentious. It is only after these complementary legislative and administrative changes are fully implemented that the District of Columbia could realize the full benefit of the changes to this land use policy that has been in place over 100 years.

While the policy change would be historic, the immediate effects of this change may be small. The assessors will recognize that the market response may be slow, especially in parts of the city such as the downtown area, where the buildings are already fully leased at relatively high prices, and the developers would likely delay rebuilding until factors other than the zoning rules, such as the condition of the building, become relevant.

In conclusion, Mr. Chairman, despite these uncertainties, elimination of the height and density restrictions on the District's already limited real property base could be an important step towards maintaining the city's long-term ability to accommodate further growth in population and jobs. This proposal would allow the city more flexibility in its future growth path, and we look forward to working with you on this matter.

Thank you, sir.

Mr. GOWDY. Thank you, sir.

[Prepared statement of Mr. Gandhi follows:]

Good afternoon, Chairman Gowdy and members of the Subcommittee. I am Natwar M. Gandhi, Chief Financial Officer of the District of Columbia and I am pleased to be here for the Committee's hearing on the proposed changes to the Congressional Heights of Buildings Act of 1910 (the Heights Act).

The District of Columbia is a dynamic and growing city. Since 1996, despite two recessions, the District's population increased by 8 percent by adding 46,000 residents.[1] In 2011, the District added more than 1000 residents per month – the greatest annual increase in D.C. population since 1946. From April 2010 to July 2011, the 2.7 percentage growth in population was three times the U.S. population growth rate, and the District was among the top-gaining large U.S. cities. Yet, our potential for growth is nowhere near exhausted: at 618,000 residents we are still considerably short of our 750,000 population level in the early 1970s.

Since 1996, the District's economy has grown significantly. Jobs located in the City increased by 112,100 (or 18 percent) and the average personal income of D.C. residents now stands at $73,105, or 175 percent of national average. This growth has been accompanied by a strong expansion in construction. In 2011, the District had 7.5 percent more apartment units and 26.6 percent more commercial office space than in 2001. Over 8,000 residential units are currently under construction.

With a small footprint of 46 square miles,[2] the District already commands the second highest commercial office rental rates in the nation, and has only a 4.7 percent vacancy rate for Class A apartments. The District's limited real property base is further constrained by height and density restrictions which pose a risk to the city's ability to accommodate further growth in population and jobs.

[1] In 1996, the District of Columbia's population reached its lowest point at 572,000.
[2] This excludes approximately 23 square miles of water area, streets, roads and alleys.

Today, in my testimony, I would like to focus on three points. First, federal legislation that eases the city's building height restriction is necessary, *but not sufficient,* to expand building capacity beyond what is currently allowed in the District of Columbia. Amendments to the city's zoning regulations must accompany such federal legislation.

Second, while relaxing or eliminating height and density restrictions could eventually have positive financial implications on the city's future tax revenues, the policy is especially important for the city's continued growth. By allowing the District to support more residential units and office space, this change would afford more flexibility to the District in accommodating growing jobs and population. To be clear, changes in height and density restrictions could increase the value of the real property tax base, which accounts for over $1.8 billion in annual tax revenues. But these increases would also be tempered by local property tax relief policies, such as residential and commercial property tax caps.

Third, real property tax revenues are ultimately determined by economic factors such as the number of jobs, office rents, and household incomes which may or may not be immediately affected by changes in the height limit. Accordingly, the realization of higher taxes from increased density will take time, especially given the slow recovery from the great recession and the underlying economic uncertainty. Additionally, we are facing the possibility of federal automatic spending cuts, known as "sequestration," totaling $1.2 trillion over 10 years beginning January 1, 2013. For the District, where federal spending is around 60 percent of the city's Gross Domestic Product, federal cutbacks could drastically slow job and income growth in the District.

Height and Density Restrictions on the City

The Heights Act limits buildings on commercial streets to a maximum of 130 feet (approximately 12 floors) with exception of buildings on Pennsylvania Avenue, which can reach 160 feet (approximately 15 floors). The Heights Act also generally limits the height of buildings on residential streets to a maximum of 90 feet (approximately 8 floors).

Within these parameters, it is the District's Zoning Commission, with significant input from residents that sets the specific building height and density restriction for every building. Even the few federally-initiated exceptions to the height restrictions, such as the Basilica and the Old Post Office Pavilion, were followed by enabling amendments to city zoning regulations.

Given the extensive public hearings that characterize the Zoning Commission's operations, the rezoning process can be long and contentious. It is only after these complimentary legislative and administrative changes are fully implemented that the District of Columbia could realize the full benefits of the changes to this land use policy that has been in place for over 100 years.

District Property Market Fundamentals

In recent years developers, working with city officials, have found creative ways to accommodate the ongoing growth in the demand for housing units and new office space. These efforts include aggressive expansion of development into the eastern half of the city (first to East End, then to NoMa and Capitol Hill, and now to the new Ballpark area), repurposing of large tracts of existing land (such as the Walter Reed site, Saint Elizabeths East Campus, and the site of the old Convention Center), and use of air rights (such as the ongoing Center Leg Freeway project on

top of Interstate 395 and the planned Burnham Place over the railroad tracks behind Union Station).

With a dwindling number of large tracts of developable land, increasing the District's development capacity by allowing taller and denser buildings may be an effective public policy response. This policy change will increase potential supply of commercial and residential space and thus raise the value of the District's real property tax base. But the realization of this value increase will take time.

The most direct effect of an easing of density of height restrictions would be through the assessment process. Under our current practices, our assessors will take into consideration the potential increase in the value of highest and best use of each parcel, and re-assess these properties at higher value. Given our assessment cycle, even if such a policy would be in effect by October 1, 2013, the first revenue impact would not be realized until Fiscal Year 2015.

While the policy change would be historic, the immediate effect of this change may be small. The assessors will also recognize that the market response may be slow, especially in parts of the city, such as the Downtown area, where the buildings are already fully leased at relatively high prices, and the developers would likely delay rebuilding until factors other than zoning rules, such as the condition of the building, become relevant.

In parts of the city where development is just taking root, builders might take advantage of the opportunity to build taller buildings, but the relative increase in value in these areas may be modest. Furthermore, if one area, such as Downtown, receives more high-density development, other areas of the city may experience less.

Finally, local laws that are designed to stabilize the volatility in real property tax collections such as the residential and commercial rate cap would further temper the effect of easing of restrictions.

If height restrictions were eased and developers began to build taller and denser, the real property market would take a number of years to fully adjust to the new realities. Ultimately, these changes may take the city's development path in a very different direction.

For example, the District could see much denser development around metro stations than we have today, similar to the Rosslyn/Ballston corridor in Northern Virginia. The annual appreciation rates of land values (and consequently housing costs and commercial leasing rates) would likely increase in some areas while remaining constant or falling in other areas. In the aggregate, however, this policy would increase the city's overall capacity of housing units and commercial office space. The policy could eventually slow the continuously rising cost of housing and commercial office space, which is becoming prohibitive for a growing segment of existing and potential residents and businesses.

Ultimately, real property tax revenues are determined by the number of jobs, office rents, and household incomes which may or may not be immediately affected by changes in the height limit. Accordingly, the realization of higher taxes from increased density will take time, especially given the current economic conditions.

The nation's economy is recovering very slowly from the recent recession, housing crisis and financial crisis which started in 2007. Additionally, the federal government is currently planning to enact automatic spending cuts, known as "sequestration," totaling $1.2 trillion over 10 years beginning January 1, 2013. These cuts will impact both the national and local economies. For the District,

where federal spending is around 60 percent of the city's Gross Domestic Product, federal cutbacks could drastically slow job and income growth in the District.

Despite these uncertainties, elimination of the height and density restrictions on the District's already limited real property base could be an important step towards maintaining the city's long term ability to accommodate further growth in population and jobs. This proposal would allow the city more flexibility in its future growth path and we look forward to working with you on this matter.

Mr. GOWDY. Mr. Acosta.

STATEMENT OF MARCEL C. ACOSTA

Mr. ACOSTA. Good afternoon, Mr. Chairman, Ms. Norton and Mr. Davis. My name is Marcel Acosta. I am the executive director of the National Capital Planning Commission.

I am very pleased today to take this opportunity to speak with you about NCPC's perspective on the Height of Buildings Act of 1910. As you know, as you described today, the Height Act regulates the maximum height of buildings in the District of Columbia, and its limits are generally based on the relationship of the building to the width of the street in which it is located.

We also talked today a little bit about some of the other functional requirements of buildings which allow them to project above the maximum heights, including penthouses, spires, domes, and other unoccupied rooftop structures. It has also been discussed today, within the framework of the Height Act, the District of Columbia zoning regulations also guide heights. These zoning regulations, which respond to local planning objectives, are often more restrictive than the Height Act itself.

The Height Act is now over 100 years old, and its impact on Washington's urban form and economy has been the subject of much public debate over the years. NCPC supports preserving the overall building limits established in the Height Act because of its extraordinary contributions to the city's distinctive character, particularly the area known as the L'Enfant City. However, as the Height Act's regulations also affect a building's functional elements, consideration of certain technical adjustments may be appropriate. Adjusting prescribed locations of mechanical equipment or rooftop structures may be necessary to accommodate contemporary building technology or new environmental measures that improve a building's efficiency; however, even such technical adjustments to the law may have impacts on the character of the Capital City, and we urge cautious review of any modifications.

Although fire safety was a central factor in the Height Act's enactment, its legacy is a uniquely appropriate character that suits the city's role as the National Capital. This character includes broad, sunlit streets; carefully framed parks and memorials; and a city skyline that is not defined by commercial skyscrapers, but important national civic monuments and landmarks such as the Capitol Building and the Washington Monument that are important to the American people. Major changes to the Height Act could have profound consequences for these civic and design qualities in Washington's most historic settings, including the L'Enfant City.

Increasing building heights in District neighborhoods and communities beyond the L'Enfant City may have less impact on the character of the Federal establishment; however, these changes should also be assessed for their impact on Washington's distinctive skyline, residential neighborhoods and their adjacent business districts. Allowing tall, private buildings directly on the edge outside of L'Enfant City and around what's know as the topographic bowl would degrade the public character of the Washington skyline.

If technical changes are not carefully crafted, what may seem to be minor modifications to the Height Act could have unintended

consequences for the urban design of the city. For example, the Height Act, along with the District of Columbia zoning regulations, regulates the number and placement of mechanical structures and penthouses on building roofs. These structures often house elevator equipment and heating, ventilation and cooling systems. While usually not critical to the overall design and appearance of a building, these structures can be seen from public spaces and from the streets, and these could also appear on the skyline if not properly placed or set back. Hence, any tweaks to the regulations of such penthouses should be mindful of the potential impact these structures could have on the city's character.

In addition to urban design consideration, we also believe that the Height Act has provided unique economic opportunity to the District of Columbia. The Height Act has kept new development from being concentrated in a few extraordinarily tall buildings, and allowed real estate activity to be spread throughout the city. For example, areas north of Massachusetts Avenue, such as NoMa, and The Yards, which is M Street near the Navy Yard and the U.S. Department of Transportation headquarters, have emerged as new business districts in recent years, and also have benefited from the dispersal of development activity that the Height Act has helped create.

Despite the restrictions established in the Height Act and the zoning regulations, the District of Columbia possesses developable land that could accommodate new growth. Through the Federal and District of Columbia Government Real Estate Property Act of 2006, the Federal Government has also provided opportunities for the District of Columbia to develop Federal lands at Poplar Point and Reservation 13 for private, taxable development. There are other examples, including the Southeast Federal Center, which is known as The Yards, and portions of the Armed Forces Retirement Home, which the Federal Government is working with the private sector to develop, as well as the Walter Reed Army Medical Center and St. Elizabeth's East Campus, which are other former Federal facilities. We do believe that these projects will provide the District with additional opportunities to increase the tax base without requiring major alterations to the Height Act.

Finally, security does play a fundamental role in how we plan and develop Federal buildings and their settings. In the past, the Federal security community has expressed some concerns about proposed increases in heights in areas adjacent to sensitive buildings, such as the U.S. Capitol and the White House. So any discussions about the Height Act changes should be done in consultation with security officials, including the GSA, U.S. Capitol Police, U.S. Park Police, Secret Service, Architect of the Capitol, Department of Homeland Security and the Department of Defense.

Our commission is comprised of both Federal and District members, and we are in a capable position to lead a study of any Height Act alterations that the committee may want to pursue.

We do thank you for inviting us to give our views today, and I look forward to answering any questions that you might have.

Mr. GOWDY. Thank you, sir.

[Prepared statement of Mr. Acosta follows:]

Marcel Acosta

Executive Director
NATIONAL CAPITAL PLANNING COMMISSION

Changes to the Height Act: Shaping Washington D.C., for the Future

Public Hearing before the Subcommittee on Health Care, District of Columbia, Census and the National Archives

July 19, 2012

Good afternoon, Mr. Chairman and Members of the Subcommittee on Health Care, District of Columbia, Census and the National Archives. My name is Marcel Acosta. I serve as the Executive Director of the National Capital Planning Commission (NCPC or Commission). Congress established NCPC to serve as the federal government's central planning agency for the National Capital Region and to protect and enhance the natural and historic resources of the national capital. We focus on key planning issues that affect federal lands and buildings as well as working with the District of Columbia and other local entities to address critical planning issues facing the National Capital Region. Our prime activities include: jointly authoring the *Comprehensive Plan for the National Capital* with the District of Columbia, drafting a federal capital improvements program, and reviewing all federal development projects in the region.

I am pleased to have the opportunity to speak with you about NCPC's perspective on the Height of Buildings Act of 1910, commonly known as the Height Act. The Height Act regulates the maximum height of buildings in the District of Columbia and its limits are generally based on the relationship of a

building to the width of the street on which it is located. The law also regulates the functional elements of buildings, allowing them to project beyond the maximum height. These elements include decorative forms such as domes, spires, mechanical penthouses, and other unoccupied rooftop structures. Within the framework of the Height Act, the District of Columbia Zoning Regulations also guide heights. These zoning regulations, which respond to local planning objectives, are often more restrictive than the Height Act.

The Height Act is now over 100 years old and its impact on Washington's urban form and economy has been the subject of public debate over the years. NCPC supports preserving the overall building limits established in the Height Act because of its extraordinary contributions to the city's distinctive character, particularly in the area known as the original L'Enfant City[1]. However, as the Height Act's regulations also affect a building's functional elements, consideration of certain technical adjustments may be appropriate. Adjusting prescribed locations of mechanical equipment or rooftop structures may be necessary to accommodate contemporary building technology or new environmental measures that improve a building's efficiency. However, even such technical adjustments to the law may have impacts on the character of the capital city and we urge cautious review of any modifications.

Although fire safety was a central factor in the Height Act's enactment, its legacy is a uniquely appropriate character that suits the city's role as the national capital. This character includes broad sunlit streets, carefully framed parks and memorials, and a city skyline that is defined not by commercial

[1] The L'Enfant City represents the original city of Washington as planned by Pierre L'Enfant. It is generally bounded by Florida Avenue and stretching south to the Anacostia, Potomac and Washington Channel waterfronts. This area sits at the bottom of a topographic bowl.

skyscrapers but by important civic landmarks and monuments that are important to the American people. Major changes to the Height Act could have profound consequences for these civic and design qualities in Washington's most historic settings, including the L'Enfant City.

Increasing building heights in District neighborhoods and communities beyond the L'Enfant City may have less impact on the character of the federal establishment. However, these changes should be assessed for their impact to Washington's distinctive skyline, residential neighborhoods and their adjacent business districts. Allowing tall, private buildings along the edges outside of the L'Enfant City and around, what's known as, the topographic bowl could degrade the public character of Washington's skyline and increased height and density in residential areas could create new infrastructure demands on services such as roads, public transit, sewer and water.

If technical changes are not carefully crafted, what may seem to be minor modifications to the Height Act could have unintended consequences for the urban design of the city. For example, the Height Act, along with the District of Columbia Zoning Regulations, regulates the number and placement of mechanical structures and penthouses on building roofs. These structures often house elevator equipment and heating, ventilation and cooling systems. While usually not critical to the overall design and appearance of a building, these structures can be seen from public space and could impact a skyline perspective if not properly placed and set back. Hence, any tweaks to the regulation of such penthouses should be mindful of the potential impacts these structures could have on the city's character.

In addition to urban design considerations, we believe the Height Act has provided unique economic opportunity to the District of Columbia. The Height Act has kept new development from being concentrated in a few extraordinarily tall buildings and allowing real estate activity to be spread throughout the city. For example, areas north of Massachusetts Avenue (known as NoMa) and along M Street near the Navy Yard and USDOT headquarters, have emerged as new business districts in recent years and have benefited from the dispersal of development activity that the Height Act has helped create. However, the zoning in these emerging commercial areas is more restrictive than the Height Act and has limited the development potential of some of these areas. Evaluating the zoning in developing commercial areas such as the Capitol Riverfront or NoMa districts may provide additional development opportunities for the District of Columbia.

Despite the restrictions established in the Height Act and the zoning regulations, the District of Columbia possesses developable land that could accommodate new growth. Through the "Federal and District of Columbia Government Real Property Act of 2006", the federal government has provided the opportunity to the District of Columbia to develop federal land at Polar Point and Reservation 13 for private, taxable development. The federal government itself is pursuing private sector development at Southeast Federal Center and portions of the Armed Forces Retirement Home. In addition, portions of the Walter Reed Army Medical Center and St. Elizabeths East Campus await redevelopment. These projects will provide the District with opportunities to increase its tax base without requiring major alterations to the Height Act.

Finally, security plays a fundamental role in how we plan and develop federal buildings and their settings. In the past, the federal security community has

expressed concerns about proposed increases in buildings heights in areas adjacent to buildings such as the U.S. Capitol and the White House[2]. Any discussions about changes to the Height Act should include consultation with security officials including the General Services Administration, U.S. Capitol Police, U.S. Park Police, Secret Service, Architect of the Capitol, Department of Homeland Security, and U.S. Department of Defense.

Our Commission is comprised of both federal and District of Columbia representatives, and we are in a capable position to lead a study of any Height Act alterations the Committee may want to pursue. We stand ready to work with federal and local stakeholder agencies, the general public and the United States Congress to evaluate any specific idea or proposal. Thank you for inviting me to share NCPC's view on the Height of Buildings Act of 1910. I look forward to answering any questions you may have.

[2] Specific cases include: Jan. 2005, JBG/Louisiana Ave. NW, which requested a variance to allow a 130 foot building near the Capitol, the November 2011, University of the District of Columbia Van Ness Master Plan where the Department of State raised concerns, and the July, 2008 Capper/Carrollsburg Redevelopment project, a 33 acre project located in Southeast just north of M Street between 2nd Street, SE and 7th Street, SE near the U.S. Department of Transportation Headquarters where the Department of Defense raised concerns regarding the height of adjacent development.

Mr. GOWDY. Mr. Lewis.

STATEMENT OF ROGER K. LEWIS

Mr. LEWIS. Good afternoon, Mr. Chairman, members and staff of the subcommittee. My name is Roger K. Lewis, and I thank you for inviting me to address this subcommittee.

I am a practicing architect, urban designer, and professor emeritus of architecture at the University of Maryland. Since 1984, I have within the Washington Post's "Shaping the City" column, and since 2007 I have been a regular guest on WAMU–FM's Kojo Nnamdi radio show. In both of these venues, we have frequently talked about height limits.

I believe that some modifications to the 1910 statute with appropriate zoning changes in carefully chosen areas are needed and should be considered.

In America building height limits were based initially on four considerations: One, recognizing firefighting, structural and other technical constraints; two, ensuring adequate light, air, ventilation and views desirable for public streets, civic spaces and abutting private properties; three, respecting historically prevalent building heights in established neighborhoods that preexisted zoning; and, four, and finally, and most important, making necessary aesthetic value judgments about urban design and architectural form. Yet inevitably height limits are arbitrary. For example, why 90 feet rather than 85 or 95 feet? In fact, there are no formulas or universal standards for exactly setting height limits.

In the District of Columbia, since 1910, these considerations have constituted the basis for stipulating and maintaining height limits. Thanks to these historic limits, the Nation's Capital has remained a uniquely memorable low- and midrise city. From many places in the city, views of America's most iconic, symbolically significant structures have been preserved because downtown skyscrapers cannot be erected.

Yet there are places in the District of Columbia, I believe, where height limits established decades ago are today inappropriate and unnecessarily constraining, a reflection of outdated planning and zoning practices. These practices were characterized most notably by designation of large areas, land use zones, limited to predominantly one use and uniform height limits.

Broad-brush, one-size-fits-all planning and zoning fail to take into account locational variations in topography, soil orientation, views and vistas, proximity to parks, adjacency to civic open spaces, and infrastructure, present and future, especially transit. It did not differentiate, for example, between midblock properties and properties at the corners of major intersections.

Today's city planning, urban design, and architectural principles and techniques are far more sophisticated and effective. Broad-brush strategies of the past are obsolete. We now can engage in fine-grain planning, urban design and zoning. We can identify, analyze and designate specific areas and sites in the city where increased building height and density make great sense aesthetically, environmentally, functionally, socially and economically. This "smart growth" approach can enhance the city's urban and architectural qualities while yielding fiscal benefits for the city, as has

already been pointed out. Furthermore, enacted as an incentive bonus overlaying existing zoning in appropriate locations, increased building height limits and density can engender development of much-needed affordable housing.

Where should height limits change? In the downtown L'Enfant plan area of the District, including traditional residential neighborhoods, height limits should remain substantially unchanged to preserve the center city's dominant character and skyline. But there are specific sites, such as the Southwest and Anacostia River waterfronts where upward adjustments of height limits would be beneficial without jeopardizing the city's historic profile. Outside the L'Enfant plan area, many sites could be suitable for higher buildings, especially near Metro stations and major roadways.

Most important, the only equitable, professionally responsible method for identifying places to raise height limits and for determining height limits is to create a detailed, citywide plan prior to any rezoning based on a rigorous, comprehensive study. This is essential to avoid piecemeal, property-by-property relaxation of height limits through variances, exceptions, and ad hoc rezonings, a process too often influenced by political and financial pressures. Because municipal and Federal interests are involved, the building height study and plan should be prepared collaboratively and transparently by the D.C. Office of Planning and the National Capital Planning Commission.

Many Washingtonians are apprehensive when anyone suggests modifying D.C. Height limits. They envision Rosslyn-like skyscrapers rising all over town, ruining the capital's historic image. Some believe that raising D.C. Height limits anywhere would set precedents, invariably opening the proverbial barn door to greedy developers in league with corrupt politicians, enabling high-rise buildings throughout the city.

But skeptical citizens need to understand that through fine-grain urban design, prudent legislation, and precisely targeted, well-enforced land use regulation, the barn door will not and cannot be thrown open.

Therefore, in conclusion, revising D.C. height limits requires not only a credible citywide planning effort, but also an ongoing public education effort to help citizens recognize that legislation adopted over a century ago can be improved.

Thank you.

Mr. GOWDY. Thank you, sir.

[Prepared statement of Mr. Lewis follows:]

Testimony
of
Roger K. Lewis
appearing before the
Subcommittee on Health Care, District of Columbia, Census and the National Archives
July 19, 2012
Hearing to Examine Issues Surrounding the District of Columbia 1910 Heights Act

My name is Roger K. Lewis, and I thank you for inviting me to testify before this Subcommittee.

I am a practicing architect, urban designer, and professor emeritus of architecture at the University of Maryland. Since 1984, I have written the Washington Post's "Shaping the City" column, and since 2007 I have been a regular guest on WAMU-FM's Kojo Nnamdi radio show. District of Columbia height limits periodically have been a topic of my column and the Kojo Nnamdi show.

I believe some modifications of the 1910 statute, with appropriate zoning changes in carefully chosen areas, are needed and should be considered.

In America, building height limits were based initially on several considerations: (1) recognizing fire-fighting, structural, vertical transportation and other technical constraints; (2) ensuring adequate light, air, ventilation and views desirable for public streets, civic spaces and abutting private properties; (3) respecting historically prevalent building heights in established neighborhoods that pre-existed zoning; and (4) making necessary aesthetic value judgments about urban design and architectural form. Yet inevitably height limits are arbitrary - for example, why 90 feet rather than 85 or 95 feet? In fact, there are no formulas or universal standards for setting exact height limits.

In the District of Columbia since 1910, these considerations have constituted the basis for stipulating and maintaining height limits. Thanks to these historic limits, the nation's capital has remained a uniquely memorable, low- and mid-rise city. From many places in the city, views of America's most iconic, symbolically significant structures - the U.S.

Capitol, the Washington Monument, the Lincoln and Jefferson memorials, the White House - have been preserved because downtown skyscrapers cannot be erected.

Yet there are places in the District of Columbia where height limits established decades ago are today inappropriate and unnecessarily constraining, a reflection of outdated planning and zoning practices from the early and mid-20th century. These practices were characterized most notably by designation of large areas - land use zones - within the city limited to predominantly one use and uniform height limit. Broad-brush, one-size-fits-all planning and zoning failed to take into account, within each land use zone, locational variations in topography, solar orientation, views and vistas, proximity to parks, adjacency to civic open spaces, and infrastructure, especially transit. It did not differentiate between mid-block properties and properties at major intersections.

Today's city planning, urban design and architectural principles and techniques - such as computer-based Geographic Information Systems (GIS) - are far more sophisticated and effective. Broadbrush strategies of the past are obsolete. We now can engage in fine-grain planning, urban design and zoning. We can identify, analyze and designate specific sites in the city where increased building height and density make great sense aesthetically, environmentally, functionally, socially and economically. This "smart growth" approach can enhance the city's urban and architectural qualities while yielding fiscal benefits for the city. Furthermore, enacted as an incentive bonus overlaying existing zoning in appropriate locations, increased building height limits - and density - can engender development of much needed affordable housing.

Where should height limits change? In the downtown l'Enfant Plan area of the District, including traditional residential neighborhoods, height limits should remain substantially unchanged to preserve the center city's dominant character and skyline. But there are specific sites - such as the Southwest and Anacostia River waterfronts - where upward adjustment of height limits would be beneficial without jeopardizing the city's historic profile. Outside the l'Enfant Plan area, many sites could be suitable for higher buildings, especially near Metro stations and major roadways.

The only equitable, professionally responsible method for identifying places to raise height limits, and for determining new height limits, is to create a detailed, city-wide plan, prior to any rezoning, based on a rigorous, comprehensive study. This is essential to avoid piecemeal, property-by-property relaxation of height limits through variances, exceptions and ad hoc rezonings, a process too often influenced by political and financial pressures. Because municipal and federal interests are involved, the building height study and plan should be prepared collaboratively and transparently by the D.C. Office of Planning and the National Capital Planning Commission.

Many Washingtonians are apprehensive when anyone suggests modifying D.C. height limits. They envision Rosslyn-like skyscrapers rising all over town, ruining the capital's historic image. Some believe that raising D.C. height limits anywhere would set precedents invariably opening the proverbial "barn door" to greedy developers in league with corrupt politicians, enabling high-rise buildings throughout the city.

But skeptical citizens need to understand that, through fine-grain urban design, prudent legislation and precisely targeted, well enforced land use regulation, the barn door will not and cannot be thrown open. Therefore, revisiting D.C. height limits requires not only a credible, city-wide planning effort, but also an on-going public education effort to help citizens recognize that legislation adopted over a century ago can be improved.

Mr. GOWDY. Mr. Collins.

STATEMENT OF CHRISTOPHER H. COLLINS

Mr. COLLINS. Good afternoon, Chairman Gowdy and members of the subcommittee. I am Christopher Collins, and I am testifying today as counsel to the District of Columbia Building Industry Association. You have a copy of my full testimony, which I will summarize.

The 1910 Height Act, the specific requirements for—in section 5, which are the subject of our discussion today, that section is the one that limits the height to 130 feet generally on a business street and 90 feet on a resident street—minus 10 feet, actually.

Above the maximum height of a building itself, section 5 of the act allows two additional types of structures: number one, architectural embellishments; and, number two, roof structures, which in the 1910 Height Act are listed as penthouses over elevator shafts, ventilation shafts, chimneys, smokestacks and fire sprinkler tanks. With the advent of central heating, ventilation, and air conditioning in multistory buildings, this equipment is now placed on the roof as the modern version of ventilation shafts, chimneys, and smokestacks.

Congress set no limitation on the height of architectural elements, and they can be located anywhere on the roof of a building. Likewise, Congress set no limit on the height of roof structures, except that they must be set back from the exterior walls of the building a distance equal to their height above the roof, and they are prohibited from being used for human occupancy.

DCBIA believes that the horizontal nature of our city's skyline is an important component of the city's beauty and special character. We also understand that there are a wide variety of views on the wisdom and importance of the 1910 Height Act and whether the established heights limits should be retained or modified. DCBIA has examined this issue, and we believe there is a practical approach for a minor change in the act that would have absolutely no impact up on the skyline of the city as currently permitted by the act. Simply stated, as previously mentioned by others, that is to remove the restriction on human occupancy above the top story of a building.

Allowing habitable space in a roof structure, in addition to the normal rooftop machinery, while retaining the current roof structure setback requirements would allow a wide variety of uses, such as restaurants and lounges, health clubs, community rooms, enclosed swimming pools, and other residential and nonresidential uses. Allowing such use of roof structure space would also likely promote a greater use of rooftops outside of these roof structures for active and passive outdoor recreation and rooftop landscaping. We believe that this proposal will have a positive benefit on the quality of life for those using those facilities, and will also help to enhance the beauty of the skyline of our horizontal city. I have attached to my testimony an article which provides more detail on this proposal.

On behalf of DCBIA, I thank you for the opportunity to appear today. I would be happy to answer any questions.

Mr. GOWDY. Thank you, sir.

[Prepared statement of Mr. Collins follows:]

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Testimony of Christopher H. Collins, Counsel
District of Columbia Building Industry Association
on "Changes to the Height Act: Shaping Washington, DC for the Future"
Thursday, July 19, 2012 1:30 p.m.
Before the Committee on Oversight and Government Reform, Subcommittee on Health Care, District of Columbia, Census and the National Archives
Congressman Trey Gowdy, Chairman
2154 Rayburn House Office Building

Good afternoon Chairman Gowdy and members of the Committee. I am Christopher Collins and I am testifying today as Counsel to the District of Columbia Building Industry Association.

About DCBIA

The District of Columbia Building Industry Association (DCBIA) is the professional association representing both the commercial and residential real estate industries in the District of Columbia. Our membership of nearly 500 companies and organizations comprises several thousand real estate professionals. Association members are engaged in all aspects of real estate development and include developers, general contractors, architects and engineers, lenders, attorneys, brokers, title companies, utility companies, community development organizations and other industry members.

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As an advocacy organization, DCBIA represents the interests and views of its members before the District of Columbia and the federal governments, community organizations and other business associations. DCBIA is an advocate for a vigorous, responsible real estate industry. We interpret that advocacy role broadly - to not only give voice to the specific concerns of our members, but also to speak out in support of public policies that promote the economic growth and vitality of the nation's capital.

Our members serve frequently on commissions, task forces and study groups to address crucial economic development and municipal governance issues. Our members work closely with agencies of the DC government to advise and assist in the efficient administration of city programs - most recently in areas related to land use, building regulation, comprehensive planning, tax issues and affordable housing and community development. We also work in collaboration with other business groups and community organizations to attract and retain business investment and to facilitate the revitalization of distressed areas in the City. For more information, see our website at www.dcbia.org.

Background of the 1910 Height Act

The Act to Regulate the Height of Buildings (Act of June 1, 1910, 36 Stat. 452) is commonly referred to as the 1910 Height Act. The specific requirements of the 1910 Height Act for discussion today are found in Section 5, which is attached hereto. That section provides that buildings on "business streets" (those sides and portions of streets located in Special Purpose, Waterfront, Mixed Use, Commercial, or Industrial zoning districts) may be erected to a height equal to the width of the adjacent street plus 20 feet, with an overall maximum height of 130 feet, except for the north side of Pennsylvania Avenue between

First and 15th Streets NW, where a height of 160 feet is permitted. On residence streets, the maximum height is 90 feet, but is further limited by the width of the adjacent street, minus 10 feet. The point of measurement is required to be taken from the level of the sidewalk opposite the middle of the front of the building to the highest point of the roof or parapet, provided that if the building has more than one front, the height shall be measured from the elevation of the sidewalk that permits the greater height.

Above the maximum height of a building itself, Section 5 of the 1910 Height Act allows for two types of structures:

- architectural elements such as "spires, towers, domes, minarets and pinnacles", which has now evolved into what generally are known as "architectural embellishments"; and

- utilitarian elements such as penthouses over elevator shafts, ventilation shafts, chimneys, smokestacks and fire sprinkler tanks. With the advent of central heating, ventilation, and air conditioning in multi story buildings, this equipment is now placed on the roof as the modern version of ventilation shafts, chimneys and smokestacks.

Congress set no limitation on the height of the permitted architectural elements, and they can be located anywhere above the roof of a building. Likewise, Congress set no limit on the height of the utilitarian roof structure elements, except that they are required to be constructed with a setback from the exterior walls of the building equal to their height above the roof, and they are prohibited from being used for "human occupancy."

Building heights in the District of Columbia are also governed by the DC Zoning Regulations, which in many instances permit maximum heights that are less than those permitted by the 1910 Height Act, and which also provide a height limit for roof structures of 18 feet, six inches above the height of the roof.

Proposed Modifications to the 1910 Height Act

DCBIA believes that the horizontal nature of our city skyline is an important component of the city's beauty and special character. We also understand that there are a wide variety of views on the wisdom and importance of the 1910 Height Act, and whether the established height limits should be retained or modified. DCBIA has examined this issue, and we believe that there is a practical approach for a minor change in the 1910 Height Act that would have absolutely no impact upon the skyline of the city as currently permitted by the 1910 Height Act. Simply stated, that is to remove the restriction on "human occupancy" above the top story of a building. Allowing habitable space in a roof structure in addition to the normal roof top machinery, while retaining the current roof structure setback requirement, would allow a wide variety of uses, such restaurants and lounges, health clubs, community rooms, and enclosed swimming pools as well as other residential and non-residential uses. Allowing such use of roof structure space would also likely promote a greater use of rooftops outside of these roof structures for active and passive outdoor recreation, and rooftop landscaping. We believe that this proposal will have a positive benefit on the quality of life of those using those facilities, and will also help to enhance the beauty of the skyline of our "horizontal city". The attached article provides more detail on this proposal.

On behalf of DBIA, I thank you for the opportunity to appear today. I would be pleased to answer your questions.

Mr. GOWDY. Ms. Richards.

STATEMENT OF LAURA M. RICHARDS

Ms. RICHARDS. Good afternoon, Chairman Gowdy and members of the subcommittee. I'm Laura Richards, appearing on behalf of the Committee of 100 on the Federal City.

For 90 years, the committee has worked to safeguard and advance Washington's historic distinction, natural beauty, and livability. We appreciate the opportunity to testify on the important issue of building heights in the city.

We emphasize two points: First, the Height Act of 1910 plays a positive, powerful role in shaping the cityscape and the experience of living in D.C. Second, it is not necessary to change the Height Act in order to achieve additional residential capacity or to stimulate economic development.

The Height Act shapes national and local D.C. As international planner Larry Beasley said during the act's centennial, the height limit allows the national symbols of the Capital to stand out and prevail over all other massing of the city, and brings into focus the dramatic dome of the Capitol and the spire of the Washington Monument.

The act is not just about expressing national power; it is about the joyful pleasure of walking down a gently scaled street, of unexpectedly coming upon a magnificent public edifice. It is about the frantic life of our modern world being made more bearable.

Beasley's enthusiasm is shared by residents across the city. Our Capital stands as the identifying focus for the country as a whole and our commitment to freedom as a society. Its unique history, physical design and aesthetic character are integral parts of that essential role. The Committee of 100, therefore, objects to proposed changes.

One idea under discussion would allow space surrounding rooftop mechanical penthouses to be used for residential, commercial, or other purposes. Penthouses are excluded when a building's height is measured. They are ancillary features whose impact is minimized as much as possible by setbacks. Building heights should be determined by neighborhood context and zone purposes. Letting the penthouse drive height decisions puts the cart before the horse.

Also, during task force meetings held in conjunction with the city's rewrite of its zoning rules, pools and party rooms were often mentioned as desirable uses of roof space. Are these amenities a sufficient reason to disturb the Height Act?

Some proponents for higher buildings agree that the Height Act's limitations should apply to the central monumental core, but urge that higher buildings should be allowed elsewhere. This would sever the physical unity between national Washington and local Washington, to the detriment of both. The monumental core derives its impact from the fact that is dominant. Surrounding it with a ring of high-rises could result in the "Disneyfication" of our national icons.

A separate proposal to create a single high-rise sector, as Paris has done, presents a different negative outcome. Most sites mentioned as candidates for such a sector are east of the Anacostia River, possibly Poplar Point. Creating a high-rise sector east of the

river would result in displacement of a significant part of Washington's African American community, again, and would further exacerbate the city's racial divide.

Washington can grow its economy and house its residents without raising height limit. Indeed, the Height Act has been credited with driving some of the development that has occurred outside the central city—NoMa, for example—and for attracting foreign real estate investors because buildings are likely to hold their value.

The city overall is experiencing sustained growth. On a day several months ago, 32 cranes were in the air. In addition to visible construction activity, there is a growing small-business sector led by the two fastest growing population groups, young singles and empty nesters. Notwithstanding these favorable trends, there is persistent double-digit structural unemployment east of the Anacostia River. Structural unemployment is a problem that must be solved, but raising the height limit is not the answer.

Since the 1970s, the District has seen successive development booms, but none of these waves—none—led to meaningful short-term or long-term employment opportunities directly or indirectly for African American residents, especially those east of the river. Any suggestion that raising the height limit is a cure for structural unemployment is wishful thinking at best and disingenuous at worst.

As to housing, the city's own numbers indicate that the housing supply does not need a boost from raising the height limit. In 2001, the city adopted Alice Rivlin's proposal to grow Washington by 100,000 new residents over the next 10 years. To accommodate this increase, the city designated large tracts for intensive residential development and another 30,000 smaller sites for 120,000 residents total. We have now got 46,000 new residents, and we haven't developed most of those sites.

There is a shortage of acceptable, affordable housing, but that's not really a good way to—raising the height limit won't accommodate that because that's the most expensive housing to build.

I think my time's up, so I will conclude with just to be cautious. As Beasley said, be very careful as you gamble with a 100-year-old legacy of the Height Act. Take care not to open up things too casually. I daresay that the height limits may be the single most powerful thing that has made this city so amazingly fulfilling.

Thank you.

[Prepared statement of Ms. Richards follows:]

HOUSE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
SUBCOMITTEE ON HEALTH CARE, DISTRICT OF COLUMBIA,
CENSUS AND THE NATIONAL ARCHIVES

TESTIMONY OF THE COMMITTEE OF 100 ON THE FEDERAL CITY
ON THE 1910 HEIGHT ACT

July 19, 2012

Good afternoon, Chairman Gowdy and members of the Subcommittee. I am Laura M. Richards, appearing on behalf of the Committee of 100 on the Federal City, of which I am a past chairman and current trustee. The Committee of 100 is a 90-year-old nonprofit organization dedicated to safeguarding and advancing Washington's historic distinction, natural beauty and overall livability. The Committee's officers, trustees and volunteer members contribute expertise and civic action in the service of responsible planning in Washington.[1] We appreciate the opportunity to testify on the important issue of building heights in the District of Columbia.

We emphasize two points: first, the Height Act of 1910 plays a positive, powerful role in shaping the cityscape and the experience of living in the District. Second, changes to the Height Act, including the suggestion to allow rooftop construction alongside mechanical penthouses, are not necessary to achieve additional residential capacity or to stimulate economic development. In short, lifting the height limit will alter irretrievably the District's historic, welcoming scale without producing upside

[1] Mission statement. www.committeeof100.net.

benefits. The Committee of 100 therefore believes that the Height Act should remain undisturbed and should be enforced vigorously.[2]

1. **The Height Act shapes the District in positive, powerful ways.**

The Height Act serves both faces of Washington – the national capital and the local hometown. Its benefits were summarized eloquently by international planner Larry Beasley during the act's centennial celebration two years ago:

> [The height limit] allows the national symbols of the capital to stand out and prevail over all other massing of the city ... [It] keep[s] the overall heights of context buildings lower than the dramatic dome of the Congress and the spire of the Washington Monument ... [and] creat[es] a coherent frame of walls among many buildings around the grand ceremonial spaces of the capital, such as the National Mall and the White House.[3]

And the Act's effect is "not just about expressing national power," Beasley continued. "It's about the joyful pleasure of walking down a gently scaled street, of unexpectedly coming upon a magnificent public edifice that stands proudly superior to the mundane buildings around it .... It's about the frantic life of our modern world being made more bearable ...."[4]

Beasley's elegant appreciation of the Act's power is echoed with equal enthusiasm by District residents across the city. From Southeast: "This is a small city. With tall

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[2] District heights also are governed by the D.C. Zoning Code, which, where appropriate, can and does impose height limits lower than the maximum heights permitted by the Height Act's formula, which generally sets maximum building heights as the width of the street on which a building fronts, plus 20 feet. Building heights in designated historic districts may be subject to height limits determined by the historic context.

[3] Larry M. Beasley, C.M., *The Equation of Height and Density in the Form and Economy of Washington, D.C. in the 21st Century* at 8 (May 18, 2010) (an address on the occasion of the Centennial of Washington's 1910 Height Act hosted by the National Capital Planning Commission and the U.S. Commission of Fine Arts).

[4] *Id.* at 14.

buildings, I would feel swallowed up by it." And from upper Northwest: "Visitors are enthralled and indeed astounded to visit a monumental city without monumental heights. You can see the Capitol dome and other sights from so many places that you might literally stop on the street to admire them."[5] In addition to preserving the dominance of iconic public buildings and memorials, the Height Act protects the vistas of and from the rim of the topographic bowl in which the District sits. In particular, viewsheds from the Civil War Defenses of Washington and Fort Circle Parks should not be lost through highrise development away from the central core.

The Height Act was debated vigorously during its centennial year and no groundswell of public support developed for its repeal. Removing the limit was rejected on urban planning, social policy, historic and aesthetic grounds, with the majority of residents and businesses recognizing that Washington's charm and character stem in significant part from its scale.

The United States has wonderfully diverse cities, each with its own special identity, such as San Francisco, New York, Boston, and others, but our capital stands as the identifying focus for our country as a whole and our commitment to freedom as a society. Its unique history, physical design and aesthetic character are integral parts of that essential role. It is not uncommon for other national capital cities to have a zealously guarded identity that is special aesthetically and historically. We would not be unique in preserving our heritage and making it a source of inspiration for the future.

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[5] George R. Clark, Chairman, Committee of 100, in the Washington Post's letters column, responding to an attack on the Height Act.

There are proponents of the towers and canyons that distinguish New York and Chicago, but those features are not what attracted new residents to Washington in recent years. Now that the District is on an upswing, it would be shortsighted to kill the goose that is producing golden eggs of population growth and development by trying to turn the city into something it is not, and should not become, by changing the Height Act.

a. The penthouse proposal risks creating visual clutter and sets a bad precedent. A proposal under discussion to allow the space surrounding rooftop mechanical penthouses to be used for residential, commercial or other uses completely inverts the reason why penthouses are excluded when a building's height is measured. A penthouse self-evidently is adjunct to a building to allow it to function and serves no independent purpose. The setback requirements – one foot on each side for each foot of penthouse height – acknowledge that penthouses, while necessary, should be minimized as much as possible.

Building heights, on the other hand – whether determined under the Height Act or zoning regulations – are based on type and intensity of use, neighborhood context and other factors. When a building is constructed to its maximum permissible height, it is as high as it ought to be. When another story or two is added (penthouses can be up to 18.5 feet tall) simply because the penthouse is there, the adjunct feature becomes the arbitrary factor driving heights, rather than neighborhood context or zone purposes.

The proposal risks the creation of visual clutter. One building may develop its rooftop space while an adjacent building elects not to, creating a "pop-up" effect. Also, during task force meetings held in conjunction with the District's ongoing work of rewriting its zoning regulations, rooftop pools and party rooms were mentioned

frequently as desirable uses of roof space. These ends may be achieved in new construction by providing for these uses within the permissible height, but are party rooms a sufficient reason to disturb the Height Act?

b. Proposals for lifting the height limit outside the monumental core also present drawbacks. Some proponents for higher buildings concede that Height Act limitations ought to apply to the central, monumental core and urge that higher buildings be constructed further out. One suggestion we have heard would allow higher buildings in various neighborhoods throughout the District. Another proposal is to create a Paris-style highrise sector, probably east of the river, possibly at Poplar Point.

The Committee of 100 believes that restricting the height limit solely to the monumental core risks severing the unity that now exists between the national capital and local Washington, to the detriment of both. The monumental core derives its impact from its dominance. Surrounding it with a ring of highrises can result in what some call the "Disneyfication" of our national icons. The idea of creating a single highrise sector risks a different negative outcome: because sites mentioned as candidates for such a sector are almost invariably east of the river, the sector would result in displacement of a significant part of Washington's African-American community and further exacerbate the city's racial divide. Morever, there is just as much affection for Washington's horizontal scale east of the river as there is anywhere else in the city.[6]

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[6] For example, residents vigorously and successfully opposed a proposed seven-story affordable housing apartment building at Minnesota and Pennsylvania avenues, SE; a smaller building was erected. Elsewhere, Penn-Branch community residents insisted on a 50-foot height limit at Pennsylvania and Branch avenues, instead of the proposed 80-foot height.

The Committee of 100 also opposes tinkering with the Height Act on a piecemeal basis. The Height Act must neither be swept away nor chipped away. A recent egregious example of such chipping away is the Burnham Place project behind Union Station, which was deemed to comply with the Height Act only because the prospective building was measured from the top of the bridge over the railroad tracks, rather than at grade.

2. The District can grow its economy and house its residents without raising the height limit.

a. The local economy. It is not necessary to lift the height limit to generate a more robust local economy, a bigger housing supply or more affordable housing, despite arguments to the contrary.[7] The District overall is experiencing sustained growth that has insulated large parts of the city from the ongoing national downturn. In addition to visible construction activity – evidenced by 32 cranes at work on a day several months ago – there is a growing small business sector led by the two fastest-growing population groups, young singles and empty nesters.

Indeed, some economic expansion beyond the central city – for example, NOMA – arguably is in part driven by the Height Act. Also, it was asserted at a business conference earlier this year that the Height Act stimulates foreign investment interest in the District.[8]

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[7] *See, e.g.*, Michael Grunwald, writing in the Washington Post on July 2, 2006 that the height limit, among other purported evils, "has inflated office rents, deflated the municipal tax base, limited affordable housing, contributed to the region's hideous traffic jams and generally helped keep Washington a second-tier city ...."

[8] According to Professor Julian Josephs, the height limit "was what created Washington as a market of choice for international investors," because "[w]e are the only market that really has

Notwithstanding a burgeoning economy throughout much of the city, there is persistent double-digit structural unemployment east of the Anacostia River. Structural unemployment is a problem that must be solved, but raising the height limit is not the answer. Since the 1970s, the District has seen successive development booms: central downtown, West End, downtown east of 16th Street, Penn Quarter, NOMA, etc. Each development wave resulted in substantial new construction and renovations. None of these waves – none – led to meaningful short-term or long-term employment opportunities, directly or indirectly, for African-Americans living in the District, especially those east of the river. If development were the answer to structural unemployment, the District would have seen some evidence of this at some point since 1975. The Committee of 100 views arguments that raising the height limit is a cure for structural unemployment as wishful thinking at best, and disingenuous at worst.

b. Housing. There is solid information, based on the District's own reports, that the housing supply does not need a boost from raising the height limit. In 2001, when the District was at a financial nadir, Alice Rivlin, who chaired the Control Board charged with overseeing District finances, proposed that the District would benefit financially

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that huge restraint on new buildings," quoted in Lydia DePilis, *Foreign investors like the height limit too* (City Paper Housing Complex blog, Feb. 7, 2012). Also, the Association of Foreign Investors in Real Estate reported earlier this year that Washington and New York, along with Paris and London, are the top cities worldwide attracting foreign investment. < http://www.afire.org/newsletter/2011/leads.pdf>.

and socially with the addition of 100,000 new residents over the next 10 years.[9] The population then stood at 572,000 residents.

Although no basis for choosing that particular number was articulated, the target was adopted as a goal by then-Mayor Anthony Williams and the target became a staple of DC planning and economic development initiatives.[10] This led to the question, "When we talk about adding 100,000 residents, a common question asked is where will they all live?"[11] To accommodate the anticipated growth, the District, among other measures, designated 10 large tracts for intensive residential development, including Saint Elizabeth's Hospital, DC Village and Poplar Point.[12] The ten new developments are projected to contain 15,000 units accommodating 30,000 to 40,000 residents.[13] In addition to these large sites, the District identified 30,000 vacant, abandoned or underutilized sites that it estimated could house 60,000 to 80,000 residents.[14]

The 2010 census revealed that the District had gained about 30,000 new residents. While short of the 100,000 target, the increase represented substantial

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[9] Carol O'Cleireacain and Alice M. Rivlin, *Envisioning a Future Washington* at 1 (June 2001) (issued by the Brookings Institution Greater Washington Research Project, Brookings Institution).The report is available at <http://www.brookings.edu/research/speeches/2003/09/30cities-rivlin>.

[10] *See, e.g., A Vision for Growing an Inclusive City: A Framework for the Washington, DC Comprehensive Plan Update* at 28 (July 2004) ("Adding 100,000 residents – a long-range target set by Mayor Williams – will help restore many of our once-vibrant neighborhoods").

[11] *Id.* at 29.

[12] Others are the Armed Forces Retirement Home, Mount Vernon Triangle, North Capitol Area, Southwest Waterfront, Southeast Federal Center, M Street Southeast and Reservation 13. *Id.* at 31.

[13] *Id.* at 29, 31.

[14] *Id.* at 29.

growth and also reversed years of population decline. More dramatically, by the end of 2011, the District gained an additional 16,000 new residents, bringing the city halfway to the Rivlin-Williams goal and exhibiting a growth rate greater than that of the 50 states.

The new residents were accommodated (1) within the existing height limit and (2) without development of most of the new large residential sites. The District has identified more than sufficient capacity for its anticipated growth and has achieved half that growth without tapping much of that capacity.

Further, the District concluded that its housing market returned to full strength in 2011, a year in which 249 residential permits were issued for approximately 4,726 units.[15] According to the District, another 41,000 residential units are in the pipeline.[16] There clearly is much available and projected housing capacity and thus no need exists to disturb the Height Act on that account.

c. Affordable Housing. While the District's overall housing supply is ample and growing, there is a shortage of acceptable affordable housing. Raising the height limit is possibly the least effective way to deal with any affordable housing needs.[17]

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[15] D.C. Department of Housing and Community Development, *Inclusionary Zoning Annual Report* at 4 (Mar. 14, 2012)The inclusionary zoning ("IZ") program was developed pursuant to section 107 of the Inclusionary Zoning Implementation Act of 2006, D.C. Law 16-275, codified at D.C. Code sec. 601041.07 and Mayor's Order 2008-59 (Apr. 2, 2008). The statistics cited in the report include projects subject to IZ requirements and those exempt from the requirements.

[16] *Id.* at 6. It is unclear whether these pipeline units overlap planned housing in the above-mentioned large tracts.

[17] This fact is sometimes misunderstood. *See, e.g.*, Lydia DePilis, *Let D.C.'s Buildings Grow: The case for scrapping Washington's Height Act* (City Paper, Dec. 17, 2010) (citing as one reason for raising heights that "it's obvious that we have a supply problem when it comes to housing: Residential prices, still stagnant in much of the country, continue to rise precipitously

First, affordable housing is not a one-size-fits-all need. The need embraces senior citizens with limited mobility who need convenient, low-maintenance housing; single parents who need elbow room and access to schools and recreation; workforce families – teachers, firefighters, police officers and other public servants whom the District would like to keep in the city, many of whom now opt for four-bedroom suburban houses; young college graduates starting out in comparatively low-paying jobs who have excellent future prospects; and unemployed single males.[18] In addition to their varying housing needs, these groups have differing abilities to pay. Affordable housing units may be targeted to households at 30, 60 or 80 percent of area median income (currently about $100,000 for a family of four). In addition to income eligibility, a household's housing payment may be limited to 30 percent of its income.

Raising the height limit will not add significant housing capacity for any of the groups in need of affordable housing. Among other reasons, high-rise housing is the most expensive to built and maintain.[19] Dedicated highrise housing for the very poor

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in D.C., which risks turning into a wealthy enclave as the proportion of units subject to rent control grows smaller and smaller").

[18] In addition, there are the specialized housing needs of at-risk populations, including physically and developmentally disabled individuals, returning incarcerees, etc.

[19] In approving mixed-use Planned Unit Developments (PUDS) with a residential component, the District frequently requires a number of affordable housing units, which must be identical to market rate units except that lower quality interior finishes may be used. Developers have reported difficulty in making this model work in condo units because even with subsidized purchase costs, below-market rate tenants have been unable to afford the condo fees. In other instances, exemptions from affordable housing requirements have been granted, while in other cases, requirements have been imposed but not complied with.

The IZ program, a similar, separate initiative, was intended to create and preserve affordable housing opportunities. The program, now in its third year of implementation, may have an impact in the future, but to date no IZ units have been produced for rent and two IZ units have been produced for sale. IZ Annual Report at 2. We note these circumstances to make clear our

has been tried and abandoned on a national scale as a failed policy, symbolized by the dynamiting of Chicago's Pruitt-Igoe complex.

Current housing policy generally calls for housing families with children in mixed-income low-rise or townhouse dwellings, the same scale favored by families buying market rate housing. A prime example of this preference is the growth of families with young children in Capitol Hill neighborhoods, where heights are controlled by vigorously enforced historic district mandates. There also is an influx of young families in the low-scale neighborhoods of Brookland in Ward 5; Takoma, Manor Park, Brightwood and Shepherd Park in Ward 4; and Penn-Branch in Ward 7, among others. One-third of the housing stock proposed for the McMillan development – one of the ten large tracts designated by the District to accommodate new residents – consists of workforce housing in the form of two-story townhomes.

3. Additional density can be achieved without additional height.

The District's planners and resident new urbanists make no secret of their desire for additional density throughout Washington. Without endorsing this goal, the Committee of 100 nevertheless notes that height is not an automatic proxy for density and that increased density can be achieved within the existing Height Act envelope. Larry Beasley, in his centennial peroration, flatly reminded his listeners that "an increase in height does not necessarily represent an increase in development capacity.... Manipulating heights only, to a large extent, will not really have much of an effect of the

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skepticism that the District can leverage market rate development at any height as the principal means of meeting its affordable housing needs.

economics of a development or the economic climate of the city."[20] He stated that one "can do an equally effective strategy for transit-oriented clustering of dense development in both a high scale and a lower scale format with equal success."[21]

Similarly, Edward T. McMahon, a senior fellow at Washington's Urban Land Institute cautioned recently that "density is being pursued as an end in itself, rather than as one means to building better cities."[22] Citing research by the Preservation Green Lab, McMahon noted that "fine grained urban fabric" neighborhoods such as Capitol Hill, the U Street Corridor and NOMA, "are much more likely to foster local entrepreneurship and the creative economy than monolithic office blocks and apartment towers."[23]

Conclusion

The Height Act has worked for 102 years, and will work for the next 102 and beyond. Lifting the limit is not a necessary or effective way of meeting housing needs or accommodating commercial development. We urge this Committee to leave well enough alone and to maintain and celebrate the Height Act as it stands. As Beasley concluded his remarks: "I close with a cautionary note. Be very careful as you gamble with the 100-year legacy of Washington's Height Act. Take care not to open things up

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[20] Beasley at 6.

[21] *Id.*

[22] Edward T. McMahon, *Density Without Highrises*, (May 12, 2012) at <www.citiwire.net>.

[23] *Id.*

too casually. I dare say, those height limits may be the single most powerful thing that has made this city so amazingly fulfilling."[24]

The Committee of 100 thanks you again for the opportunity to address these important issues.

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[24] Beasley at 14.

Mr. GOWDY. I thank all of our witnesses for your opening statements, and especially for your adherence to our time limits that even sometimes we don't always adhere to.

I am going to stand down on my questions and recognize the gentlelady from the District of Columbia and allow her to go first if she would like.

Ms. NORTON. Thank you very much, Mr. Chairman.

Let me go first to the technical questions. Have any of you—perhaps Mr. Lewis, Mr. Collins, any of the others of you—Ms. Tregoning—any of you looked at the technical questions of the feasibility of occupancy of the present space and where the existing mechanical equipment would go? Would it share that space? Could it go elsewhere?

Mr. Lewis?

Mr. LEWIS. The answer is that the reason there are mechanical penthouses—not just to accommodate elevators, but all of the mechanical equipment on the roofs of buildings—is driven largely by the fact that much of the basement space that you can build under buildings is used for parking. So from a constructional—from a design constructional point of view, the penthouse, the mechanical penthouse, on the roofs of buildings is very, very commonplace in this city, particularly with the type of construction that we have.

If the roof, if that additional level—I think it's approximately 17 feet that we're allowed for a penthouse—if that becomes occupied space, mechanical equipment then has to go somewhere, and it takes up, I should say, a lot of space. The equipment is not just 10 percent occupancy of the roofscape. Probably the only place you can put it, if you don't put it up on the roof, is somewhere, again, down in a basement, which then takes away space for parking and creates some other problems that have to do with running duct work and so forth. So there is a trade-off.

Again, I don't think there's just one way to do it, but there are pressures that put mechanical equipment on the roofs of buildings.

Ms. NORTON. So a developer, Mr. Collins, would have to consider whether he wins or loses by adding space one place in a city where parking is at a premium, if you would have to take it from parking.

Mr. COLLINS. Well, I don't think that you would have to move the rooftop equipment elsewhere in all instances. I think that this proposal to use roof structures for habitable space would work best in larger-footprint buildings. Smaller buildings, in-fill buildings, midblock buildings may not work.

There is a certain amount of mechanical equipment that must be up there. If you have an elevator that is pulled from the top, you've got to have your elevator penthouse on the roof. If you have access to the roof by stairways or elevators, you need to have that space as well.

A lot of the mechanical equipment for buildings must be air cooled. So that has to be—it works most efficiently on the roof. It can be elsewhere, but then it has to be cooled.

So you will always have a certain amount of the roof structure equipment on the roof, and given the larger the building footprint is, the more usable, occupiable, habitable space you will have on a rooftop. It won't work in all instances.

Ms. NORTON. Ms. Tregoning raises the interesting notion that occupying that space could actually add to the vistas. It is interesting, because many of us go to a part of the city where there is a vista in order to get a vista because the city does not have as many natural vistas as some large cities. So she says it could add to the vistas, and Ms. Richards says it could create some kind of pockmark of some buildings with and some without.

So to try to reconcile these two views, how is it different from most cities today where some buildings are tall, and some buildings are not as tall? Are you saying it would mar the view from some heights to have some buildings with and some buildings without?

Ms. RICHARDS. It is going to depend on the street wall for a particular street. And we're talking now about raising the Height Act to do this, not zoning regulations. So to the extent that you need to amend the Height Act to accommodate this, you're talking about buildings that are already at their natural height, their maximum height.

Ms. NORTON. Or new buildings that could be built to that height.

Ms. RICHARDS. If you're going to build a new building, you can accommodate these desired kind of roof structures by simply putting them at the existing height level and just do a trade-off. It's really only going to affect existing buildings that are at their maximum height.

Ms. NORTON. Mr. Collins, do you believe that some developers would want to add to their—or Mr. Lewis— to add to their existing buildings? Would there be some kind of an incentive to do that?

Mr. COLLINS. Well, there have been instances in the District in a different context where owners have added on to their buildings in certain parts of downtown that are designated as receiving zones in the downtown development district where developers have added three and four stories on top of existing buildings.

Ms. NORTON. Because they hadn't reached their height limits?

Mr. COLLINS. Well, because under—well, there are two height limits in the District. There is the 1910 Height Act, the absolute limit; and then there is zoning, which is sometimes less. Many times it's less.

But in the downtown development district, which Ms. Tregoning may want to explain in more detail, there are—in exchange for providing certain amenities and benefits in the downtown area, residential, theaters, different types of uses, retail, you get bonus density, which can be transferred to areas surrounding the downtown, and that has been done in some instances, and it's been done very successfully. It may not be financially feasible in all instances, and it may not be financially feasible especially if the building is not structurally loaded to add three or four more floors, but it has been done.

To get directly to your question, I would think that what may happen is on some larger-footprint buildings where there is a roof structure, that may be set back a greater amount than is required. There may be more space used on the roof by the roof structure if it's able to be used for habitable purposes.

There are some instances that I'm aware of in the District where the technology has resulted in the mechanical equipment on the roof being downsized to such an extent that there's a vast amount

of unused space in the roof structure that might be able to be used, for instance, for a health club or for a community room or something of that nature that is going vacant because of this limitation.

Ms. NORTON. My time is up, but I would like to come back after everyone has had an opportunity.

Mr. GOWDY. Yes, ma'am.

With that, I would recognize the gentleman from Illinois Mr. Davis for his 5 minutes of questions.

Mr. DAVIS. Thank you very much, Mr. Chairman.

Dr. Gandhi, is there an economic impact to be realized should the height be increased?

Mr. GANDHI. Yes, sir. Eventually there will be economic impact in terms of expanding of our tax base. We do have a fundamental problem of having a very limited, narrow tax base in the District. It is very well known, but I must reiterate that roughly two-thirds of our income is not taxed in the city. For every $100 that are owed in the city, we get to tax only $34; $66 is taxed in Maryland and Virginia, roughly. It's like going to a restaurant. We would say that of all of the people who are eating here, one-third will pay, and two-thirds will not pay, and everybody would complain about bad food and bad service. Similarly, roughly 40 percent of our commercial real property values are tax exempt.

So what we have here, the problem, is a limited tax base. Indeed, only 2 of the 30 largest employers pay our taxes, real property taxes, and only 1 of the largest 13 employers pay our business taxes. So we do have a problem of a very limited tax base. And eventually what this will do is to accommodate a growing population and most likely increase our tax base.

Mr. DAVIS. Mr. Lewis, how do you balance the aesthetic value of the buildings, the property, the city and at the same time realize the opportunity to expand the tax base a bit?

Mr. LEWIS. Well, that's a very good question, but it's also the question that almost every jurisdiction that I have worked in asks, because it's invariably an unavoidable dilemma.

Growth, if you accept the notion that growth is inevitable, that there will be growth, people will want to live here, then the question arises, where do you accommodate the growth?

My fear about a lot of the discourse we're hearing of, let's say, allowing some of the buildings to go up one more story is not addressing that issue at all. It's a tweak, frankly. And tweaking—in fact, I would argue, being an architect and urban designer, that adding another 15 feet to a number of the buildings won't significantly change the character, the profile of the District of Columbia's downtown or its historic areas.

I think that what I'm proposing is, in fact, an answer to your question, which is that I'm worried about our dying this death by 1,000 cuts; that we will come in, we will add a story here, a story there, and it won't add up to anything when it is all done, or that it might add up to something quite negative. That is why I have advocated to address, to answer the question, we really need to look at the whole city.

I believe there are places in this city, many of them quite distant from the monumental core, by the way, where taller buildings—and not skyscrapers. I really want to correct the impression that many

people in the city have, that when we talk about lifting the height limits, they shouldn't be envisioning Chicago or New York or Rosslyn. We are talking about maybe going—allowing buildings, instead of being 90 feet, allowing them to be 140 feet or 150 feet. Even that is still an—at some point is an arbitrary value judgment that must be made.

I believe that a lot of what we're talking about is about value judgment; that is, what is the right balance? How do we find the balance between accommodating growth in a prudent and aesthetically appropriate way while preserving the historic aesthetic qualities of the city as a whole? I think that can be done. It's been done in many other cities—in districts, in areas, not necessarily for the whole city.

In this case, in the District of Columbia's case, I think the only prudent way to do this, as I said in my testimony, is to look at the city comprehensively and identify places.

Let me give you an example: the McMillan Reservoir. Here is a place, next to the Washington Hospital Center, where there is a tremendous sentiment on the part of the community to make a lot of that space park. It would be very easy to accommodate some of the density that I think the city would like to see there by allowing slightly higher buildings facing Michigan Avenue or along North Capitol Street.

That's what I was talking about earlier when I said there are places that should be targeted well outside of the monumental core, a long way from downtown, where, again, buildings, instead of being 60 or 90 feet high, might go to 120 or 140 feet. I don't advocate, by the way, that we start building 30- and 40-story buildings, which is what we have in Rosslyn.

Mr. DAVIS. Thank you very much.

Mr. GANDHI. If I may comment on what Mr. Lewis is saying, yes, every jurisdiction does have a problem of limited tax base, but nowhere would you see the problem as serious as in the District. For example, I used to have an office on the 11th floor of the Judiciary Square building when we had the city hall there. I looked outside at museums, monuments, galleries. Beautiful. Nothing I could tax. And ultimately, when you have a large chunk of a commercial real property that is tax exempt for a variety of reasons, you really have to wonder where do we get enough resources, enough tax base to take care of the city's needs?

Mr. GOWDY. Dr. Gandhi, I'm reluctant to use the phrase "trust me" because I went to law school, but I'm going to give you a chance when I'm questioning to go into exactly what you were just alluding to.

It is now my pleasure to recognize the chairman of the full committee, the gentleman from California who has joined us, and recognize him. Chairman Issa.

Mr ISSA. Thank you, Mr. Chairman. I apologize for being in another hearing.

Dr. Gandhi, you are one of my heroes in town. A lot of people around here trust the fact that you get your numbers right, that we can count on you to be an honest broker.

Isn't, though, part of the revenue of the city the green space, that untaxed space that is in abundance in the District of Columbia?

Mr. GANDHI. Yes, sir.

Mr. ISSA. And if we're looking at trying to make the District of Columbia a success, we're going to obviously preserve the Mall, the space and so on. But you also on occasions, like myself, I am sure, drive up to Northeast, don't you?

Mr. GANDHI. Yes, sir.

Mr. ISSA. Do you notice that you drive far longer up into Northeast before you leave the District than it would take for you to get over the river to some of those 30- and 40-story buildings that represent considerable revenue; is that correct?

Mr. GANDHI. Yes, sir.

Mr. ISSA. So is there any city in America in which its State prohibits a city from self-determination of that 30- or 40-story building when there are 30- or 40-story buildings closer, that are simply in another city?

Mr. GANDHI. I understand your point, sir.

Mr. ISSA. I'll take that as a yes.

Mr. GANDHI. Yes, sir.

Mr. ISSA. And, Ms. Lewis, that's one of my questions, and I think for Ms. Richards, too. Today's hearing is primarily on the small step, the baby step, the deliberate incremental step of simply asking whether the building is more aesthetically pleasing, modern, and acceptable to the best practices by having an elevator shaft and a bunch of air conditioning conduits on its roof, or whether a rim of similar or slightly different offices, meeting rooms, or whatever on the top floor with no visible mechanicals; which one is more appropriate for a 21st century city to the extent that you have these buildings, Mr. Lewis?

Mr. LEWIS. There's no question that I think most people would agree looking up at the top of a building and seeing it meeting the sky with occupied space is better than seeing it meet the sky with penthouses and mechanical equipment.

I mean, I think, I sit on a design review board in Alexandria where we have been dealing with this for 20 years in the development of Carlyle, and we have very specific design guidelines for penthouses for just that reason. We don't—the people in Alexandria don't want to see the penthouses. And if they do see them, they want them finished with something other than fake stucco.

So I have to agree completely that——

Mr. ISSA. Or plastic trees, what have you.

Mr. LEWIS. Whatever. Exactly.

On the other hand, I'd also be the first to tell you, since I'm an architect, that half the battle is having a good architect. I mean, I think that——

Mr. ISSA. My lawyer says a good lawyer is good, too.

Mr. LEWIS. One of the challenges in D.C. has a lot to do with the proportions of buildings. When you talk to architects practicing in Chicago or New York or, for that matter, Frankfurt, Germany, they're baffled. They can't understand why we have this phobia about going a little bit higher or going much higher. I don't advocate going a whole lot higher, but I do think as one does drive around D.C. or walk around D.C., you certainly can't help noticing a lot of the buildings that have been built, commercial and otherwise, are not exactly architectural award-winners.

So that's a long answer to your short question. I do think that——

Mr. ISSA. So in the short answer, getting rid of ugly appliance floors and replacing them with an—approved by the city, local control, letting them decide what aesthetically fits on existing buildings, with an existing height cap that currently gets to the top floor, and it's sort of—basically it's pipes and shafts, rather than a rim of hopefully the most aesthetically pleasing top to a roof, the short answer is yes, if we were to support that, and ultimately the city would decide, that would be good for the economic base, it would be good for the aesthetics, and it would have absolutely no change in the maximum height of a building in the District of Columbia.

Mr. LEWIS. No. I think it's reasonable. But I think you should recognize there will be great pressure from many buildings, particularly, as Mr. Collins pointed out, small-footprint buildings—there will still be pressures to put things on the roof. I am quite convinced.

Mr. ISSA. I live up in Northwest when I'm in the District. I'm very aware that every home in the District—and, Ms. Richards, I haven't started on an opportunity for you to answer, so I want to, if I can have the time, make sure you get fully heard.

Some of the most desirable and ugly things there are homes like the one I live in, but mine doesn't happen to have it, in which we all find a way to put a balcony there, or we put some wood and a terrace because we all want to sit up on our roof at least on those few days that are just perfect. We all understand the desire, but currently we have a moratorium, we have a limit, and that limit induces, if you will, the crown of a building to be less desirable rather than inducing or encouraging it to be as aesthetically pleasing as possible, particularly in a day in which the mechanicals of buildings are getting smaller and smaller in modern buildings or remanufactured buildings.

Ms. Richards, since I've been told that you're somebody who, more than anyone else on the panel, has dedicated yourself to trying to preserve much of what we have in the District of Columbia, as a closing—you can answer any of the questions that others did—but aren't we best off preserving as much of, if you will, old Washington and the homes and some of these buildings, and maintaining our concentration in K Street and those areas; make them as pretty as they are, but recognize that the buildings we're talking about are not buildings built in the turn of the last century, they were built in the last half of the last century and so on? Wouldn't you agree that we could make them prettier, even if we're talking about no change in the top height?

And separately, if there's a second round, I would like to talk about the possibility that there be taller buildings outside of just that first step.

Ms. Richards.

Ms. RICHARDS. Speaking solely to the penthouse issue, it's a highly desirable thing as mechanical penthouses have become smaller and smaller. And there are ways to deal with them to make them more attractive and the roofs more attractive, sort of turning them into like other kinds of spaces.

For instance, the new city buildings on Fourth Street have created kind of like decorative features around their mechanical penthouses, not just the little kind of like little boxy structures that you see.

Mr. ISSA. So you are for them still being only mechanical, but being less ugly?

Ms. RICHARDS. Less ugly. And also there's a new green roof initiative in the city, so you can do marvelous things with green roofs that will provide greater masking and not the plastic pots.

So I think that, yes, we've had to tolerate roof structures as an exception to the Height Act because they were necessary, like a smokestack was necessary. But now that we can find ways to either mask them or minimize them, this means that we can really more fully comply with the Height Act. So that is how the Committee of 100 would recommend addressing this.

Mr. ISSA. Thank you. Hopefully there will be a second round.

Mr. GOWDY. Yes, sir, there will.

And I will recognize myself for 5 minutes. And then with the indulgence of our panelists, because we have just an eclectic amalgamation of expertise, we would like to go to a second round if your time permits.

Dr. Gandhi, I'm going to pick on you, because, as Chairman Issa said, I have known you in the past. You have always given me thorough, accurate, fair information, and with that comes consequences.

So I'm going to ask you, give me your three best pieces of evidence. You're the prosecutor. You want to get the Height Act amended. What are your three best pieces of evidence to amend it?

Mr. GANDHI. Thank you, Mr. Chairman, for your kind comment, and also Chairman Issa.

I'm here not to advocate what Congress or the elected leaders should do about height limitations. All I'm suggesting here, as my goal as a chief financial officer, is to realize that we do have a limited tax base, a very constrained, narrow, limited tax base. At the same time, we are a city with great needs of infrastructure, of the human needs, and at some point, Federal Government has to recognize the city's issues here.

We are very proud to have the Federal Government in our midst. We are the Nation's Capital. But at the same time, with the Federal Government comes the burden of the Federal Government. So it's a mixed bag to some extent.

So I would not recommend either way. It is not my duty. My duty here is to give you the numbers, as you pointed out, sir, and be as honest in the numbers that I give you.

Mr. GOWDY. As you know, and as many other members of this panel are, I'm a big fan of your chief of police. So I like to think, how will her life be impacted? More residents; more service needs to be provided. Have you done any analysis of how your fire department would be impacted, your public safety, transportation?

Mr. GANDHI. No, we have not done that work ourselves.

Mr. GOWDY. You were, in response to a question maybe from Chairman Issa, maybe from Mr. Davis, talking about the lack of a tax base, and I want to make sure that you had as much time as you wanted to answer that. There are unique challenges. The

mayor of my hometown, former mayor, Bill Barnett, we have universities and churches in downtown Spartanburg. So we have the same issues, but on a much smaller scale. So go ahead and finish the answer to the extent you want to.

Mr. GANDHI. Thank you very much for your kind comments and also for the time you are affording me.

District of Columbia is the only place in this country where the income is not taxed at the source where it is earned. That is the problem that we face in this city.

Second, we do not have a State to take care of the city. All central cities of America are subsidized by their States via suburbs. Our problem here is that our suburbs here are subsidizing Maryland, that is to say Baltimore and Richmond, not the District. And that is the fundamental problem we have.

I think what we need here is a tax base that is enough to take care of profound needs that we have in the city. One-third of the city is Medicaid-eligible, one-third. West of the park, we have among the richest people in the country; but east of the river, we have among the poorest census tracks in the country. That is the fundamental problem.

We have to take care of our people. And for that you need a tax base. And, as I pointed out, that being the seat of the Nation's Capital gives us the great advantage in terms of our economic activity. And indeed it's not 32 cranes; we have 42 cranes out there in terms of economic development ongoing. And it's a great tribute to our elected leadership that makes it possible, and Ms. Tregoning.

But at the end of the day, I have to balance the budget. We have to have tax revenue to take care of the needs of our people. And when we don't have enough revenue, that is a problem.

And if I may just take one more moment, that is why we have a profound problem on our infrastructure; schools, parks, recreation, library, technology. Thanks to the great help that we received from the Federal Government, we were able to take care of some of that problem over the last 10 years, but what we need here is recurring, continuing, predictable help in our budget.

Mr. GOWDY. Thank you, Dr. Gandhi.

My time has expended, so I will now recognize the gentlelady from the District of Columbia for round two and then go to the gentleman from California.

Ms. Holmes Norton.

Ms. NORTON. Thank you, Mr. Chairman.

Mr. Lewis, I was interested that you indicated in your testimony—I'm looking, the case is not numbered—you discuss what you call the downtown L'Enfant plan area of the District, and you say that those areas should remain substantially unchanged. Then you say, but there are specific sites. And you site the Southwest and the Anacostia waterfronts where there might be upward adjustment that would be beneficial without jeopardizing the city's profile. I am interested in both those areas.

With the assistance of the chairman, we've just gotten out a major bill here to redevelop entirely the Southwest waterfront. That's going to amount to a brand-new community in the District of Columbia. That's going to mean that if you take a bill that I got out of the Congress 10 years ago on the Southeast waterfront, that

the city is going to have a continuous extraordinary 21st century waterfront with communities, with mixed use, extraordinary new revenue to the city.

What interests me, though, in your citing of these waterfronts is you seem to see them as outside of the monumental core. Each is only a few blocks from the most precious monuments. One is not perhaps so precious on the east side. It is just blocks from the Capitol. But on the Southwest side, it's a few blocks from the monuments and all of the historic buildings. So I was interested that you chose those two areas where you thought one could raise the height limit.

Would that be any different from—who was it—the testimony of Mr. Acosta that warns allowing tall private buildings along the edges outside of L'Enfant City and around what's known as the topographic bowl could degrade the public character of Washington's skyline? So I am trying to reconcile those two views.

Mr. LEWIS. Let me, first of all, clarify this. My comment about those waterfront sites, which are just examples, those are, in fact, sites in the L'Enfant plan area. I don't switch to outside that until the following sentence. And the reason I mention them has a lot to do with topography.

When you are on the waterfront, you're down near elevation zero, and if you move five or six or eight blocks toward the center of the city, you might be up at an elevation that's a good 20 or 30 or 40 feet. That's why I mention topography is one of the many variables that could be factored in there.

I just cited those as places where, because they are waterfronts, they are very desirable, high-value real estate with wonderful views, that's a place where you're adjacent to a huge amount of open space.

Ms. NORTON. On one side. On the other side, coming into the city or looking back into the city, what about those views? Will those views be interrupted?

Mr. LEWIS. Well, those views—if you've got 40-foot-high row houses, which you have to the north of the waterfront—I know the site very well—that once you build a building that's 50 or 60 feet tall, nowhere near the height limit that we're going to, in fact, apply on the waterfront, the views ultimately are determined by the spacing of buildings horizontally. This is just urban design 101.

So to the person living, if you will, uphill, a little farther away from the waterfront, what affects that person's viewscape is not the height of the buildings, it's actually the spacing of the buildings, and the streetscape, and the public realm——

Ms. NORTON. Well, then I have to ask Mr. Acosta what he meant about when he said, tall private buildings along the edges of L'Enfant City and the so-called topographical bowl. Is that what you mean?

Mr. ACOSTA. They are somewhat different areas of the city. When you talk about the topographical bowl, if you think about where the St. Elizabeth campus is and where they're building the Coast Guard headquarters, that is on the topographical bowl. And GSA, when they developed that building and designed it, they took great care making sure that it followed the contours of the landscape and didn't project out.

When we are talking about the edge of the topographical bowl, right on it, on the edge itself, you find landmarks like the National Cathedral, the Basilica and other images there. So I think the question there is, you know, you have to be careful when you insert another building within that realm. And there may be areas beyond that which you wouldn't see from the L'Enfant City itself that may be more appropriate for, you know, higher-rise sort of developments.

So, as Mr. Lewis said, you do have to do a very fine-grained urban design analysis and be very careful and very thoughtful in terms of where you place these things in order to protect the landscape and the surrounding setting of L'Enfant City. And I do think those are the sort of things I would look at. But I do think when we review projects and, on the Federal Government side, as we construct these projects, we take great care in making sure these things fit in appropriately into the design of the city.

Ms. NORTON. Ms. Tregoning, D.C. has its own lower Height Act, and I am trying to figure out why and how that figures into this discussion.

Ms. TREGONING. We don't have a Height Act per se, but you're right that some of our zoning certainly does not allow buildings to be built to the maximum height allowed by the Height Act. And that might be because the buildings in different parts of the city are actually already at a very much lower scale, so to allow a 90-foot building or a 130-foot building next to a 50-foot rowhouse wouldn't necessarily be appropriate. But there are certainly parts of the city, especially the parts that have great transit access, where that could be accommodated.

And I might actually differ a little bit with Mr. Lewis. I will point again to Pennsylvania Avenue at 160 feet, which is certainly in the core of Washington, and yet it's not a noticeably injurious height. So I would think that there are parts of the city along K Street and other places where, in fact, it might make sense to look at higher limits, especially for a purpose.

Dr. Gandhi talked about the tax base, but I would also argue that, you know, beyond the broad tax base, we have parts of the city that don't enjoy some of the same liveliness and livability as other parts because they might be only office enclaves and have no residential. And because these parts of the city might already be fully built out, there's not much of an opportunity to add that residential component in much of the downtown; whereas, on the east and west ends of downtown, where they have residential, it's very different, very much more a mix of uses, very lively. So the opportunity to potentially add a little bit more height in parts of the city that are very much in demand might actually create the opportunity to do things like fund Metro and other transit and provide additional housing.

Ms. NORTON. Thank you, Mr. Chairman. I know I'm past my time.

Mr. GOWDY. I thank the gentlelady from the District.

The chair would now recognize the chairman of the full committee, the gentleman from California, Mr. Issa.

Mr. ISSA. Thank you, Mr. Chairman.

Ms. Norton, I didn't think you were past your time at all. I thought that you were on a roll. I'd be happy to let you continue with the line of questioning, so I'll try to do that.

Ms. Tregoning, if I hear correctly—and I think I'm hearing it from most of the folks that are witnesses here today—the arbitrariness of the Height Act is, in fact, just that; it's arbitrary. There are places in which it is too high for the best interests of the city. There are places where we're already above that height in other ways by our own decision. And there are places in which adding to it could be an economic boon to the city.

We heard geographically or topographically that, in fact, in some places you've got a reason, down by the waterfront, to do one thing, where up in heights you have something else. And my example of in Northeast, far from the Mall, you really have a whole different world. It may not induce people wanting to go that high. But the arbitrariness of the limit really is just that, arbitrary. Would you agree?

Ms. TREGONING. I would agree. And I think you heard actually from every single panelist that there's an enormous value to the city of having a limit to the height, of having a relatively pedestrian-scaled city, a human-scaled city. And I don't think any one of us is advocating getting rid of that, except maybe Dr. Gandhi.

Mr. ISSA. He's not advocating anything. He's just counting the money.

Ms. TREGONING. Exactly.

Mr. GANDHI. But that's my job, sir.

Mr. ISSA. Yes, sir.

Ms. TREGONING. But that being said, there is nothing magic about those particular numbers. We would love the ability to figure out what is the most appropriate thing in particular instances, and in some cases perhaps go higher than what the height limit allows. But I think for the most part, much of the city would have no changes whatsoever, and any changes that would be made would be things that we determine with our citizens about what's appropriate.

Mr. ISSA. Well, Mr. Acosta, I'm going to go to you and say if Congress wanted to modernize how we view the District of Columbia both from the standpoint of local control, but also to Mr. Lewis' and other people's desire to do the best in architecture, if we were, as an act of Congress, to open up the act, make it possible for a commission, a joint commission, to go through the process, to do the planning, to ask the questions of what areas for perpetuity should be one way, while other areas that could be opened up to at least application for amendments to a master plan versus areas that could be immediately modified, and then have it come back through a joint process for approval of Congress, would that at a minimum be a sensible thing to launch the basic—ask the question of, are there people who can produce a better master plan for the city if we empower that master plan to be considered favorably by Congress? Just that sort of question. I'm not defining the specifics, but I'm saying, should Congress look at passing a law that would empower local authority in concert with national figures to do a better job?

Mr. ACOSTA. This is a great conversation, because I think it is about the feature of the city both from a national perspective as well as a local perspective.

Let me take first the Federal interest issues with respect to the Height Act. I think although the Height Act was constructed because of symbolic reasons, and, as we've gone through the presentations, it was really for public safety reasons, I do think one of our issues here from a Federal standpoint is stewardship over L'Enfant City. And if you kind of even go back into the history of this, it's really sort of a notion of these symbols, like the Capitol, the Washington Monument, where really the notion—were from our Founding Fathers, essentially.

Mr. ISSA. They intended on the Capitol Dome looking down on the White House with appropriate disdain, and a lot of construction has made that impossible. So I'm acutely aware that you cannot look from the Speaker's balcony and see the President and look down on him, as the Founding Fathers clearly intended.

Mr. ACOSTA. Well, there is some truth to that, but I also believe that from just a layout standpoint, from the design of the streets where they have selected the more prominent buildings should be located, like this is, on a hill, the Washington Monument should be a significantly tall building or structure, I think that was all intentional. And from a stewardship standpoint, I think that is our goal, to ensure that those national symbols remain very prominent in the skyline. And that also is affected by the aesthetics. And I think the issue here is because of the Height Act for two centuries, that setting has been consistent; that we've seen a low-scaled city that has allowed these very prominent symbols of civic architecture that are very important to our American people to be prominently displayed.

So I think that one issue here is, as we're going through this discussion, is really where do you draw that boundary? And we've heard different opinions about where those could be; I mean, whether it's a few feet away or the entire city. I think that is the core question in terms of where we draw that Federal interest boundary.

I also think that, as Mr. Lewis explained today, you do have to do very detailed, fine-grained urban design analysis and as a way to consider where these taller buildings could be appropriate. That will take effort. That will take a lot of conversations between both Federal stakeholders and, I think, more importantly, with the local community, because essentially what we have today is a prevailing height, and people are very used to and they are very comfortable with that today. And any change to that—and we've seen debates in communities about how one story may be too much. And I think those are the sort of issues that—especially on the District side—that they will have to deal with as they're going through this.

I have great respect for my counterparts at the Office of Planning at the city. And I think if Congress would like us to think through a process to do this, I think we would be happy to work with you and the city to do so.

Mr. ISSA. Well, thank you.

I come from a business background where, you know, if you don't have a strategic plan, then you don't have a plan. And I would

question today over all the years that we've had an arbitrary height limit, has it served us well? Perhaps. But it's served us without a plan. So one of the reasons that Ms. Norton and I, I think, took interest in reviewing this is what if we said, let's make a master plan and see if it would be better than what we have today. Perhaps Ms. Richards, looking at heights that are variable and for a purpose, could find that they would be better. Certainly I happen to know, as a resident during weekdays here in the District, that everybody wants the home next to theirs to not be taller than theirs, but few object to theirs being taller than their neighbor's.

With that, I thank you, Mr. Chairman. I yield back.

Mr. GOWDY. I thank the gentleman from California.

The chair will now recognize the gentleman from Illinois Mr. Davis.

Mr. DAVIS. Thank you very much, Mr. Chairman.

Mr. Acosta, Mr. Lewis, Mr. Collins, are the structures designed in such a way that retrofitting could, not necessarily easily, but accomplish the goals that Dr. Gandhi sort of articulated and indicated?

Mr. LEWIS. That's a structural engineering question, which I'll try to answer. I mean, that varies from building to building. There are some buildings in which the structure could accommodate some additional stories. We know we've seen some buildings downtown in which two or three more stories have been added. We also know that there are a lot of buildings in the District of Columbia that do not reach the height limit that's allowed.

There are ways of sistering on structural members to allow for buildings to be expanded. I would point out also that one of the virtues of taking an existing building and keeping it and expanding it is that it's a very green strategy from a sustainability point of view because all of the resources that have been invested in that building are being saved.

There are a lot of moving parts to this. That's why I would second what Congressman Issa proposed. And the question to Mr. Acosta, I think, is exactly the right thing that we need to do.

I have great fear that if we don't have the master plan, if we don't have the strategic plan—which, after all, is a plan not just for us and the voters of today; we're talking about planning for our children, our grandchildren, and our greatgrandchildren. That's what planning is about. It seems to me it would be irresponsible not to ask the District of Columbia and the Federal interests to, in fact, develop a strategic plan.

I think that I've answered not just the question you have asked, but the answer is that a lot of buildings can be expanded one way or the other. There are some that are not worth saving, and you demolish those. But that's, again, a case-by-case basis.

Mr. COLLINS. Mr. Davis, as to your question about the aesthetics of that, yes, that can be achieved. I'm thinking along K Street, the western part of the downtown where K Street is, there are probably a half dozen buildings which have had additional stories put on.

But also, you see the phenomenon around the city of reskinning a building, taking it down to just the slab, taking the walls off, tak-

ing the systems out, and rebuilding essentially, but saving the slabs and adding on top. So that is happening around the city as well. So, yes, it can be achieved.

Mr. DAVIS. Ms. Tregoning, let me just ask you, from a planning, zoning perspective, would you anticipate a tremendous amount of zoning anxiety as individuals would prepare to make further or different use of structures and how that's going to affect their neighbors and others who might be in pretty close proximity?

Ms. TREGONING. I think there would be a combination of zoning anxiety and zoning euphoria. Yes, I think that you would have both depending on the interests. But just like the vast majority of the city comes nowhere near the limits of height, you know, I think we would want to say right off the bat that the vast majority of the city, particularly the residential areas of the city, would be unaffected by these changes, and we'd be looking probably to do something more surgical than blanket in terms of any changes that might be proposed, and, like I say, probably for our purpose.

I would also say that even a small step, like the penthouse occupancy that we've been talking about, would probably result in more beautiful rooftops and more enjoyment by people of the wonderful skyline of Washington. If you've been on a rooftop in Washington—and there are many places where you can be on the roof—it is a wonderful experience with tremendous views. And if they were much more routinely used by people, the entire roof, not just the mechanical penthouse, would probably become more gardenlike and more beautiful, because that's what people would expect to see as opposed to black tar paper or something like that on the top of a building.

Mr. DAVIS. I thank you, Mr. Chairman. I yield back.

Mr. ISSA. I think Ms. Richards would like to make a comment, too.

Ms. RICHARDS. If I may, I wanted to respond to your comment on the arbitrary nature of the Height Act and the absence of planning. I would say that there has been a good deal of planning. The District just revised its comprehensive plan extensively in the last 2–1/2 years, and that was a multiyear process. And pursuant to that, the city has been undertaking since, I think, before the last 4 years a major revision of its zoning regulations, and that is approaching completion. And that did entail substantial inquiry into how the heights of buildings are measured. And there are some proposed changes to the regulations that address in a very fine-grained manner the operation of the Height Act. All of this has happened within the context of the existing Height Act.

As everyone has noted, there is a substantial capacity within the Height Act envelope for increased height and density. And I would say that from a citizen's perspective, there is substantial opposition to even going—building up to the existing height limit. I'm thinking now of a very aggressive opposition to adding a fourth story to a new building in historic Anacostia. It's at three stories. I'm also thinking of a building that was proposed to be built to seven stories at Pennsylvania and Minnesota Avenues. The residents fought it, and it's now going to be five stories. Examples abound. I'm sure you are familiar with the upper Wisconsin Avenue debate, where residents there finally were able to keep the existing heights. And

all of these are struggles that have existed within the Height Act envelope.

There is no real public sentiment among these residents for going high. People want a horizontal city. So I would urge you to take that into account, and also to say that there is a good deal of planning that has been going on. So I just would hope you would take that into account.

Mr. ISSA. Mr. Chairman, if I could have the indulgence to ask the ranking member something on the record.

Mr. GOWDY. You may have all of the time that I was about to give myself to be used in whatever fashion you would like.

Mr. ISSA. Thank you, Mr. Chairman.

Eleanor, you, more than anyone else here on the dais, feel the pulse of the city. I think Ms. Richards certainly is probably right that there is a great deal of opposition. The question before us today that I hope we're working on is should we empower the city to answer some of those questions itself? And would they appreciate the opportunity, even if they decide not to use that amendment to the Height Act?

Ms. NORTON. Mr. Chairman, this is an important question because I treat it as a home rule question. Do you trust the city? And by the way, developers don't come to the Congress with this stuff. We know what developers can do in the District of Columbia.

That said, the District has—and I pay my respects here to Ms. Tregoning— has shown an extraordinarily expert and sensitive way to plan for what has been the most extraordinary expansion of the city in many decades, I think before I was born. I certainly trust the city and its citizens. As Ms. Richards says, you don't play with citizens. You may have every reason to want a few stories, but you will bring down the citizens on you like nothing you've ever seen. They don't have any power except the power of their residency and numbers.

So I think the city would be hard-pressed to refuse to accept the ability to responsibly handle its own Height Act decisions, particularly in light of the fact that, through zoning, the District apparently has already lowered heights well below anything the Congress had in mind.

Mr. Chairman, the chairman tends to think of solutions as he hears the testimony. I think it's laudable. You kind of read his mind as he's thinking. I think it's a laudable process for Members of Congress to go through. He said, for example, in trying to think of how this would work, that we could still have Congress somewhat involved by some sort of joint process. And the District, who knows the city best, would have more to say about heights, instead of all of the discretion resting in the Congress.

I just want to suggest, Mr. Chairman, that as you were speaking, I thought about our own zoning process, which has Federal officials sitting right with local officials. So, in effect, there's kind of a great wisdom to this process. Instead of having the Federal Government fight the city and the city fight the Federal Government, they've got to figure it out together, because officials, important officials, representing the Federal Government already sit as a part of the planning process. When you consider that that already happens, it seems to me we may already have the mechanism to ensure that

the Federal Government is involved in the right way without going to elected officials in the city or in the Congress.

So I think the question you ask is truly a pregnant one the city would have to consider, particularly when you said, watch out, the chairman is from private business and very successfully, so he talks about a strategic plan. Well, it's far more difficult, of course, when you're thinking about this entire city and what it's meant.

Nevertheless, I think that—particularly in light, I think, of Mr. Lewis' caution that you had better watch out about hit-and-miss stabs at what to do with the city. So one would have to have some vision, a vision that the city hasn't had any reason to even try to get, since it hasn't been within its jurisdiction. I would think that no opportunity could be more important than the opportunity to have the city look at the whole city. I cannot—I can't envision that as we sat here, but I must say that I certainly agree with you.

Now, Mr. Chairman, if I may say so, I don't know who is responsible, I don't know if it was you, but some member of the panel—it may have been Mr. Lewis himself, the architect, who criticized the architecture of the city. If you want to know what most disturbs me about this city, I have never seen such pedestrian architecture in my life. If you go to other cities, and you see this wonderful architecture, I am wondering if I am just looking at height and the variation that that brings, or if the way in which the Height Act, particularly in downtown and the monumental core, has been seen by architects and by people putting up buildings where many of our Federal structures are that said, just let me put up a box. And it seems not to have drawn the most creative instincts from architecture.

We see some of it in the city as I speak in the new libraries. I'm flabbergasted, and I invite you all to look at some of the new libraries where architects, not having anything to do with Federal structures or Federal buildings or housing Federal buildings, have come up with the most extraordinary buildings I have ever seen anywhere, seeming to challenge the downtown to look more like it is the work of architects, rather than people who've just thrown up some buildings in order to make sure they can get a lease for some Federal workers.

I would like to, in light of the chairman's question—because if the city were to get this larger authority, I wonder if what we see in the libraries, and in the new public buildings, in the schools even—wonderfully new, different-looking, I think, prize-winning buildings—whether that would affect the architecture of the city so as to improve the architecture of the city if the city had more—what the chairman sees as more responsibility. Or is the look of these structures—except for these historic buildings, interestingly enough, which seem to be more creative—but the use of these structures that began to develop, I don't know, in the 1940s and 1950s, whether that was a function of the Height Act, or, if not, why in the world does downtown architecture look so undistinguished? And is the authority that the chairman spoke of relevant to thinking through a different look for downtown to keep it with the Height Act?

Mr. ISSA. I thank the gentlelady. And I will make you one other pledge. Not only can we work together on the Height Act proposal,

but, for Mr. Gandhi's pleasure, I think we should, after the election, start thinking about how we're going to deal with the only place that doesn't have the ability to tax people who earn their income in that place, a separate subject that Dr. Gandhi referred to only in passing.

With that, I yield back and thank the chairman.

Mr. GOWDY. Well, with that, on behalf of Chairman Issa and all of us on this subcommittee, I want to thank our witnesses for your expertise, for your collegiality, comity not only towards us on the committee, but particularly with one another. It's been a very educational hearing and a delight to be part of.

I was thinking as Ms. Holmes Norton, Mr. Davis and Chairman Issa were talking, this is a magnificent, beautiful city. It's home to a lot of people, but it's a national treasure to every single one of us that live in this country.

Ms. NORTON. Mr. Chairman, could I just say one thing?

The chairman in this hearing has just opened up a new idea to come from this hearing in the very same way that he did when, after listening to you, Mr. Gandhi, and the Mayor, and city officials, and his own witnesses, he literally, after that testimony, did something almost comparable to what he's done this evening. He said he was for budget autonomy for the District of Columbia. And he and I are working together as I speak to try to bring the city budget autonomy. I thank you for that as well, Mr. Chairman.

Mr. ISSA. Thank you.

Mr. GOWDY. With that, our hearing is adjourned. Thank you.

[Whereupon, at 3:20 p.m., the subcommittee was adjourned.]

House Oversight and Government Reform Committee
Changes to The Heights Act: Shaping Washington, D.C., for the future."
Opening Statement
Chairman Gowdy

July 19, 2012

We're all familiar with the timeless line, "If you build it, he will come," which taught us the power of hope and encouraged us to always follow our dreams.

While today's hearing is a little less philosophical, it is still extremely important to the residents of this city, as well as all of the Americans who come to visit their nation's capital. We're here to examine the 100 year old law that governs building heights in the District of Columbia, and to determine what, if any, modifications should be made to it.

Passed in 1910 to address public safety concerns, the Heights Act generally limits building heights to the width of the street on which it is located with a maximum limit of 90 feet in residential areas and 130 feet in commercial ones with a few exceptions throughout the city. The District was not unique in limiting the size of its structures; however, when other cities eased their laws, DC held firm to the limitations. This has helped shape our capital city, but, as some have argued, may have stunted its potential.

While significant technological improvements have been made over the years to address turn-of-the-20th century safety issues, it is vital to this debate that we look at every potential ramification of opening this law. For instance, it is a sad fact that DC is a terrorist target. I understand the Secret Service and Capitol Police have had concerns in the past about the height of certain buildings near the White House and Capitol complex respectively. Before any modification is considered, the safety concerns of our federal city must be adequately addressed.

In addition, we need to look at the overall economic impact any proposal to raise limits would have on the District. There are the obvious potential fiscal benefits to the city and the construction community, but higher buildings could also help make housing more affordable, especially for low-income families and younger residents who seek to make DC their adopted home.

Finally, I want to be clear that this Committee has no desire to turn DC into the next New York. Our nation's monuments and memorials will not be overshadowed by condos and co-ops.

With that in mind, I am looking forward to learning from our witnesses *who and what* will come if we allow buildings to exceed the limitations of the Heights Act.

Thank you all for being here with us today and sharing your expertise.

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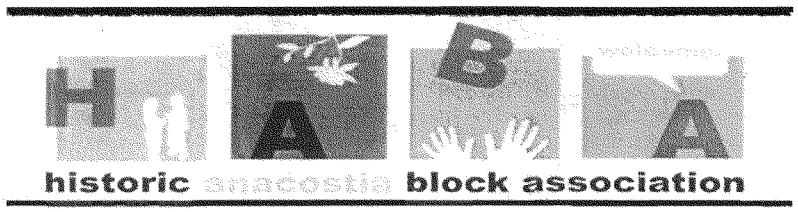

July 18, 2012

RE: Retain the Height of Buildings Act of 1910

To Whom It May Concern:

My name is Charles Wilson and I am testifying for the retention of the Height of Buildings Act of 1910.

I am a resident of Historic Anacostia located and Ward 8. I am the Advisory Neighborhood Commissioner for 8A04 and the president of the Historic Anacostia Block Association (HABA), the civic association for the Historic Anacostia neighborhood. HABA's goal as an organization is to keep our neighbors informed and involved in the social happenings in and around our community.

As you may or may not know, Ward 8 and in particular Historic Anacostia is a fragile community when it comes to preserving our history. Over the years we have lost many historic buildings in and around our community due to a lack of care and attention from the District and absentee property owners. With the advent of HABA, we are trying to restore the pride in preserving the historic character that remains.

This effort has come with many challenges that include new development slated to come to our community in which the developer visions his project as a boon to make the neighborhood more attractive instead of first examining the neighborhood to see how the development can compliment what is already in place. For example, the new Salvation Army Building was completed last year which is located on the opposite side of the border of the historic district. Many residents share the same feeling in that the developer designed a building that does not compliment the historic character of our neighborhood. In fact, it is so large and was designed so uncharacteristically different from the other homes and buildings in the neighborhood that it has been labeled as the "ugliest" building in Washington, DC.

I personally have always believed that long-term, sustainable economic development in Ward 8 and downtown Anacostia begins with the appreciation of ...HISTORIC PRESERVATION. Typically, when you hear people talk about what it will take to see economic prosperity in Anacostia they mention new stores, office space, new homes, new residents and jobs for longtime residents. Yes, these are all things that will be the result of economic development in Anacostia, but in order to take dramatic steps

Historic Anacostia Block Association
1643 U St., SE
Washington, DC 20020

forward, we must first start with the appreciation of what we already have in the form historic preservation.

Don't get me wrong, I am not against new buildings being constructed in our community. I am however very much in favor of the Height Act which encourages the conformity of the height of these new buildings to protect the character of our great City. I look forward to the development of two prime pieces of real estate in Ward 8 – The East Campus of St. Elizabeth and Poplar Point. My understanding is that the relaxation of the Height Act will drastically affect the development plans of these two areas. I do not believe you need to increase the height of new buildings to be able to increase our tax base.

Instead, the District needs to address all the vacant and blighted property in our neighborhoods. We face a huge surplus of absentee property owners that have not kept up the appearance of their homes. We continue to battle a number of abandoned properties that have become eyesores in our community. We believe these unkempt properties have also led to the increase in litter that plagues our streets on a daily basis. One only has to walk through Historic Anacostia to recognize there is a real need for the District to penalize property owners that let their properties sit vacant and literally fall apart. The properties should rehabbed and put into productive use not just economic reasons, but also because of very real safety concerns.

I personally have always believed that long-term, sustainable economic development in downtown Anacostia begins with the appreciation of ...HISTORIC PRESERVATION. Typically, when you hear people talk about what it will take to see economic prosperity in Anacostia they mention new stores, office space, new homes, new residents and jobs for longtime residents. Yes, these are all things that will be the result of economic development in Anacostia, but in order to take dramatic steps forward, we must first start with the appreciation of what we already have in the form historic preservation.

I leave you with this, the Height of Buildings Act of 1901 should be retained and appreciated for the future development of Washington, DC.

Sincerely,

Charles E. Wilson

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