



EMPOWER DC

1419 V St, NW
Washington, DC 20009
(202) 234-9119
www.empowerdc.org @EmpowerDC

March 15, 2021

Daniel W Lucas, DC Inspector General
Rochelle Ford, Director, Office of Governmental Ethics
Kathy Patterson, DC Auditor
Karl Racine, DC Attorney General

Dear Officials,

The DC Grassroots Planning Coalition requests that you examine, and render an opinion on, the conduct of Zoning Commission Chair Anthony Hood in sending the attached August 5, 2020, letter to Council Chair Phil Mendelson. We believe that his communication crosses ethical boundaries and violates DC law and regulations.

Zoning Commission Chair Hood's letter goes beyond making a disinterested request for information about the Council's schedule for "publication, hearings and consideration" of the Mayor's Comprehensive Plan amendment legislation (Bill 23-736). In tones of notable familiarity, the letter urges rapid passage of the heavily amended Plan to enable the Zoning Commission to advance "a backlog of cases that are in limbo". In a final exhortation, Chair Hood reminds the Council Chair that "updates to the Comprehensive Plan, including Land Use map and policy amendments are needed to counteract adverse decisions by the DC Court of Appeals in zoning cases"

In essence, the letter lobbies the Council Chair to disregard the Council's lawful obligation to hold public hearings on legislation and give authentic consideration to amendments proposed by individuals, organizations, and Council members. Rather, its author encourages the Chair to adopt the Mayor's changes wholesale, with emphasis on changes to the parts of the plan that carry greatest legal weight. This attempt to circumscribe the legislature's role in determining the final form of legislation, and the process by which the bill is handled, seems to us to violate the Home Rule Act.

Further, reading between the lines, we discern that Chair Hood is declining to consider cases the outcome of which will be affected by profound changes the executive branch seeks to make to the Comprehensive Plan through the bill. This not only deprives the applicant and the public of due process, it suggests prejudicial treatment and further undermines public confidence in the fairness and adjudicatory ability of the Zoning Commission. Hood reveals in the letter that the Zoning Commission is delaying cases because it knows it can approve them only after

changes to the Comp Plan and this admission exposes its bias to pre-determine outcomes before a public process has occurred. This is unlawful and unethical.

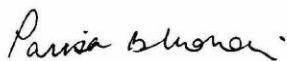
Moreover, the “limbo” in which cases find themselves because of a deliberate lack of action by Chair Hood and the Commission is artificial, inasmuch as a Comprehensive Plan exists that is in force until such time as another version passes into law.

Finally, with regard to the “adverse decisions by the DC Court of Appeals in zoning cases” that Chair Hood refers to, one must ask, adverse to whom? Adverse to the Zoning Commission, to be sure, as the Court decisions pointed out that the Commission had not done its job. And adverse to applicants who sought to run roughshod over community interests and the law.

Having recently suffered through four years of national government during which there was a concerted effort by the executive to close daylight between its branches, we are especially sensitive to the fact that Chair Hood urges the Chair of the legislature to collaborate with the executive branch in order to circumvent findings of the judiciary, thereby collapsing the separation of powers that is vital to democracy.

The transgressions in this letter make a mockery of the independence of the Zoning Commission – from the mayor and her agencies, from the Council, and from the developer class. Residents of the District of Columbia urge you to condemn and rein in such overreach.

Sincerely,



Parisa B. Norouzi
Executive Director, Empower DC
DC Grassroots Planning Coalition

CC:

Mayor Muriel Bowser
DC Councilmembers

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



August 5, 2020

Via E-Mail

Chairman Phil Mendelson
Council of the District of Columbia

Re: Comprehensive Plan

Dear Chairman Mendelson:

I want to thank you and your fellow Councilmembers for all of the hard work you do and the support you have given the Zoning Commission and the Office of Zoning over the years. I want to especially thank you for your continued community engagement during the Covid-19 pandemic.

On behalf of the Zoning Commission for the District of Columbia, I am writing to inquire as to when the pending Comprehensive Plan amendment legislation (Bill 23-736) is anticipated to be scheduled for publication hearings and consideration by the Council. I am sure you are aware that there is a backlog of zoning cases that are in limbo until the Comp Plan is approved. In particular, several updates to the Comp Plan, including proposed Land Use map and policy amendments, are needed to counteract adverse decisions by the D.C. Court of Appeals in zoning cases which support small area plans, land use dispositions, or other policies previously approved by the Council. Therefore, it is imperative that the new Comp Plan is finalized for use in making our decisions.

I know a lot of diligent efforts have been put into the Comp Plan by the Council, the Office of Planning, and the public, so I am not trying to rush your process, but the delay is having a negative effect on our process. It would be greatly appreciated if you could advise the Zoning Commission on the status of the Comp Plan at your earliest convenience. If you have any questions, or I can be of further assistance, please do not hesitate to contact me.

Sincerely,



Anthony J. Hood
Chairman

cc: All Councilmembers