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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**

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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 City¹. 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 House². 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/Carrollsborg 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.

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Marcel Acosta is the Executive Director for the National Capital Planning Commission, the federal government's central planning agency for the District of Columbia and the surrounding region. Mr. Acosta is a leader in the planning profession with more than 25 years of experience in urban and transportation planning. He provides the 12-member Commission with policy recommendations affecting the planning and development interests of the federal government in the National Capital Region and guides the work of more than 40 planning professionals.

Mr. Acosta joined NCPC in 2001 as the Deputy Executive Director and was named Executive Director in 2008. During his tenure at NCPC, he has guided the first update in 20 years to the *Comprehensive Plan for the National Capital: Federal Elements*; provided oversight to the review of numerous federal and local design projects; and shepherded the agency's special planning initiatives including CapitalSpace and NCPC's groundbreaking and award-winning *National Capital Urban Design and Security Plan* and *Monumental Core Framework Plan*.

His technical expertise covers many urban planning disciplines including strategic planning, central area planning, economic development, physical planning, and research. His professional endeavors have garnered him numerous awards including Outstanding Planning Awards from the American Planning Association and Citations for Excellence in Urban Design from the American Institute of Architects.

In 2010, Mr. Acosta was appointed as a principal member to the Washington Metropolitan Area Transit Authority Board of Directors, representing the federal government. He currently chairs the WMATA Board's Finance and Administration committee.

Prior to joining NCPC, Mr. Acosta served the city of Chicago as the Senior Vice President of Planning and Development for the Chicago Transit Authority—the nation's second largest transit operator. As CTA's chief planner, he developed new capital programs and oversaw successful initiatives that increased ridership and reduced operating costs for the city's bus and rail systems. Previously he held the position of Deputy Commissioner for the Chicago Department of Planning and Development, overseeing downtown planning, policy research and citywide physical planning. Mr. Acosta received a Loeb Fellowship from Harvard University's Graduate School of Design in 2001 and holds a Masters of Urban and Regional Planning from the University of Wisconsin-Madison.