


**COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE  
COMMITTEE REPORT**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

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**TO:** All Councilmembers

**FROM:** Chairman Phil Mendelson  
Committee of the Whole 

**DATE:** November 19, 2013

**SUBJECT:** Report on Bill 20-364, "Public Charter School Historic Preservation Amendment Act of 2013"

The Committee of the Whole, to which Bill 20-364, "Public Charter School Historic Preservation Amendment Act of 2013" was referred, reports favorably thereon with amendments, and recommends approval by the Council.

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**I. BACKGROUND AND NEED**

Bill 20-364, the "Public Charter School Historic Preservation Amendment Act of 2013," amends the Historic Landmark and Historic District Protection Act of 1978 to provide that a proposed subdivision of, or demolition, alteration, or new construction on a property owned by or under the jurisdiction of the District of Columbia government, and in use by a public charter school or other entity not part of the District of Columbia government, shall be subject to review by the State Historic Preservation Officer (SHPO). Public charter school projects were formerly subject to such review until an opinion of the Office of the Attorney General provided that current law did not require such projects to undergo SHPO review.<sup>1</sup> Bill 20-364 amends the law to clearly establish that such projects, as well as projects of any other entity not part of the District of Columbia government, that involve a District-owned property or a property under

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<sup>1</sup> The OAG opinion is included as an attachment to this report.

jurisdiction of the District of Columbia government,<sup>2</sup> are subject to early historic preservation review.

The process for SHPO review of a project on District property is a form of conceptual review. Conceptual review of development projects is a process for early design review of an applicant's development plans for compliance with historic preservation law and requirements. The process for early conceptual review of a project developed whereby an applicant may apply to the Historic Preservation Review Board (HPRB) for design review at the early stages of a project to work through any design issues surrounding historic preservation concerns, so that HPRB can eventually endorse a given set of conceptual plans for a particular project. In practice, following HPRB approval at this stage, HPRB will generally approve the final set of conceptual plans that are consistent in concept.

D.C. Law 16-185, the Historic Preservation Amendment Act of 2006 amended the Historic Landmark and Historic District Protection Act of 1978 to, among other things, codify the practice of early conceptual review of projects and extend conceptual review to projects by District agencies.<sup>3</sup> Prior to 2006, conceptual review was a well-established practice that was not specifically outlined in the D.C. Official Code. At the time it was explicitly added to the law, conceptual review was seen as "advantageous to both the [Historic Preservation Review] Board and applicants because it allows for early consultation before a substantial financial outlay on preparation of architectural plans."<sup>4</sup>

In addition to codifying the existing practice of conceptual review, D.C. Law 16-185 also added to the law a form of conceptual review for District agencies because in practice, while private applicants would pursue conceptual review as a matter of course, District agencies were not always following suit. This was resulting in situations where construction would begin on a District property that might be eligible for historic designation, and then the question of whether or not to file a landmark application at the last minute could affect the progress of a given project. Thus, D.C. Official Code § 6-1108.02 was added to the law to make clear that prior to any financial steps being taken toward design or construction, or to seeking permit or approval for a city project, the relevant agency head must take into account the effect of the project on any property already listed or eligible for listing in the District of Columbia Inventory of Historic Sites, and must consult the SHPO for comment.<sup>5</sup> While D.C. Official Code § 6-1108.02 is a

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<sup>2</sup> The definition of "District of Columbia undertaking" in D.C. Official Code § 6-1102(4A) currently makes reference to projects affecting a property "owned by or under the jurisdiction of a District of Columbia agency ... ." It is the Committee's understanding that the intent of the language referring to property "under the jurisdiction of a District of Columbia agency" was to include situations where there is federal ownership of a property while the District has jurisdiction or use of the property, which has been the case with some schools and recreation centers in the city.

<sup>3</sup> COUNCIL OF THE DISTRICT OF COLUMBIA, COMMITTEE OF THE WHOLE, REPORT ON BILL 16-195, HISTORIC PRESERVATION AMENDMENT ACT OF 2006 1 (2006). The process for conceptual review generally is codified at D.C. Official Code § 6-1108(b-c).

<sup>4</sup> *Id.*

<sup>5</sup> D.C. Official Code § 6-1108.02 currently reads as follows:

form of conceptual review for District entities, a difference between this section of the Code and the general conceptual review available for all projects is that D.C. Official Code § 6-1108.02 permits consultation with the SHPO, rather than the HPRB, allowing for a quicker and more streamlined review process for city agencies.

When D.C. Official Code § 6-1108.02 was initially drafted, it was envisioned by the Executive that the language would cover public charter schools. Thus, in practice, when public charter schools were proposing a demolition, alteration, subdivision, or new construction of a public charter school building owned by the District of Columbia, consultation with the SHPO at an early stage was conducted as a matter of course. It is the Committee's understanding that this process worked well.<sup>6</sup> After questions were raised by the public charter school community as to the legal authority for this review, the Office of the Attorney General issued an opinion in 2012 that the language in the Historic Landmark and Historic District Protection Act of 1978 did not include public charter schools within the meaning of "District agency" projects.<sup>7</sup> As a result, the practice is that when District of Columbia Public Schools seek demolition, alteration, subdivision, or new construction they are subject to State Historic Preservation Officer review, while public charter schools using District-owned facilities are not.

The Committee Print for Bill 20-364 adds language to D.C. Official Code § 6-1108.02 to clarify that the list of individuals overseeing a District of Columbia undertaking, who are required to take into account the effect of that undertaking on any property listed or eligible for listing in the District of Columbia Inventory of Historic Sites and to consult with the State Historic Preservation Officer for comment, also includes the head of a public charter school or other entity with direct jurisdiction over the undertaking. The Print also clarifies in the definition of "District of Columbia undertaking" that such a project could not only be a District of Columbia government project, but also a project of a public charter school or any other entity not part of the District of Columbia government. These amendments together provide that the requirements for conceptual review of a District undertaking also include projects overseen by a public charter school or any other entity that is not part of the District of Columbia government.

Bill 20-364 was introduced in order to require that projects of public charter schools include early consultation with the State Historic Preservation Officer for conceptual review. The Committee Print goes further in also requiring such review for projects of any other entity

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Before authorizing the expenditure of funds for design or construction or seeking the permit, license, or approval for a District of Columbia undertaking, the Deputy Mayor, head of the subordinate agency, or head of the independent agency with direct jurisdiction over the undertaking shall take into account the effect of that undertaking on any property listed or eligible for listing in the District of Columbia Inventory of Historic Sites and shall consult with and afford the State Historic Preservation Officer a reasonable opportunity to comment on the undertaking.  
D.C. OFFICIAL CODE § 6-1108.02 (2013).

<sup>6</sup> See Bill 20-364, *Public Charter School Historic Preservation Amendment Act of 2013: Public Hearing before the Council of the District of Columbia Committee of the Whole*, Oct. 17, 2013 (written testimony of Stephen Campbell, Senior Planner, Department of General Services) (stating that between 2006 and 2012, 15 charter school projects were reviewed by the State Historic Preservation Officer).

<sup>7</sup> *Id.*

not part of the District of Columbia government, where the project affects a District property, in order to leave room for future scenarios where another entity may, in a manner similar to a public charter school, be using a District property and may wish to initiate a project for demolition, alteration, subdivision, or new construction. The goal of Bill 20-364, to protect District properties eligible for historic designation, remains the same regardless of the entity that might wish to undertake the project.

In practice, Bill 20-364 will ensure that those District properties in use by public charter schools or other entities which are *eligible* for historic designation are subject to review by the State Historic Preservation Officer at the early stages of a project. Currently, buildings owned by the District or under District jurisdiction that already have an historic designation are treated in the same manner as any other property that is designated and subject to the review provisions of the Historic Landmark and Historic District Protection Act of 1978.

Bill 20-364 ensures that public charter schools or other entities operating in District-owned facilities or facilities under District jurisdiction can undertake development projects and make improvements to the facilities in which they operate. At the same time, the legislation also ensures that because District property is at issue, that compliance with the historic preservation laws is confirmed prior to any substantial steps being taken on a project. Bill 20-364 restores a process that was already in place for historic preservation review of public charter school projects, but which was halted in light of the need for a clarification in the law. Bill 20-364 provides this clarification, ensuring that public charter schools and other entities will consult with the State Historic Preservation Officer for design review at the outset of a project, guaranteeing early review for historic preservation concerns. This process will benefit both the public charter school or other entity wishing to undertake the project and the city alike in obtaining some measure of certainty with regard to historic preservation concerns at the early stages of a project. The Committee recommends approval of Bill 20-364.

## II. LEGISLATIVE CHRONOLOGY

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|------------------|---|
| June 26, 2013    | Bill 20-364, "Public Charter School Historic Preservation Amendment Act of 2013" is introduced by Councilmember Graham, co-sponsored by Councilmember Alexander, and is referred to the Committee of the Whole. |
| July 5, 2013     | Notice of Intent to Act on Bill 20-364 is published in the <i>District of Columbia Register</i> .   |
| August 16, 2013  | Notice of a Public Hearing on Bill 20-364 is published in the <i>District of Columbia Register</i> .  |
| October 17, 2013 | The Committee of the Whole holds a public hearing on Bill 20-364.   |

November 19, 2013 The Committee of the Whole marks-up Bill 20-364.

### III. POSITION OF THE EXECUTIVE

Stephen Campbell, Senior Planner, Department of General Services (DGS) testified on behalf of the Executive. Mr. Campbell described the legislative history of State Historic Preservation Officer (SHPO) review of District projects, and stated that DGS and the SHPO support Bill 20-364. Mr. Campbell listed the reasons for such support as: 1) charter school projects on District government property should receive the same review as other District agencies; 2) SHPO review will protect the District's historic properties, including their long-term value; 3) Bill 20-364 will lend greater certainty to the public charter school review process; and 4) Bill 20-364 would eliminate the issue of unnecessary or poorly-timed landmark applications by communities given that early review will be required.

Mr. Campbell also stated that if Bill 20-364 becomes law, the requirements can be integrated into DGS's processes for solicitation of the use of former school buildings to public charter schools. Specifically, he notes that a requirement can be included in the solicitation that if a bidder is selected for award at a school that is historic or eligible for historic designation, the bidder must meet with the SHPO regarding any proposed plans. This meeting would be a condition precedent to preparing a surplus and disposition package for the school building to be submitted to the Council, and continuing meetings with the SHPO would be required. Finally, Mr. Campbell stated that it is "definitely worthwhile" to include public charter schools in the category of entities whose plans must be reviewed by the SHPO.

### IV. COMMENTS OF ADVISORY NEIGHBORHOOD COMMISSIONS

Kent C. Boese, Chair of Advisory Neighborhood Commission 1A (ANC 1A) testified on behalf of ANC 1A. His testimony is summarized in Section V below. In addition, the Committee received a copy of an ANC 1A resolution urging legislation to include DC public charter schools operating in District-owned property in the Historic Preservation Office's design review process. The resolution was unanimously approved by ANC 1A on June 12, 2013.

### V. SUMMARY OF TESTIMONY

The Committee of the Whole held a public hearing on Bill 20-364 on Thursday, October 17, 2013. The testimony summarized below is from that hearing. A copy of this testimony is attached to this report.

*Kent C. Boese, Chair, Advisory Neighborhood Commission 1A (Single Member District 1A08)*, testified in support of Bill 20-364. Mr. Boese described the legislation as restoring a process that was formerly in place, and explained that the bill would protect those District-owned

school buildings being used by a public charter school that are not already designated historic landmarks or are located within an historic district, and which are eligible for designation. Mr. Boese also described the Cesar Chavez Charter School's use of the old Bruce School building as an example where Historic Preservation Office review ought to have occurred at the outset of the process.

*Stephen Campbell, Senior Planner, Department of General Services*, testified on behalf of the Executive. His testimony is summarized in Section III above.

The Committee also received written statements in support of Bill 20-364 from Richard Busch, Co-convenor, Historic Districts Coalition and Nancy MacWood, Chair, The Committee of 100 on the Federal City. The Committee received no testimony or comments in opposition to the bill.

## VI. IMPACT ON EXISTING LAW

Bill 20-364 amends the Historic Landmark and Historic District Protection Act of 1978 (Act), codified at D.C. Official Code § 6-1101 *et seq.* First, D.C. Official Code § 6-1102(4A), the definition of "District of Columbia undertaking," is amended to make clear that the phrase refers not only to a project of the District of Columbia government, but also to a project of a public charter school (as defined in D.C. Official Code § 38-1800.02(29)) or a project of any other entity not part of the District of Columbia government. The legislation also includes several technical amendments to D.C. Official Code § 6-1102(4A), including to change the word "affecting" to "on," to make clear that the definition of "District of Columbia undertaking," in the spirit of the original intent of this paragraph, refers only to projects that take place on District government property and not to projects that might occur nearby that arguably "affect" District government property.

Bill 20-364 also amends D.C. Official Code § 6-1108.02 to expand the list of individuals who are required to take into account the effect of a District of Columbia undertaking on any property listed or eligible for listing in the District of Columbia Inventory of Historic Sites, and to consult with the State Historic Preservation Officer and allow for a reasonable opportunity for comment, prior to authorizing the expenditure of funds for design or construction or seeking the permit, license, or approval for such an undertaking. The legislation adds to that list the head of a public charter school or other entity with direct jurisdiction over the undertaking. Additionally, Bill 20-364 includes a technical change to § 6-1108.02 to streamline the language referring to District of Columbia agency heads, using the term "head of the District of Columbia government entity" to more generally cover the language as written. The amendments to § 6-1102(4A) and § 6-1108.02 together would ensure that public charter schools, and other entities using District government property, are included in the requirement for State Historic Preservation Officer review of projects affecting that property.

## VII. FISCAL IMPACT

The attached November 18, 2013 fiscal impact statement from the District's Chief Financial Officer (CFO) states that funds are sufficient in the FY 2014 through FY 2017 budget and financial plan to implement the bill. The CFO notes that it is expected that approximately ten charter school properties would be affected by this bill, and the Office of Planning and the State Historic Preservation Officer can perform the requirements of the legislation within existing resources. The CFO also notes that it is possible that planned projects by public charter schools in affected buildings may need to be altered following SHPO consultation, but it is not possible at this time to speculate whether the projects would be more expensive as a result. In any case, states the CFO, project cost increases would be borne by the public charter school and would have no impact on the District's budget and financial plan.

## VIII. SECTION-BY-SECTION ANALYSIS

Section 1 States the short title of Bill 20-364.

Section 2 Amends the Historic Landmark and Historic District Protection Act of 1978 (Act) (D.C. Official Code § 6-1101 *et seq.*).

*Subsection (a)* Amends section 3(4A) of the Act in order to provide that the definition of "District of Columbia undertaking" includes a project of a public charter school or of any other entity not part of District of Columbia government, in addition to District government projects.

The Committee Print makes additional changes to this subsection that were not in the bill as introduced. First, the introduced version of the legislation would have simply added the phrase "public charter school" to the existing definition of "District of Columbia undertaking." The Committee Print, in addition to adding a public charter school by referencing an existing definition for "public charter school" in the D.C. Official Code, also includes projects of "any other entity not part of the District of Columbia government." The goal of Bill 20-364 is to protect the opportunity for District government property to be designated on the District of Columbia Inventory of Historic Sites prior to any planned demolition, alteration, subdivision, or new construction, by giving the State Historic Preservation Officer early review of a project. This goal is the same regardless of what entity may be operating in or on a property owned by or under the jurisdiction of the District of Columbia. The Committee Print leaves room in the language of D.C. Official Code § 6-1102(4A) to cover scenarios similar to that involving public charter schools at present that may arise in the future.

The Committee Print also makes several technical changes to D.C. Official Code § 6-1102(4A), including to change the word “affecting” to the word “on” in reference to demolition, alteration, or new construction on a District-owned property (and clarifying that it is subdivision “of” a property). The reason for this technical amendment is to preserve the intent of the Act that a project refer to demolition, alteration, or new construction *on* (or subdivision of) a District-owned property itself, and not on surrounding properties. The use of the word “affecting” in the existing D.C. Official Code § 6-1102(4A) could be construed to also include projects that might not be on a District-owned property, but that affect a nearby District-owned property. In the reference to District-owned property at the end of this paragraph, the Committee Print also strikes the phrase “a District of Columbia agency, including an independent agency” and replaces it with the phrase “the District of Columbia government.” As written, the language referring to District property is confusing as to what parts of District government are included, such as instrumentalities like the DC Water and Sewer Authority. The phrase “the District of Columbia government” is meant to be inclusive rather than exclusive, referring to all parts of the District government. Thus, the reference to independent agencies is struck because it is included in the phrase “the District of Columbia government.” This language is also consistent with the reference to “District of Columbia government” projects at the beginning of the paragraph.

*Subsection (b)* Amends section 9b of the Act by adding the head of a public charter school or other entity with direct jurisdiction over a District of Columbia undertaking to the list of individuals required to take into account the effect of that undertaking on any property listed or eligible for listing in the District of Columbia Inventory of Historic Sites and to consult with the State Historic Preservation Officer for comment.

The Committee Print makes additional changes to this subsection that were not in the bill as introduced. In addition to adding the “head of the public charter school” with direct jurisdiction over the undertaking to the list of individuals required to engage in SHPO consultation, the Print adds language referring to the head of the “other entity” with direct jurisdiction over the undertaking. This amendment corresponds with the additions to the definition of “District of Columbia undertaking” in subsection (a) described above, and will ensure that a project of any entity, when it affects property owned by or under the jurisdiction of the District, is subject to early review by the SHPO.

The Committee Print also makes a technical change to D.C. Official Code § 6-1108.02 in order to strike the reference to the “Deputy Mayor, head of



the subordinate agency, or head of the independent agency” in order to replace it with the phrase “head of the District of Columbia government entity.” This amendment is made both to streamline existing language and to ensure that the term “District of Columbia entity” is used broadly, and that the heads of all parts of District government are encompassed, including instrumentalities. It is the intent of the Committee that among other things, Deputy Mayor’s offices, subordinate agencies, and independent agencies are also included within this phrase.

Section 3 Adopts the Fiscal Impact Statement.

Section 4 Establishes the effective date by stating the standard 30-day Congressional review language.

## IX. COMMITTEE ACTION

On November 19, 2013, the Committee of the Whole met to consider Bill 20-364, the “Public Charter School Historic Preservation Amendment Act of 2013.” The meeting was called to order at 10:25 am, and Bill 20-364 was item VII-D on the agenda. After ascertaining a quorum (Chairman Mendelson and Councilmembers Alexander, Bonds, Bowser, Catania, Cheh, Evans, Grosso, McDuffie, Orange and Wells present; Councilmembers Barry and Graham absent), Chairman Mendelson noted that a revised Committee Print and Comparative Print with technical changes had been circulated to Councilmembers. Chairman Mendelson then moved the revised print with leave for staff to make technical and conforming changes. Following an opportunity for discussion, the vote on the motion was unanimous (Chairman Mendelson and Councilmembers Alexander, Bonds, Bowser, Catania, Cheh, Evans, Grosso, McDuffie, Orange, and Wells voting aye; Councilmembers Barry and Graham absent). The Chairman then moved the report with leave for staff to make technical, conforming, and editorial changes. After an opportunity for discussion, the vote on the report was unanimous (Chairman Mendelson and Councilmembers Alexander, Bonds, Bowser, Catania, Cheh, Evans, Grosso, McDuffie, Orange, and Wells voting aye; Councilmembers Barry and Graham absent). The meeting adjourned at 11:18 am.


## X. ATTACHMENTS

1. Bill 20-364 as introduced.
2. Written testimony and comments.
3. Fiscal Impact Statement.
4. Legal sufficiency determination.
5. Comparative Print for Bill 20-364.
6. Committee Print for Bill 20-364.

**COUNCIL OF THE DISTRICT OF COLUMBIA**  
1350 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

**Memorandum**

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To: Members of the Council  
  
From: Nyasha Smith, Secretary to the Council  
Date: June 28, 2013  
Subject: Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Committee of the Whole on Wednesday, June 26, 2013. Copies are available in Room 10, the Legislative Services Division.


TITLE: "Public Charter School Historic Preservation Amendment Act of 2013", B20-0364

INTRODUCED BY: Councilmember Graham  
CO-SPONSORED BY: Councilmember Alexander

The Chairman is referring this legislation to the Committee of the Whole.

Attachment

cc: General Counsel  
Budget Director  
Legislative Services

  
Councilmember Jim Graham

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Councilmember Jim Graham introduced the following act, which was referred to the Committee on \_\_\_\_\_.

To amend the Historic Landmark and Historic District Protection Act of 1978 to require public charter schools

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Public Charter School Historic Preservation Amendment Act of 2013".

Sec. 2. The Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144; D.C. Official Code §6-1101 *et seq.*), is amended as follows:

(a) Section 3 (D.C. Official Code §6-1102(4A)) is amended to read as follows:

"(4A) "'District of Columbia undertaking" means a project of the District of Columbia government or public charter school that involves or contemplates demolition, alteration, subdivision, or new construction affecting a property owned by or under the jurisdiction of a District of Columbia agency, including an independent agency."

(b) Section 9(b) (D.C. Official Code 6-1108.02) is amended to read as follows:

"Before authorizing the expenditure of funds for design or construction or seeking the permit, license, or approval for a District of Columbia undertaking, the Deputy Mayor, head of the subordinate agency, head of the independent agency, or head of the public charter school with direct jurisdiction over the undertaking shall take into account the effect of that undertaking

1 on any property listed or eligible for listing in the District of Columbia Inventory of Historic  
2 Sites and shall consult with and afford the State Historic Preservation Officer a reasonable  
3 opportunity to comment on the undertaking.”.

4 Sec. 3. Fiscal impact statement.

5 The Council adopts the fiscal impact statement in the committee report as the fiscal  
6 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,  
7 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

8 Sec.4. Effective date.

9 This act shall take effect following approval by the Mayor (or in the event of veto by the  
10 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as  
11 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
12 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
13 Columbia Register.



**ANC 1A ADVISORY NEIGHBORHOOD COMMISSION 1A**  
**Single Member District 1A08**

608 Rock Creek Church Road, NW Washington, DC 20010

Committee of the Whole Hearing: Phil Mendelson, Chairperson

Testimony in support of Bill 20-364, Public Charter School Historic Preservation Amendment Act of 2013

October 17, 2013

By: Kent Boese // Chair, ANC 1A, SMD-ANC 1A08

Introduction

Good afternoon Chairman Mendelson, thank you for granting me this opportunity to speak on behalf of the Public Charter School Historic Preservation Amendment Act. I also wish to acknowledge Councilmembers Graham and Alexander and thank them for supporting ANC 1A's resolution urging this legislation by introducing and co-sponsoring this bill, as well as all Councilmembers for their consideration of this bill.

Defining the problem

What the Public Charter School Historic Preservation Amendment Act does is restore a process that was in practice until recently whereby capital projects undertaken by charter schools operating in District-owned public school buildings would have those projects reviewed by the Historic Preservation Office (HPO). A little more than a year ago, it was determined that review by the HPO was no longer appropriate for Charter School building projects impacting District-owned property. This is because these projects were deemed to not technically be "District of Columbia undertakings".

Unfortunately, this is at odds with what can reasonably be presumed to be the purpose of the District of Columbia retaining ownership of buildings eligible for historic status rather than selling them.

The protection this bill affords is for D.C. owned school buildings currently supporting charter schools that are:

- 1) Not already designated historic landmarks;
- 2) Not located within a historic district; and,
- 3) Eligible for being designated a historic landmark.

Testimony by Kent Boese, Chair, ANC 1A, in support of Bill 20-364, Public Charter School Historic Preservation Amendment Act of 2013

As this indicates, we are presently talking about a small – but important – handful of buildings. However, the recent school closings and consolidations – with many of the impacted buildings falling outside of historic districts and having no official preservation protection – poses an increased risk to the architectural and cultural heritage of one of the District’s key assets, its historic school buildings.

Support for Charter Schools Using Historic Buildings

I want to be very clear on this matter – while I am here today to underscore the importance of protecting the District’s architectural heritage, I am also extremely supportive of charter schools using these beautiful buildings when possible. There have been many examples where uniting a charter school and an empty District-owned school building has led to a beautifully renovated structure. This is the win-win we want. Also, it has been my experience that charter schools are good stewards and want to do what is best for their students, their buildings, and the community. But they are not architectural historians and design review is not a function of the building permit process.

Example – the Bruce School Building

Unfortunately, by removing the design review process formerly provided by HPO, there now exists a situation whereby unnecessary conflict can arise between a charter school and the community during construction projects.

To illustrate this point, I draw your attention to the Cesar Chavez Charter School and its use of the old Bruce School building at 770 Kenyon Street. When Chavez first moved into the building, it desperately needed repair and renovation. This they did, with HPO review, and opened in 2009. The result is beautiful and respectful of the building’s architectural legacy.

The Bruce School was constructed in 1898 to designs by William M. Poindexter. The date of construction makes Bruce one of a handful of early purpose built schools built to provide for the educational needs of the growing African American community north of Florida Avenue. It is an Italian Renaissance style building of red brick with stone and



North elevation of the 1898 Bruce School.

pressed metal trim. The eight-room school was designed with a conventional floor plan with four rooms on each floor arranged around a central hallway. In 1927, the overcrowded conditions of the school were relieved by the construction of an eight-room extensible annex to the west designed in the Colonial Revival style by municipal architect Albert L. Harris. Today, the Bruce building is the oldest surviving school building in its immediate neighborhood.

In the fall of 2012, Chavez contacted the ANC to discuss a gymnasium project they wanted to add to the east of the building. In my early discussions with Chavez, I was supportive of the project but expressed concern that the school work with HPO. As the construction date neared, I again reached out to the school to ask about the design. I learned that HPO had not been involved because they no longer review charter school projects.

Like many other school buildings, Bruce is owned by the District of Columbia. There was a reasonable presumption that, as a District property, HPO would have been involved. By the time I saw the final design, ANC 1A was left with the difficult decision of either filing a landmark nomination to protect the school, or wait until after the addition was completed. Immediate action by the ANC would have protected the building, but it also could have killed the project. Ultimately, ANC 1A decided to file a landmark nomination after construction was underway rather than delay the gymnasium project. Still, the Commission should not have had to make this difficult choice at all.



Design for Chavez's gymnasium addition

### Conclusion

By passing this bill, and restoring the review process, we continue to support charter schools and preservation. The two are not at odds, especially when the city has a clear process in place that reviews construction projects. Failure to pass this bill will place future charter school capital projects in jeopardy of potential, needless, and costly delays should landmark nominations be filed late in the design process. Lastly, passage of this bill allows us to not only preserve and respect our city's architectural heritage, but also to ensure that capital projects that impact our District-owned school buildings are of the highest design and construction standards. After all, when it comes to our children and their education, don't they deserve the best we can offer?





**ANC 1A ADVISORY NEIGHBORHOOD COMMISSION 1A**

**Single Member District 1A08**

CHAIRMAN MENDELSON  
2013 JUN 17 PM 4:10

608 Rock Creek Church Road, NW Washington, DC 20010

Mayor Vincent C. Gray  
Executive Office of the Mayor  
1350 Pennsylvania Avenue NW, Suite 316  
Washington, DC 20004

June 13, 2013

Dear Mayor Gray,

I am writing to alert you to a deficiency in the District's attempt to protect and preserve one of our major historic and cultural resources – our public school buildings. The importance of D.C. public school buildings was recognized in 2001 when the multiple property document on public school buildings was written – yet every community with a public school building knew the value of these buildings long before that time. Today, planned additions, alterations, and renovations of D.C. public schools owned by the District of Columbia are required to be reviewed by the Historic Preservation Office.

However, I have recently learned that Public Charter Schools operating within District owned public school buildings are not required to undergo the same design review process that our DCPS schools are required to undertake. With the growing inventory of closed public school buildings – still owned by the District of Columbia – and the growing number of charter schools, this unintended situation puts our historic public school buildings at risk. It also needlessly pits those interested in preserving our City's architectural and cultural heritage against public charter schools when they undergo much needed construction projects.

I have written the enclosed resolution, supported by ANC 1A unanimously, in an attempt to correct this issue and bring awareness to it. I am asking for your help to work with the D.C. Council and the Office of Planning to ensure that legislation is written, introduced, and passed that will support both our public charter schools and preserve the historic school buildings many of them operate within.

Most sincerely,

Kent C. Boese  
Commissioner, ANC 1A08

cc: D.C. Councilmembers  
Harriet Tregoning, Director, Office of Planning  
David Maloney, State Historic Preservation Officer



ADVISORY NEIGHBORHOOD COMMISSION 1A

SMD 1A01 – Lisa Kralovic
SMD 1A04 – Laina Aquiline
SMD 1A07 – Thomas Boisvert
SMD 1A10 – Anthony Cimino

SMD 1A02 – Vickey Wright-Smith
SMD 1A05 – Kevin Holmes
SMD 1A08 – Kent Boese
SMD 1A11 – Dotti Love Wade

SMD 1A03 – Steve Swank
SMD 1A06 – Patrick W. Flynn
SMD 1A09 – Bobby Holmes
SMD 1A12 – Rosalind M. Gilliam

RESOLUTION URGING LEGISLATION TO INCLUDE D.C. PUBLIC CHARTER SCHOOLS OPERATING IN D.C. OWNED PROPERTY IN THE HISTORIC PRESERVATION OFFICE’S DESIGN REVIEW PROCESS

WHEREAS; District of Columbia school buildings have been recognized as historic (Multiple Property Document “Public School Buildings of Washington, D.C., 1862-1960” Sept. 2001) and are subject to design review by the District of Columbia Historic Preservation Office; and

WHEREAS; Public Charter Schools using District of Columbia owned school buildings are not required to adhere to the law requiring Historic Preservation Office design review of school buildings, a process to which DC Public Schools must adhere; and

WHEREAS; This specific exemption for Public Charter Schools unduly puts the District’s historic school buildings at great risk during the renovation and construction process, and

WHEREAS; District of Columbia public schools continue to be closed, creating a growing inventory of school buildings at risk,

THEREFORE, BE IT RESOLVED THAT:

ANC 1A urges the District of Columbia Council to introduce and pass legislation subjecting Public Charter Schools to the same historic review process that all D.C. public schools currently must undergo when operating in D.C. owned school buildings, thereby maintaining the spirit of the current preservation law that recognizes and seeks to protect the District’s historic public school buildings.

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Certification:

After providing sufficient notice for and with a quorum of 10 present at its June 12, 2013, meeting, Advisory Neighborhood Commission 1A voted, with 10 Yeas, 0 Nos and 0 Abstentions, to adopt the above resolution.

[Signature of Laina Aquiline]
Laina Aquiline
Vice Chair, ANC 1A

[Signature of Kent C. Boese]
Kent C. Boese
Secretary, ANC 1A



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**Government of the District of Columbia**



**Department of General Services**

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**Stephen Campbell**  
Senior Planner  
Department of General Services

**Hearing on B20-364, the "Public Charter School Historic Preservation Amendment Act of 2013"**

Council of the District of Columbia

Committee of the Whole

The Honorable Phil Mendelson, Council Chairman

Thursday, October 17, 2013

10:00 am

Room 412

John A. Wilson Building

1350 Pennsylvania Avenue, NW

Washington, DC 20004