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

Dear Chairman Mendelson:

Enclosed for consideration and approval by the Council of the District of Columbia is a proposed resolution entitled the “Green Building Act Compliance Provisions Amendment Approval Resolution of 2013.”

The proposed resolution would approve emergency and proposed rules that were issued on July 1, 2013, and that amend provisions of the Green Building Act dealing with applicability of the law to construction projects, the process for submitting a financial security for certain projects, drawdowns of the financial security, and verification of compliance with the Green Building Act.

If you have any questions on this matter, please contact Nicholas Majett, Director, Department of Consumer and Regulatory Affairs, at (202) 442-8935.

Sincerely,

Vincent C. Gray
Chairman Phil Mendelson, at the request of the Mayor, introduced the following resolution, which was referred to the Committee on ____________________________.

To approve the proposed rules to amend Chapter 2A and Chapter 13A of Subtitle A of Title 12 of the District of Columbia Municipal Regulations.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Green Building Act Compliance Provisions Amendment Approval Resolution of 2013.”

Sec. 2. Pursuant to Section 10 of the Construction Codes Approval and Amendments Act of 1986, effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code § 6-1409), the Council approves the amendments to Chapter 2A and Chapter 13 of Title 12 of the District of Columbia Municipal Regulations as proposed by the Chairperson of the Construction Codes Coordinating Board and the Director of the Department of Consumer and Regulatory Affairs, to amend compliance provisions for construction projects subject to the Green Building Act.

Sec. 3. The Council adopts the fiscal impact statement contained in the Committee Report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-
Sec. 4. The Secretary of the Council shall transmit a copy of this resolution, upon its adoption, to the Director of the Department of Consumer and Regulatory Affairs.

Sec. 5. This resolution shall take effect immediately.
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
CONSTRUCTION CODES COORDINATING BOARD

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING


This emergency rulemaking is necessitated by the immediate need to amend provisions of the Green Building Act dealing with applicability of the law to construction projects, the process for submitting a financial security for certain projects, drawdowns of the financial security, and verification of compliance with the Green Building Act.

To clearly show the changes being made to the Building Code Supplement, additions are shown in underlined text and deletions are shown in strikethrough text.

This emergency rulemaking was adopted on July 1, 2013, to become effective immediately. This emergency rulemaking will remain in effect for up to one hundred twenty (120) days from the date of effectiveness. The rules will expire on October 29, 2013.

The Chairperson and Director also hereby give notice of the intent to take final rulemaking action to adopt this amendment. Pursuant to Section 10(a) of the Act and Section 12(a) of the Green Building Act, the proposed amendment will be submitted to the Council of the District of Columbia for a forty-five (45) day period of review, and final rulemaking action will not be taken until the later of thirty (30) days after the date of publication of this notice in the D.C. Register or Council approval of the amendment.

Subtitle A (Building Code Supplement) of Title 12 (D.C. Construction Codes Supplement of 2008) of the District of Columbia Municipal Regulations is amended as follows:

Chapter 2A (Definitions) is amended as follows:

Insert the following new definitions in Section 202A of the Building Code to read as follows:

NEW CONSTRUCTION (For Chapter 13A). The construction of any building or structure whether as a stand-alone, or an addition to, a building or structure. The term "new construction" includes new buildings and additions or enlargements of existing buildings, exclusive of any
alterations or repairs to any existing portion of a building.

RESIDENTIAL OCCUPANCIES (For Chapter 13A). Residential Group R-2, R-3 or R-4 occupancies, and buildings regulated by the Residential Code.

SUBSTANTIAL IMPROVEMENT (For Chapter 13A). Any repair or alteration of, or addition to, a building or structure, the cost of which equals or exceeds 50 percent of the market value of the building or structure before the repair, alteration, or addition is started.

Amend the following definitions in Section 202A of the Building Code to read as follows:

FLOOR AREA, GROSS (For Chapter 13A). The definition of gross floor area set forth in DCMR Title 11 (Zoning Regulations). Section 199 (Definitions), shall have the same meaning as in the Zoning Regulations, 11 DCMR § 199, and as interpreted by the Zoning Administrator, is incorporated by this reference.

PROJECT (For Chapter 13A). Construction that is all or a single-or-multiple buildings that are part of one development scheme, built at one time or in phases.

Chapter 13A (Green Building Promotion) is amended to read as follows:

CHAPTER 13A GREEN BUILDING ACT REQUIREMENTS

Strike Chapter 13A of the International Building Code (2006) in its entirety and insert new Chapter 13A in the Building Code in its place to read as follows:

1301A General

1301A GENERAL

1301.1 Green Building Act of 2006 requirements. An applicant for permits subject to Section 1301.1.1 or Section 1301.1.2 shall comply with Sections 1301.1.3 through 1301.1.11 and the Green Building Act of 2006, effective March 8, 2007 (D.C. Law 16-234; D.C. Official Code §§ 6-1451.01 et seq. (2008 Repl. & 2012 Supp.)), as amended ("Green Building Act" or "GBA"). Other components of the Green Building Act are administered by other District of Columbia agencies. The applicant shall have the option of requesting a Green Building Act Preliminary Design Review Meeting ("GBA PDRM") with the Department, at the discretion of the applicant.

1301.1.1 Publicly-owned or publicly financed projects. This section shall apply to each project that is new construction or a substantial improvement where the scope of work at the project is equivalent to Level 3 alterations as defined in the Existing Building Code; and is either:

1. A District-owned or District instrumentality-owned project; or
2. A District financed or District instrumentality financed project, where the financing represents at least 15 percent of the project’s total cost.

1301.1.1.1 Energy Star Target Finder Tool. Each project of 10,000 square feet (929 m²) or more of gross floor area shall be designed and constructed to achieve a minimum score of 75 points on the Energy Star Target Finder Tool. The applicant shall provide plans and supporting documents in sufficient detail and clarity to enable the code official to verify compliance with this section.

Exceptions:

1. Building occupancies for which the Energy Star tool is not available.

2. Alterations.

1301.1.1.2 Non-residential projects. A project which does not contain residential occupancies Residential Group R occupancies that equal or exceed 50 percent of the gross floor area of the project, including allocable area of common space, shall be deemed a non-residential project and shall be designed and constructed so as to achieve no less than the applicable LEED standard listed in Section 1301.1.3, at the Silver level or higher. The applicant shall provide plans and supporting documents in sufficient detail and clarity to enable the code official to verify compliance with this section.

Exceptions:

1. Educational Group E (covered by Section 1301.1.1.3).

2. Space designed and occupied for residential occupancies Residential Group R occupancies in a non-residential project (covered by Section 1301.1.1.4),

3. Space designed and occupied for non-residential uses located in a residential Residential Group R occupancy project (covered by Section 1301.1.1.5).

4. Space designed and occupied for non-residential uses located in a District-owned or a District instrumentality-owned building (covered by either Section 1301.1.1.6 or Section 1301.1.1.7 as applicable).

1301.1.1.3 Educational Group E. A project of Educational Group E occupancy owned, operated or maintained by the D.C. Public Schools (DCPS), or a public charter school, shall be designed and constructed to meet the LEED standard for Schools, at the Gold level or higher. The applicant shall provide plans and supporting documents in sufficient detail and clarity to enable the code official to verify compliance with this section. This section shall apply only to the
following: (1) schools owned, operated or maintained by the District of Columbia Public Schools (DCPS); and (2) District of Columbia public charter schools.

Exceptions:

1. Where sufficient funding is not available to meet the applicable LEED standard for Schools at the Gold level, then the project shall meet the LEED standard for Schools at no less than the Certified Level of LEED standard for Schools. For the purpose of determining the applicability of this exception, "sufficient funding" shall mean the lack of committed public funds in an approved District budget to fund the LEED standard for Schools at the Gold level. Prior to submitting a permit application under this exception, the applicant shall obtain an exemption based on insufficient funding from DDOE pursuant to Section 1301.1.11.

2. Where a project for Educational Group E occupancy is located in only a portion of a building, then only that portion of the building that is the subject of the project shall comply with this Section 1301.1.1.3.

1301.1.1.4 Project containing Residential Group R occupancies. Where a project contains 10,000 square feet (929 m²) or more of gross floor area for residential occupancies Residential-Group R occupancies, including the allocable area of common space, then the residential occupancies of the project shall be designed and constructed to meet or exceed the Enterprise Green Communities standard, or a substantially equivalent standard as determined by the code official. The applicant shall provide plans and supporting documents in sufficient detail and clarity to enable the code official to verify compliance with this section. A self-certification checklist shall be submitted to the code official with the application for the certificate of occupancy of the residential component of the project. The residential component of the project shall not be required to meet a LEED standard.

1301.1.5 Interior construction of a mixed use space in a Residential Group R project. Where residential occupancies Residential-Group R occupancies exceed 50 percent of the gross floor area of the project, including allocable area of common space, and the project contains at least 50,000 contiguous square feet (4645 m²) of gross floor area, exclusive of common space of the non-residential occupancies, then the space designated for non-residential occupancies shall be designed and constructed to meet or exceed one or more of the applicable LEED standards listed in Section 1301.1.3 at the Certified Level. The applicant shall provide plans and supporting documents in sufficient detail and clarity to enable the code official to verify compliance with this section.

1301.1.6 Interior tenant fit-out alteration in a District-Owned or a District Instrumentality-Owned Project. Where a project in a District-owned or a District instrumentality-owned building involves the alteration of 30,000 square
feet \( (2787 \text{ m}^2) \) or more of \textit{gross floor area} for a single non-residential occupancy, exclusive of common space, for which space a certificate of occupancy for non-residential use has been or would be issued, and the scope of work is equivalent to Level 3 alterations as defined in the \textit{Existing Building Code}, then the portion of the project subject to alteration shall be designed and constructed to meet or exceed one or more of the LEED standards listed in Section 1301.1.3 at the Certified Level. The applicant shall provide plans and supporting documents in sufficient detail and clarity to enable the code official to verify compliance with this section.

1301.1.7 Interior tenant fit-out in new construction. Where a \textit{project} in a District-owned or a District-instrumentality-owned building involves the fit-out for tenant occupancy of shell space or spaces of 30,000 square feet \( (2787 \text{ m}^2) \) or more of \textit{gross floor area} for a single non-residential occupancy, exclusive of common space, for which space a certificate of occupancy would be issued, the portion of the project subject to tenant fit-out shall be designed and constructed to meet or exceed one or more of the applicable LEED standards listed in Section 1301.1.3 at the Certified Level. The applicant shall provide plans and supporting documents in sufficient detail and clarity to enable the code official to verify compliance with this section.

1301.1.2 Privately-owned projects. This section shall apply to a \textit{project} that is privately-owned and is either \textit{new construction} or \textit{substantial improvement}, an alteration where the scope of work is equivalent to Level 3 alterations as defined in the \textit{Existing Building Code}. This category includes a \textit{project} involving improved and unimproved real property acquired by sale from the District or a District instrumentality to a private entity, unimproved real property leased from the District or a District instrumentality to a private entity, and any \textit{project} where less than 15 percent of the project’s total project cost is District financed or District instrumentality financed.

1301.1.2.1 Energy Star Target Finder Tool. Each \textit{project} of 50,000 square feet \( (4645 \text{ m}^2) \) or more of \textit{gross floor area} shall estimate the project’s energy performance using the Energy Star Target Finder Tool and submit this data to the code official with the permit application.

Exception: Building occupancies for which the Energy Star tool is not available.

1301.1.2.2 Privately-owned non-residential projects. In addition to compliance with Section 1301.1.2.1, each non-residential \textit{project} of 50,000 square feet \( (4645 \text{ m}^2) \) or more of \textit{gross floor area} shall be designed and constructed to meet or exceed one or more of the LEED standards listed in Section 1301.1.3 at the Certified Level. A “non-residential \textit{project}” shall mean a \textit{project} where 50 percent or more of the \textit{gross floor area}, including allocable area of common space, is occupied or intended for occupancy for uses that are not residential occupancies Residential-Group R-occupancies. The applicant shall provide plans.
and supporting documents in sufficient detail and clarity to enable the code official to verify compliance with this section.

1301.1.2.3 Interior construction of mixed use space in a residential project. Residential Group R, project. Where residential occupancies Residential Group R occupancies exceed 50 percent of the gross floor area of the project, including allocable area of common space, and the project contains at least 50,000 contiguous square feet (4645 m²) of gross floor area, exclusive of common space of the non-residential occupancies, then the space designated for non-residential occupancies shall be designed and constructed to meet or exceed one or more of the applicable LEED standards listed in Section 1301.1.3 at the Certified Level. The applicant shall provide plans and supporting documents in sufficient detail and clarity to enable the code official to verify compliance with this section.

1301.1.2.4 Educational Group E. A project of Educational Group E occupancy shall be designed and constructed to meet the LEED standard for Schools at the Gold level or higher. The applicant shall provide plans and supporting documents in sufficient detail and clarity to enable the code official to verify compliance with this section. This section shall apply only to the following: (1) schools owned, operated or maintained by the District of Columbia Public Schools (DCPS); and (2) District of Columbia public charter schools.

Exceptions:

1. Where sufficient funding is not available to meet the applicable LEED standard for Schools at the Gold level, then the project shall meet the LEED standard for Schools at no less than the Certified Level of LEED standard for Schools. Prior to submitting a permit application under this exception, the applicant shall obtain an exemption based on insufficient funding from DDOE pursuant to Section 1301.1.11.

2. Where a project for Educational Group E occupancy is located in only a portion of a building, then only that portion of the building that is the subject of the project shall comply with this Section 1301.1.2.4.

1301.1.2.5 Terminology. Where the term “gross floor space” is used in the Green Building Act, the term shall mean gross floor area.

1301.1.3 LEED standards. Applicants, in consultation with the U.S. Green Building Council (USGBC) listed in Chapter 35, shall utilize one or more of the following LEED standards listed in Chapter 35 as appropriate for the type of project or occupancy:

1. New Construction & Major Renovations

2. Commercial Interiors

011292
3. Core & Shell
4. Healthcare
5. Retail: Commercial Interiors
6. Retail: New Construction & Major Renovations
7. Schools

1301.1.3.1 LEED version. An applicant for permits subject to Sections 1301.1.1.2 through 1301.1.1.7 (excluding residential projects subject to 1301.1.1.4) or Sections 1301.1.2.2 through 1301.1.2.43 shall register the project with the USGBC or shall meet the LEED requirements without USGBC registration and provide verification of compliance in accordance with alternatives 2 or 3 of Section 1301.1.4.1. If the applicant chooses to meet the LEED requirements without USGBC registration, the earliest version of the appropriate LEED standard that shall be used is the version with USGBC open registration in effect one year prior to whichever of the following interactions of the applicant with the District of Columbia came first:

1. The approval of a land-disposition agreement;
2. The submission of an application to the Board of Zoning Adjustment for a variance or special exception relief;
3. The submission of an application to the Zoning Commission for a planned unit development or other approval requiring Zoning Commission action;
4. The submission of an application to the Historic Preservation Review Board or Mayor's Agent for the Historic Preservation Review Board;
5. The filing of a building permit application for the primary scope of work of the project, which shall not include applications for raze, sheeting and shoring, foundation or specialty, miscellaneous or supplemental permits; or
6. Other substantial land-use interactions with the District as determined by the code official.

1301.1.3.1.1 Prior USGBC registration Where an applicant has registered a project with the USGBC using an earlier version of the LEED standards listed in Section 1301.1.3 and Chapter 35, and the USGBC will continue the certification process under the earlier version, then the
applicant may elect to have verification of the project based upon such earlier LEED version.

1301.1.3.1.2 Verification of compliance without USGBC registration. Where an applicant elects to meet the LEED requirements without USGBC registration, the applicant shall use the LEED standards listed in Section 1301.1.3.

Exception: Where the applicant has engaged in at least one of the interactions with the District of Columbia listed below, then the applicant may elect to have verification of the project based upon an earlier LEED version, provided that the earliest version of the appropriate LEED standard that shall be used is the version in effect one year prior to whichever of the following interactions of the applicant with the District of Columbia came first:

1. The approval of a land disposition agreement;
2. The submission of an application to the Board of Zoning Adjustment for a variance or special exception relief;
3. The submission of an application to the Zoning Commission for a planned unit development or other approval requiring Zoning Commission action;
4. The submission of an application to the Historic Preservation Review Board or Mayor's Agent for the Historic Preservation Review Board;
5. The filing of a building permit application for the primary scope of work of the project, but not applications for other types of permits, including, but not limited to, applications for raze permits; sheeting and shoring, foundation and other specialty permits; supplemental permits; or miscellaneous permits; or
6. Other substantial land-use interactions with the District as determined by the code official.

1301.1.3.2 Enterprise Green Communities version. An applicant for permits subject to Section 1301.1.4 shall register the project with Enterprise Green Communities or with the entity that certifies compliance with an approved substantially equivalent standard; or, the applicant shall meet the applicable standard without registration of the project and provide verification of compliance in accordance with alternatives 2 or 3 of Section 1301.1.4.1.
1301.3.2.1 Prior registration. Where an applicant has registered a project with the Enterprise Green Communities or with an entity that certifies compliance with an approved substantially equivalent standard, using an earlier version of the applicable standards listed in Chapter 35, then the applicant may elect to have verification of the project based upon such earlier version, provided that the certifying organization will continue the certification process under the earlier version.

1301.3.2.2 Verification of compliance without registration. Where an applicant elects to meet the Enterprise Green Communities standard (or an approved substantially equivalent standard) without registration, the applicant shall use the Enterprise Green Communities standard listed in Chapter 35 or, if applicable, the approved substantially equivalent standard.

Exception: Where the applicant has engaged in at least one of the interactions with the District of Columbia listed in Section 1301.3.1.2, then the applicant may elect to have verification of the project based upon an earlier version of the appropriate standard, provided that the earliest version of the appropriate standard that shall be used is the version in effect one year prior to whichever of the interactions of the applicant with the District of Columbia listed in Section 1301.3.1.2 came first.

1301.4 Verification. Evidence that a project meets or exceeds the LEED standard required by Sections 1301.1.1.2 through 1301.1.1.7 or Sections 1301.1.2.2 through 1301.1.2.43 or the Enterprise Green Communities Criteria (or approved substantially equivalent standard) required by Section 1301.1.1.4, shall be submitted to the code official within 24 calendar months after the project's receipt of the first certificate of occupancy issued for occupiable space in a story above grade plane.

1301.4.1 Evidence required. For purposes of this section, verification of compliance shall be established by the following:

1. A certification by the USGBC that the project meets or exceeds the applicable LEED standard required by Sections 1301.1.1.2 through 1301.1.1.7 or Sections 1301.1.2.2 through 1301.1.2.43, or if applicable a certification by Enterprise Green Communities (or entity that certifies an approved substantially equivalent standard) that the project meets or exceeds the applicable standard required by Section 1301.1.1.4; or

2. A determination by the code official that the project meets or exceeds the LEED standard required by Sections 1301.1.1.2 through 1301.1.1.7 or Sections 1301.1.2.2 through 1301.1.2.43, or if applicable the Enterprise Green Communities Criteria (or approved
substantially equivalent standard) required by Section 1301.1.1.4; or

3. A certification by an approved agency or approved source that the project meets or exceeds the LEED standard required by Sections 1301.1.1.2 through 1301.1.1.7 or Sections 1301.1.2.2 through 1301.1.2.43, or if applicable the Enterprise Green Communities Criteria (or approved substantially equivalent standard) required by Section 1301.1.1.4.

1301.1.4.2 Extension. The code official, for good cause and upon written request, is authorized to extend the period for verification of compliance for up to three consecutive one year periods.

1301.1.5 Financial security. Before issuance of the first certificate of occupancy for occupiable space in a story above grade plane of a privately-owned project subject to the provisions of Sections 1301.1.2.2 through 1301.1.2.43, the applicant shall provide to the code official evidence of financial security to cover the amount of fine that would be imposed under the Green Building Act for non-compliance with the provisions of Sections 1301.1.2.2 through 1301.1.2.43.

1301.1.5.1 Amount of financial security. The amount of the potential fine on a project, and thus the amount of financial security, shall be as follows:

1. $7.50 per square foot of gross floor area of construction if the project is less than 100,000 square feet (9290 m²) of gross floor area of the project.

2. $10.00 per square foot of gross floor area of construction if the project is equal to or greater than 100,000 square feet (9290 m²) of gross floor area of the project.

The amount of a fine for non-compliance under this sub-section, and thus the amount of security, shall not exceed $3,000,000. When applying the provisions of this Section 1301.1.5 to interior construction of a mixed use space in a residential Residential Class R project covered by Section 1301.1.2.3, the gross floor area of the project shall be deemed to mean the contiguous gross floor area, exclusive of common space, of the non-residential occupancies. The amount of this fine shall be subject to modification based upon the form of security for performance as provided for in Sections 1301.1.5.2.1 through 1301.1.5.2.3.

1301.1.5.2 Security for performance/form of delivery. The financial security requirement shall be met through one of the following four methods.

1301.1.5.2.1 Cash. If this option is elected, cash shall be deposited in an escrow account in a financial institution in the District in the names of the applicant and the District. A copy of a binding escrow agreement of the
financial institution shall be submitted to the code official in a form satisfactory to the Office of the Attorney General, which provides that the funds can be released upon direction of the District where remitted pursuant to Section 1301.1.6. If cash is used as the financial security, the amount of the financial security posted shall be discounted by 20 percent.

1301.1.5.2.2 Irrevocable letter of credit. If this option is elected, an irrevocable letter of credit benefitting the District shall be submitted to the code official in a form satisfactory to the Office of the Attorney General from a financial institution authorized to do business in the District. The irrevocable letter of credit, issued by the financial institution, shall comply with applicable regulatory requirements. If an irrevocable letter of credit is used as the financial security, the amount of the financial security posted shall be discounted by 20 percent.

1301.1.5.2.3 Bond. If this option is elected, a bond benefitting the District, which complies with applicable regulatory requirements, shall be submitted to the code official in a form satisfactory to the Office of the Attorney General. If a bond is used as the financial security, the amount of the financial security posted shall be discounted by 20 percent.

1301.1.5.2.4 Binding pledge. If this option is elected, a binding pledge shall be submitted to the code official in a form approved by the Office of the Attorney General. The binding pledge shall be recorded as a covenant in the land records of the District against legal title to the land in which the project is located and shall bind the owner and any successors in title to pay any fines levied under Section 1301.1.6.1.

1301.1.6 Enforcement. Where a project fails to provide pursuant to Section 1301.1.4 satisfactory verification of the project's compliance with the requirements of Sections 1301.1.2.2 through 1301.1.2.43 within the prescribed time frame and any extensions thereof granted by the code official pursuant to Section 1301.1.4.2, the code official is authorized to draw down on the financial security submitted as cash, irrevocable letter of credit or bond, pursuant to the terms by submission by the District of the original security documentation, provided that where a binding pledge has been provided, the code official is authorized to enforce such pledge agreement pursuant to its terms. The amounts thus drawn down from the financial security shall be deposited in the Green Building Fund set up under the Green Building Act.

1301.1.6.1 Financial security drawdowns. If a project fails to provide satisfactory verification of compliance, the drawdowns of the financial security in the form of cash, irrevocable letter of credit, or bond shall be as follows:

1. Failure to provide proof of compliance within 24 calendar months after the project's receipt of the first certificate of occupancy for occupiable space in a story above grade plane: 100 percent
drawdown; or

2. Miss up to three LEED points in the applicable LEED standard: 50 percent drawdown; or

3. Miss more than three LEED points in the applicable LEED standard: 100 percent drawdown.

1301.1.6.2 Binding pledge fines. If a project fails to provide satisfactory verification of compliance within 24 calendar months after the project’s receipt of the first certificate of occupancy for occupiable space in a story above grade plane and a binding pledge is used as the form of financial security, one or more fines shall be due and payable per the amounts set out in 1301.1.5.1 as may be modified pursuant to Section 1301.1.6.1.

1301.1.7 Release of financial security. If, within 24 calendar months following the issuance of the first certificate of occupancy for occupiable space in a story above grade plane, the project fulfills the requirements of Section 1301.1.4, the financial security shall be released by the District of Columbia and, as applicable, returned.

1301.1.8 Remediation. If within 24 months after receipt of the first certificate of occupancy for occupiable space in a story above grade plane, or within the extension periods granted to the project per Section 1301.1.4.2, the project does not meet the requirements of Section 1301.1.4, the project owner shall, at its own cost, design and renovate the project to meet or exceed the current edition of the LEED standard for Existing Buildings: Operations & Maintenance at the Certified Level. The project owner shall submit sufficient data to the code official to verify compliance with this section. The project owner shall provide to the code official certification, by the owner’s registered design professional or an approved agency or an approved source that the project complies with this section.

1301.1.9 Additional fine. If within 48 calendar months after receipt of the first certificate of occupancy for occupiable space in a story above grade plane, a project, subject to Section 1301.1.23 fails to provide satisfactory verification in accordance with the provisions of Section 1301.1.4 or Section 1301.1.8, the project owner shall pay a monthly fine of $0.02 per square foot of gross floor area of the project to the District of Columbia. The fine shall be a civil penalty, due and payable annually. The fine shall be in addition to any fines issued under Section 1301.1.6 and shall not be subject to the $3,000,000 limit under Section 1301.1.5.1.

1301.1.10 Appeals. Determinations made by the code official under Sections 1301.1.1 through 1301.1.9 may be appealed pursuant to Section 112 of the Building Code.

1301.1.11 Exemptions. A request for an exemption from application of the Green Building Act, or the implementing regulations set forth in Section 1301, to any project may be made to DDOE pursuant to the provisions of Chapter 35 (Green Building
Requirements) of DCMR Title 20 (Environment), and D.C. Official Code § 6-1451.10 (2008 Repl.).

All persons desiring to comment on these proposed regulations should submit comments in writing to Helder Gil, Legislative Affairs Specialist, Department of Consumer and Regulatory Affairs, 1100 Fourth Street, SW, Room 5164, Washington, D.C. 20024, or via e-mail at helder.gil@dc.gov, not later than thirty (30) days after publication of this notice in the D.C. Register. Persons with questions concerning this Notice of Proposed Rulemaking should call (202) 442-4400. Copies of the proposed rules can be obtained from the address listed above. A copy fee of one dollar ($1.00) will be charged for each copy of the proposed rulemaking requested. Free copies are available on the DCRA website at http://dcra.dc.gov by going to the “About DCRA” tab, clicking on “News Room”, and then clicking on “Rulemaking”.
MEMORANDUM

TO:        Lolita S. Alston
            Director
            Office of Legislative Support

FROM:      Janet M. Robins
            Deputy Attorney General
            Legal Counsel Division

DATE:      November 22, 2013

SUBJECT:   Approval Resolution – Green Building Act Compliance Proposed Rules
            (AE-12-899 G)

This is to Certify that this Office has reviewed the above-referenced proposed resolution and found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at 724-5524.

[Signature]

Janet M. Robins