

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of General Services**



Public Hearing on
Bill 23-399, the "O Street Wall Protection Act of 2019"

Testimony of
Keith Anderson
Director

Before the

Committee of the Whole
The Honorable Phil Mendelson, Chairman
Council of the District of Columbia

Thursday, January 23, 2020
11:30 am
Room 120

John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Good afternoon, Chairman Mendelson, councilmembers, and staff of the Committee of the Whole. I am Keith Anderson, Director of the Department of General Services (DGS). I am here today to present testimony regarding Bill 23-399, the “O Street Wall Protection Act of 2019.”

Bill 23-399 references a retaining wall, commonly called the “O Street Wall,” which is located between the 3200-3300 block of Highwood Drive, SE, and the 3200 block of O Street, SE, in Square S-5542, SE. The wall is visible from O Street SE and cuts through the Square, separating the lots facing Highwood Drive, SE, from those facing O Street SE. The Executive understands that protecting the integrity of the O Street Wall is of great concern to the residents living in Square S-5542, SE. This is especially true of residents in houses facing Highwood Drive, SE, who depend on the wall to support the foundation of their homes. The Executive supports the intent of Bill 23-399 to protect the integrity of the O Street Wall and looks forward to discussing the specifics of the legislation today.

Section 3(a) of the bill would require the Mayor to prohibit activities, including landfill treatments, water diversions, and construction, which may compromise the retaining wall, or contribute to soil erosion or sedimentation problems in the square. Section 3(b) of the bill would require the Mayor to acquire, by purchase or condemnation, the remaining unimproved lots adjacent to O Street, SE. In total, Square S-5542, SE is comprised of 45 lots, 11 of which are unimproved lots adjacent O Street, SE, between Branch Avenue, SE, and Carpenter Street, SE. Of these 11 unimproved lots, the District currently has four in its property portfolio, meaning that the bill would require the acquisition of seven unimproved lots.

With regard to Section 3(a), I can confirm that there are currently no plans to develop or dispose of the four lots currently in the DGS portfolio. While DGS cannot speak regarding the plans that private owners may have for the remaining lots, any work on those lots would have to be permitted by the Department of Consumer and Regulatory Affairs (DCRA). We have confirmed with DCRA that they are aware of the concerns regarding the O Street Wall and that their permit review process for Square S-5542, SE, includes consideration of the potential impact that any proposed construction work may have on the wall. Given this, we do not anticipate that Section 3(a) would cause any operational or legal difficulties for District agencies.

With regard to Section 3(b), the Executive has concerns related to the use of the word “shall” in line 42 of the introduced measure. Subchapter II of Chapter 13 of Title 16 of the District of Columbia Official Code reserves for the Mayor the authority to condemn property through the use of eminent domain. As currently drafted, Bill 23-399 would require the Mayor to exercise this eminent domain authority. This is a divergence from precedent, which has been to authorize the Mayor to exercise eminent domain authority in accordance with DC Code, as opposed to compelling her to do so. The Executive recommends amending the legislation to authorize the Mayor to exercise her eminent domain authority to acquire the remaining unimproved lots adjacent to O Street, SE. We look forward to working with the Council to resolve this concern as the bill moves through the legislative process.

Thank you for the opportunity to discuss this measure. I am happy to answer any questions at this time.