

**COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE  
COMMITTEE REPORT**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

DRAFT

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**TO:** All Councilmembers

**FROM:** Chairman Phil Mendelson  
Committee of the Whole

**DATE:** June 21, 2016

**SUBJECT:** Supplemental Report on Bill 21-620, “Homeless Shelter Replacement Act of 2016”

The Committee of the Whole, to which Bill 21-620, the “Homeless Shelter Replacement Act of 2016” (previously the “Homeward DC Omnibus Approval of Facilities Plan for Short-Term Housing for Persons Experiencing Homelessness Act of 2016”) was referred, unanimously approved the Committee Print and Committee Report for consideration by the Council. On May 17, 2016, the full Council voted unanimously to approve Bill 21-620 on first reading. On May 31, 2016, following negotiations with the Executive,<sup>1</sup> the full Council voted unanimously to approve Bill 21-620 on final reading, with amendments.

Prior to final reading, the Council and Executive agreed to multiple amendments to the Bill related to the number of units at specific locations, the location of specific sites, limitations of the Department of General Services’ ability to negotiate for site acquisition, and other technical changes.<sup>2</sup> These changes are explained in detail below.

Locations

Between first and final reading on Bill 21-620, the Committee, affected ward councilmembers, and the Executive continued discussions regarding appropriate shelter locations in Wards 5 and 6. The Committee Print, approved at first reading on Tuesday, May 17, 2016, included two alternative, District-owned locations for a Ward 5 shelter, from which the Executive would be able to choose – 326 R Street, NE (Penn Center) and 1700 Rhode Island Avenue, NE. It subsequently came to the attention of the Committee that, although the Department of General Services (DGS) had previously identified Penn Center as a potential relocation site for the District’s Archives, the agency had not informed the Committee that DGS had agreed to allow approximately 42,000 square feet of space at Penn Center to be utilized as “swing space” during the modernization of the Martin Luther King, Jr. Memorial Library.<sup>3</sup> This new information led the Committee and Ward 5 councilmember to the conclusion that Penn Center would not, in fact, be a suitable alternative shelter location. As a result, Chairman Mendelson moved an amendment removing Penn Center as an alternative, leaving 1700 Rhode Island Avenue as the site for a Ward 5 family shelter.

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<sup>1</sup> See Letter from Mayor Muriel Bowser to Chairman Phil Mendelson (noting areas of concern regarding Bill 21-620).

<sup>2</sup> See Amendment #2 (changing project numbers for each site as reflected in the District’s capital budget system).

<sup>3</sup> See Letter from DC Public Library, May 26, 2016.

During the same period, the Committee, Executive, and Ward 6 councilmember continued to discuss the feasibility of the Ward 6 Family Shelter location at 2<sup>nd</sup> and K Streets, NW, approved on first reading May 17, 2016. Following the Council's first vote, the Executive raised concerns regarding federal regulatory approvals required to proceed with construction at that site. Due to these concerns, the Executive proposed locating the Ward 6 site at 850 Delaware Avenue, SW, a District-owned site that is the current location of a Unity Health Care clinic. Ultimately, the Committee and Ward 6 councilmember agreed that the Delaware Avenue site, which "can accommodate up to 50 units and a new and improved community medical clinic without the use of any federal property"<sup>4</sup> was an appropriate location for the Ward 6 family shelter. Chairman Mendelson, therefore, moved an amendment to change the Ward 6 shelter location to 850 Delaware Avenue, SW.

### Number of Units

Once 1700 Rhode Island Avenue, NE was agreed to as the appropriate location for the Ward 5 family shelter, in conversations between the Council and the Executive concern about the number of units that could be built on the lot, given its size of 12,332 square feet, were raised. The Executive indicated that to avoid the need for substantial excavation, the number of units at the sites would likely be limited to 35. If the Ward 5 shelter site were limited to 35 units, the total number of DC General replacement units across all family shelter sites would decrease from 272 to 257. The Executive expressed concern that this lower number of units would be insufficient and suggested that it might be possible to build additional units at the Ward 3 site, which was moved to District-owned land at 3320 Idaho Avenue, NW in the Committee Print. In order to maintain the District's ability to create an adequate number of replacement units and allow the Executive sufficient flexibility in site design, Chairman Mendelson moved an amendment to allow up to 50 units to be built at the Ward 3 and Ward 5 sites.

### DGS Site Acquisition and Project Management

The Council bill approved on first reading required that the Mayor acquire the Ward 1 site located at 2105 and 2107 10th Street, NW, and 933 V Street, N.W. and the Ward 4 site located at 5505 Fifth Street, NW, either through a negotiated purchase or eminent domain. The bill also included a requirement that DGS issue a request for proposals (RFP) for construction of each facility. Prior to final reading, the Executive asked that the Council include a provision that would allow the District to enter into a sole source contract with the owner of Ward 1 and Ward 4 sites, respectively, for the construction of each facility as a term of a purchase contract. Chairman Mendelson moved an amendment to allow for such sole source contracts in order to allow the Executive sufficient flexibility to potentially facilitate site acquisition. However, if the Executive is unable to come to terms with each property owner for site acquisition, DGS must issue an RFP for construction of each facility.

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<sup>4</sup> See Letter from Mayor Muriel Bowser to Councilmember Charles Allen, May 27, 2016.

During discussions about moving forward with building shelter facilities on District-owned land, the Executive requested that DGS be allotted additional staff to facilitate the management of each project. The Council agreed to add four additional staff positions to DGS for this purpose. That change was made in Bill 21-668, the *Fiscal Year 2017 Local Budget Act of 2016*, which was approved unanimously by the Council on final reading on May 31, 2016.

### Timeline

Following the Council's adoption of Bill 21-620, the Executive issued an amended timeline for construction and completion of each project, which purports to demonstrate that each of the shelter projects revised by the Council will be completed at a later date than originally anticipated. This amended timeline is unlikely to be achieved and gives the wrong impression.

First, it is unlikely that the original timeline could have been achieved, especially with strong opposition to the zoning applications in Wards 3, 5, and 6 likely to delay projects from moving forward. This opposition and any attendant delays were not calculated in the Executive's original timeline. The Committee believes that the move to publicly owned land strengthens the District's position in seeking zoning relief to the extent that public purpose is a mitigating factor. Public shelters to house homeless families is a public benefit. This benefit is enhanced if there is no private profit associated with it. Therefore, the Committee is confident that its changes will actually allow the Executive to move more rapidly to completion of each project.

Moreover, because DGS has been unreliable in its assessments throughout the Council's consideration of the Mayor's proposed plan, it is difficult to rely on the agency's amended timeline. The delays that DGS claims will result from the Council's changes lack credibility. For instance, the Council's changes to the Ward 1 site require no changes related to zoning or site design. Yet, the amended timeline indicates that the start of construction will be delayed by approximately nine months. Although the Executive will negotiate for acquisition of the site, those negotiations should not add nine months to the construction process. It is the Committee's understanding that these negotiations are currently underway. Furthermore, should negotiations fail, the Executive has the ability to "quick take" the property through eminent domain, assuring that the process of site acquisition should not add nearly a year to the process. Similarly, in Ward 4, the original DGS timeline indicates that construction would have begun in November of 2016. However, the project still awaits zoning approval, and any final contract between the District and developer, even under the terms of Bill 21-620 as introduced, would require final negotiation and council approval, along with final site design. It is rather unlikely that construction under that scenario would have begun in November of this year.

Nonetheless, as demonstrated by the changes detailed in this report, among others, the Council has worked collaboratively with the Executive to achieve the shared goal of closing DC General as quickly as possible, while maintaining good stewardship of the District's resources. The Council expects that the Executive will, in the spirit of collaboration and with an eye toward the critical needs of those families residing at DC General, proceed with all due haste to construct these new family shelters and close DC General once and for all.

**AN AMENDMENT**  
**Bill 21-620, "Homeless Shelter Replacement Act of 2016"**  
**(Engrossed Version)**  
**May 31, 2016**

**Amendment #1**

Section 3(a) is amended as follows:

1. At line 81, by striking the phrase "38" and inserting the phrase "up to 50" in its place;
2. At lines 96 through 102, Paragraph 4 is amended to read as follows:

"(4) The Mayor is authorized to use funds appropriated for capital project "HSW05C – Ward 5 Homeless Shelter," to construct a facility to provide temporary shelter for families experiencing homelessness containing up to 50 DC General Family Shelter units on District-owned land at 1700 Rhode Island Avenue, N.E., Square 4134, Lot 800; provided, that the contract for the construction of the facility shall be awarded pursuant to a request for proposals to be issued by the Department of General Services."

3. At line 106, by striking the phrase "2<sup>nd</sup> and K Street, N.W., Square 560, Lots 830, 834, and 7000;" and inserting the phrase "850 Delaware Avenue, S.W., Square 590E, Lot 800;" in its place.

***Rationale:***

The purpose of this amendment is to specify that the Ward 3 and Ward 5 shelter sites may be built to accommodate up to 50 DC General replacement units. This amendment ensures that if available land area and site design at the Ward 5 site requires fewer units than originally anticipated, the District will be able to add additional units at the Ward 3 site to ensure that sufficient units are available to allow for the permanent closure of the DC General Family Shelter.

In addition, this amendment eliminates, at the request of the Mayor and the Ward 5 Councilmember, one alternative site for a possible Ward 5 family shelter, and specifies that 1700 Rhode Island Avenue shall serve as the Ward 5 location for DC General replacement units.

Finally, this amendment changes the Ward 6 family shelter location. Pursuant to an agreement between the Executive and the Ward 6 Councilmember, the shelter will be located in Southwest Washington at a District-owned site near the Mayor's originally proposed site and will include a healthcare center.

**AN AMENDMENT**  
**Bill 21-620, "Homeless Shelter Replacement Act of 2016"**  
***(Engrossed Version)***  
**May 31, 2016**

**Amendment #2**

1. Section 3(a) is amended as follows:

- (a) At line 67, by striking the phrase "XXXX-Ward 1 Homeless Shelter" and inserting the phrase "HSW01C – Ward 1 Shelter" in its place;
- (b) At line 80, by striking the phrase "XXXX-Ward 3 Homeless Shelter" and inserting the phrase "HSW03C – Ward 3 Shelter" in its place;
- (c) At line 86, by striking the phrase "XXXX-Ward 4 Homeless Shelter" and inserting the phrase "HSW04C – Ward 4 Shelter" in its place;
- (d) At line 104, by striking the phrase "XXXX-Ward 6 Homeless Shelter" and inserting the phrase "HSW06C – Ward 6 Shelter" in its place;
- (e) At line 113, by striking the phrase "XXXX-Ward 7 Homeless Shelter" and inserting the phrase "HSW07C – Ward 7 Shelter" in its place;
- (f) At line 119, by striking the phrase "XXXX-Ward 8 Homeless Shelter" and inserting the phrase "HSW08C – Ward 8 Shelter" in its place;

2. At lines 126 through 132, Section 3(c) is amended to read as follows:

“(c) The Mayor is authorized to use funds appropriated for capital project “THK16C – Temporary and Permanent Supportive Housing Pool Project” for any acquisition or construction authorized by subsection (a), the cost of which exceeds the amounts appropriated for capital projects “HSW01C – Ward 1 Shelter,” “HSW03C – Ward 3 Shelter,” “HSW04C – Ward 4 Shelter,” “HSW05C – Ward 5 Shelter,” “HSW06C – Ward 6 Shelter,” “HSW07C – Ward 7 Shelter,” or “HSW08C – Ward 8 Shelter.” There is authorized to be appropriated sums of money not exceeding \$25 million for the purposes of this subsection.”

3. At lines 137 through 141, Section 3(e) is amended to read as follows:

“(e) Any use of funds appropriated for capital projects “HSW01C – Ward 1 Shelter,” “HSW03C – Ward 3 Shelter,” “HSW04C – Ward 4 Shelter,” “HSW05C – Ward 5 Shelter,” “HSW06C – Ward 6 Shelter,” “HSW07C – Ward 7 Shelter,” “HSW08C – Ward 8 Shelter,” or

“THK16C – Temporary and Permanent Supportive Housing Pool Project” inconsistent with this Act is prohibited.

***Rationale:***

The purpose of this amendment is to replace placeholder project names included in the Draft Committee Print of Bill 21-620 with official project names included in the District’s capital budget system.

**AN AMENDMENT**  
**Bill 21-620, "Homeless Shelter Replacement Act of 2016"**  
**(Engrossed Version)**  
**May 31, 2016**

**Amendment #3**

Section 3(a) is amended as follows:

1. Subparagraph (1)(B) is amended by striking the phrase "provided, that the contract for the construction of the facility shall be awarded pursuant to a request for proposals to be issued by the Department of General Services;" and inserting the phrase "provided, that, notwithstanding the requirements of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371, D.C. Official Code § 2-351.01 *et seq.*), the District may contract with the current property owner for the construction of the facility specified in this subparagraph as part of an agreement to acquire the land; further provided, that if no agreement can be reached with the current property owner for the construction of the facility specified in this paragraph, the contract for the construction of the facility shall be awarded pursuant to a request for proposals to be issued by the Department of General Services;"
2. Subparagraph (3)(B) is amended by striking the phrase "provided, that the contract for the construction of the facility shall be awarded pursuant to a request for proposals to be issued by the Department of General Services;" and inserting the phrase "provided, that, notwithstanding the requirements of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371, D.C. Official Code § 2-351.01 *et seq.*), the District may contract with the current property owner for the construction of the facility specified in this subparagraph as part of an agreement to acquire the land; further provided, that if no agreement can be reached with the current property owner for the construction of the facility specified in this paragraph, the contract for the construction of the facility shall be awarded pursuant to a request for proposals to be issued by the Department of General Services;"

***Rationale:***

The purpose of this amendment is to allow the Mayor flexibility in negotiating terms for acquisition of the Ward 1 and Ward 4 shelter sites by allowing the Mayor to enter into a sole source contract with the property owner for the construction of the shelter facility. In requesting this amendment, the Executive argues that the flexibility may facilitate site acquisition (in lieu of eminent domain) and save costs on site development. The amendment also provides that if the Mayor cannot come to terms for construction of the facility with the current property owner, the Department of General Services must issue an RFP for such services.



May 26, 2016

The Honorable Phil Mendelson  
Chairman  
Council of the District of Columbia  
John A. Wilson Building  
1350 Pennsylvania Avenue NW, Suite 504  
Washington DC 20004

Dear Chairman Mendelson:

DC Public Library was recently made aware of the Council's interest in using the Penn Center on 3<sup>rd</sup> and R Street, NE for short-term family housing in Ward 5.

We understand that while the Council was aware that Penn Center was being considered as the possible long-term home of the DC Archives, the Council was not aware that DC Public Library and the Department of General Services had earlier this year agreed to retrofit 42,000 square feet of Penn Center for Martin Luther King Jr. Memorial Library modernization swing space.

The MLK Library modernization, one of the largest and most dynamic capital projects in the history of the City, has been in development for several years. In order to begin construction on schedule in spring 2017, the existing staff and services of the MLK Library must be relocated to a variety of swing spaces by March 2017.

We are concerned that the MLK Library project would suffer from a significant delay if the Penn Center facility were to be simultaneously renovated as library swing space and short-term housing. In a best-case scenario, both the library function and the short-term housing would need to share a common infrastructure. We are highly doubtful that the space will be ready for library occupancy by next March.

Delays to the MLK Library modernization will be incredibly costly and delays related to the construction of the Penn Center location will have a ripple effect on the other interim spaces needed for the modernization. Beyond the escalation and general conditions costs that the Library would need to absorb, there would be additional risk involved in DCPL assuming a March 1<sup>st</sup> lease for an additional interim space downtown where the Library plans to house its administrative functions and a small interim branch. The Library must vacate the downtown space by mid-2020. If we are assured of a construction delay, we must consider abandoning the downtown property, incur costly penalties, and then reissue an RFP for downtown space at a later time.



The MLK Library modernization is an extremely complicated project with many moving parts. Our plan is to deliver to the public by mid-2020 an inspirational destination for learning, culture, and personal development the likes of which have never existed in the District. Changes to the construction schedule will necessitate reducing the project budget by eliminating programs and elements of the building that directly support services to District residents.

Respectfully,

Gregory M. McCarthy  
President, Board of Library Trustees

Richard Reyes-Gavilan  
Executive Director

cc: Members, City Council District of Columbia  
Members, Board of Library Trustees  
Jennifer Niles, Deputy Mayor for Education



**MURIEL BOWSER**  
**MAYOR**

May 27, 2016

Honorable Chairman Phil Mendelson  
Council of the District of Columbia  
1350 Pennsylvania Avenue, N.W.  
Suite 504  
Washington, DC 20004

Chairman Mendelson:

I am writing to thank you and the members of the Council for your consideration of our plan to close DC General. I recognize your preliminary vote and capital budget shifts to accommodate purchasing property in Wards 1 and 4; moving to District owned sites in Wards 3, 5, and 6; and the attendant changes to the delivery timelines associated with these modifications.

We will work diligently to execute the Council's plan, but our initial review of your plan presents some challenges, which are outlined below. We must make you aware of these challenges and request some changes if we are able to execute the closure of DC General in a delayed but reasonable timeframe.

**Since the first vote on your plan on May 17, we have:**

- Discussed our concerns with several councilmembers, but specifically the Chairman and Members of the Council who selected new sites in Wards 3, 5 and 6;
- Offered our assistance to the Chairman and the Councilmembers who have selected new sites in Wards 3, 5, and 6 in presenting the new sites to the affected communities prior to the final Council vote on May 31<sup>st</sup>. Councilmembers in Wards 3 and 5 will host community meetings this week to discuss their proposed new sites and invited the Executive Agencies to attend;
- Begun preliminary discussions with the owners of the Wards 1 and 4 sites and continue to evaluate the best ways to execute acquisition and construction of those sites;
- Secured architects to conduct "test fits" on new sites in Wards 3, 5, and 6 (850 Delaware Ave, SW). In presentations to the community in February, we included a site analysis and conceptual

drawings to ensure that the site could accommodate the number of units and amenities that we need to serve our families well. These “test fits” can take weeks to develop. We have asked for the architects to rush to ensure that we have some sense of the fitness of these sites prior to the Council vote on May 31<sup>st</sup>. We caution that this analysis is preliminary and will require additional vetting;

- Had detailed conversations with the Ward 6 Councilmember preceding the Council’s preliminary vote and since then on an alternative Ward 6 site that meets the Council’s priorities: government-owned land and more favorable zoning conditions. We recommended 850 Delaware Avenue SW where our preliminary analysis suggests we could construct 50 units of short-term family housing and a community health clinic as the site is currently occupied by Unity Health; and
- Prepared for our June 28<sup>th</sup> zoning hearing. We are prepared to withdraw the deselected sites with the Council’s final action on Bill 21-620. We may also need to withdraw the sites in Ward 1 and Ward 4 until we secure control of the sites. The Ward 7 and 8 submissions will be heard at the June 28<sup>th</sup> hearing. We will work diligently to prepare new packages and secure a new zoning hearing date for the balance of the sites. The Council’s endorsement of expedited zoning hearings and consideration of the balance of the sites as whole would help mitigate further delay.

The plan that you put forth presents several challenges:

- **Number of units:** We request that the legislation specify only that each site can be no more than 50 units. By specifying the number of units per site as you did in your preliminary vote, you will limit our flexibility to construct the appropriate number of units. Since new properties have been put forward in Wards 3, 5, and 6, we assert that it is impossible, within this time frame, to accurately identify the number of units each site can accommodate.
- **Parking (Ward 3):** The cost of replacement parking has not been delineated. We request that your capital budget changes reflect the need for replacement parking or indicate your preference to forego replacing the parking.
- **Constrained site (Ward 5):** 1700 Rhode Island Avenue NE is smaller than the original site proposed. Based on our cursory review the site is deemed a historic eligible site, which means the site cannot be taken down. Our initial analysis projects that it will deliver below the desired 50 units. We recognize that this is the Ward 5 Councilmember’s favored site and to accommodate that preference we need greater flexibility in the remaining wards.
- **Designated use (Ward 5):** 326 R Street NE – the Penn Center – has been designated as storage space for the Martin Luther King Library beginning in 2017. Utilizing this site for Short Term Family Housing could delay the Library project. The intended use by the Library is the ideal utilization for this warehouse space.
- **Federal approval and construction feasibility (Ward 6):** We are concerned that the Council’s selected site at 200 K Street NW presents considerable approval concerns. The need to gain

approvals from the federal government and the owner of the parking structure on the site makes it impossible to predict if approvals can be achieved with the urgency necessary to close DC General and be on the same timeline as the other ward locations. There is currently an engineering analysis being performed which will determine the feasibility of construction, capacity and costs. We request that the Council designate 850 Delaware Avenue SW as your alternate site instead. It is government-owned, and we would be able to co-locate the short-term family housing units with a new community health clinic.

- **Capital Budget:** As the analysis that the Council commissioned regarding the costs of the short-term family housing program suggests, without detailed construction drawings and/ or building specifications, cost estimates are somewhat speculative. We will continue to work with Council on this appropriate budget as the costs are refined.
- **Project management:** Under the Council's plan, the procurement and construction management of these new sites now falls to DGS. We will need personnel dedicated to the delivery of these units.

In conclusion, we look forward to working with you to make this a plan that works for the Council. The families who need us most deserve nothing less than a plan that allows my Administration to execute the closure of DC General as quickly as possible and deliver safe and dignified short term family housing.

Sincerely,



Muriel Bowser  
Mayor

cc: Councilmember Brianne Nadeau  
Councilmember Jack Evans  
Councilmember Mary M. Cheh  
Councilmember Brandon T. Todd  
Councilmember Kenyan McDuffie  
Councilmember Charles Allen  
Councilmember Yvette Alexander  
Councilmember LaRuby May  
Councilmember Vincent Orange  
Councilmember Anita Bonds  
Councilmember David Grosso  
Councilmember Elissa Silverman



**MURIEL BOWSER**  
**MAYOR**

May 27, 2016

Councilmember Charles Allen  
Council of the District of Columbia  
1350 Pennsylvania Avenue, N.W.  
Suite 406  
Washington, DC 20004

Dear Councilmember Allen:

I am writing as a follow up to our conversation and your request for information regarding the suitability of 850 Delaware Ave, SW (the "Site") as the site for the Ward 6 short term family housing facility. As you will recall, at our first community meeting, neighbors pointed out the Site as an alternative for the plan. Our preliminary analysis suggests that this location can accommodate up to 50 units and a new and improved community medical clinic without the use of any federal property. Additionally, we have hired an Architect to conduct a "test fit" on the Site which will validate our cursory analysis. We have asked the Architect to expedite the review of the Site so that Council will have a preliminary sense of site suitability prior to its May 31 vote.

Another one of your concerns regarding suitability of the Site was the ability to commit to a Build First model regarding the redevelopment of Greenleaf Public Housing Community ("Greenleaf"). While the redevelopment of Greenleaf is a District of Columbia Housing Authority ("DCHA") initiative, I have met with Executive Director Adrienne Todman and with the assistance of my Administration, DCHA has identified other viable Build First alternatives within the immediate neighborhood other than the Site. My Administration is committed to working with DCHA to find a suitable alternative that maintains the commitment to Build First.

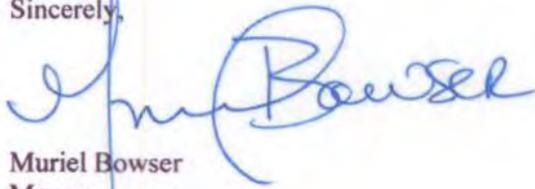
We believe this site meets the Council's priorities of locating facilities on government-owned land with more favorable zoning conditions and eliminates the concerns we shared with you regarding the federal government's and Bush Companies' approvals and construction feasibility of the 200 K St NW site.

Hopefully, this fully addresses any remaining concerns you may have about moving forward with the Site as the location for the Ward 6 short term family housing facility.



We look forward to continuing to work with you on our mutually shared goal of closing DC General as quickly as possible and acting in the best interest of the families who need us most.

Sincerely,

A handwritten signature in blue ink, appearing to read "Muriel Bowser". The signature is fluid and cursive, with the first name "Muriel" written in a smaller, more compact script and the last name "Bowser" in a larger, more prominent script. The signature is positioned to the right of the word "Sincerely,".

Muriel Bowser  
Mayor

cc: Honorable Chairman Phil Mendelson