



COUNCIL OF THE DISTRICT OF COLUMBIA
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004

Phil Mendelson
Chairman

Office:(202) 724-8032
Fax: (202) 724-8085

December 2, 2013

**STATEMENT OF PHIL MENDELSON
BEFORE THE HOUSE COMMITTEE ON OVERSIGHT & GOVERNMENT
REFORM
“CHANGES TO THE HEIGHT ACT:
SHAPING WASHINGTON, D.C. FOR THE FUTURE, PART II”**

I appreciate this opportunity to submit comments for the record. I am Phil Mendelson, Chairman of the Council of the District of Columbia. Although I was first elected Chairman last year, I have served as an At-Large (citywide) member of the Council since 1998, having been elected or re-elected five times.

Citizens of the District do not support any change to the federal Height of Buildings Act of 1910.¹ During the spring and summer, the Office of Planning (OP) and the National Capital Planning Commission (NCPC) held eight joint public meetings throughout the city to discuss the issue. On October 28, 2013, I chaired a Council hearing on the Office of Planning’s then-draft recommendations. In November, the NCPC provided two opportunities for public comment. At every meeting and hearing the comments and testimony were opposed overwhelmingly to what has now been submitted to you, by letter dated November 20th, as the *Height Master Plan for the District of Columbia: Final Evaluation & Recommendations*. At the Council’s hearing, 33 of 35 witnesses were opposed; before NCPC on November 19th, only one of the 30-plus witnesses spoke in support. At a recent community meeting in Ward 7 (East of the Anacostia River), only 3 of approximately 60 attendees indicated support for changing the Height Act. There were no supporters at a similar meeting last week in Ward 5 (Northeast DC). Twelve of the 13 councilmembers have co-introduced a sense of the Council resolution entitled “Sense of the Council Against Amending the 1910 Height Act Resolution of 2013.”

The clear and deeply felt support for preserving the Height of Buildings Act is due in part to the complete lack of specificity as to where heights would be raised or by how much. OP would amend or repeal provisions of the Height Act now, to permit changes in heights (without any limit, outside the L’Enfant City) after planning that has yet to be done. On the other hand, NCPC’s recommendation #2 argues that if there is to be a change in the Height Act, it should occur only after the planning has been done. This is consistent with the Councilmembers’ Sense of the Council resolution:

¹Although I say “any” change, the focus is on whether the height limits should change, not on whether the use of roof structures such as penthouses shall continue to be limited to purely mechanical purposes. Generally, citizens and councilmembers have raised little if any concern about the use of roof structures.

Someday there may be need to revise the Height Act, but such legislative action should wait, be carefully limited to need demonstrated by thorough analysis, be informed by a clear understanding of the impact on the District's unique urban design, and follow (not precede) prescriptions of a new, well-vetted Comprehensive Plan. (Sec. 3(2))

Residents across the city are afraid that if the Height Act is changed now, the city's unique skyline and human scale will be irretrievably lost. As Tersh Boasberg² testified before the Council:

...the financial rewards and political pressures to build ever higher buildings are intense. No big city municipal government in this country has been able to resist the allure of easy real estate money. As proof positive: none has a skyline as low as Washington's. Our horizontality will not survive...the power and prestige of commercial enterprise. [internal quotation marks omitted]

At the November 19th NCPC meeting, the Mayor's representatives responded to this point: saying this is an opportunity to claw back our autonomy, but instead, we don't trust ourselves. This "Home Rule" argument is troubling, because all elected officials support greater self-governance. But for over a year the Office of Planning emphasized that amending the Height Act is about development, not Home Rule.³ Citizens throughout the city don't want the Height Act changed, and many feel that the District's unique limitation on heights is sacrosanct. Other Home Rule issues – such as voting representation in both house of Congress, budget autonomy, and Statehood – are exponentially more important than a right to change heights – a right that citizens don't want and that that the Office of Planning now claims it may not want to exercise.

In the 1960s and 1970s, as the District's population declined from a high of 802,178 in the 1950 census, urban planners thought the 1910 Height Act deterred development and encouraged population flight to the suburbs. This gave rise to arguments for repeal of the Height Act. However, the District's experience over the past decade demonstrates that factors other than the Height Act influence economic development and population growth. The city's population has grown significantly, and development is far outpacing virtually all other U.S. cities. It is clear that the Height Act is not a factor in deterring development.

Cont'd...

²Mr. Boasberg is a retired attorney who specialized in historic preservation and land use planning. He is a former Chairman and member of the DC Zoning Commission (1989-2001), a former Chairman of the DC Historic Preservation Review Board (2000-2011), and a former president of the Alliance to Preserve the Civil War Defenses of Washington.

³OP has suggested a variety of arguments, development-related, in favor of amending the Height Act: e.g., raising heights would create affordable housing, expand the tax base, permit greater architectural flexibility, or enable the city to grow. Most recently, the Office of Planning has argued that amending the Height Act is about local control, or "Home Rule," and that the OP is not interested in raising heights at this time. Ironically, this undermines the development-related arguments.

Moreover, without any change to the Height Act there is today, in the District of Columbia, between 103 and 360 million square feet of development capacity that is currently unbuilt.⁴ If there is constraint on the District's ability to grow in the foreseeable future, it is the market.

The fundamental issue is this: the Height of Buildings Act, together with the L'Enfant Plan and the McMillan Commission Plan, has made Washington, D.C. unique and a world-class city, with both a magnificence and a human scale. It is a scale that respects and not overwhelms our local and national landmarks. One can stand near the intersection of Georgia and Kansas Avenues, NW and see the Washington National Cathedral to the west, dominating the skyline; or stand at 13th and Clifton Streets, NW and see the United States Capitol dominating the skyline; or stand on the front porch of the Frederick Douglass house in Anacostia and see an array of landmarks dominating the skyline. This uniqueness, this scale, may be a federal interest. It is also a local interest – as repeatedly stated by citizens over and over this fall. These vistas as made possible by the Height Act; they make our city both beautiful and unique.

Some argue that the “federal interest” in the city's urban design is different than the city's. I disagree. While the citizens of the District care about their city because they live here, they are also proud that it is the nation's capital. While the District's citizens are frustrated with their inequality vis a vis other United States citizens, they are proud of its urban design. The features that make this a capital city are features we want to protect. That is why we ask that the Height of Buildings Act of 1910 be left alone.

⁴*Height Master Plan for the District of Columbia: Final Evaluation & Recommendations*; D.C. Office of Planning, November 20, 2013; page 34 Some argue that OP's assumptions are overly conservative.