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**TESTIMONY ON “CHANGES TO THE HEIGHT ACT: SHAPING WASHINGTON, DC FOR  
THE FUTURE”**

**December 2, 2013**

Good morning, Mr. Chairman and Members of the House Oversight and Government Reform Committee. 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 its natural and historic resources. The NCPC addresses planning issues affecting the long-term development of Washington, DC as the nation’s capital and seat of the federal government. Our twelve-member Commission has federal and District of Columbia representatives, reflecting its role as the forum to consider local and national planning issues. Our activities include, among others, jointly authoring the *Comprehensive Plan for the National Capital* with the District of Columbia and reviewing all federal development projects in the region.

It has been a privilege for NCPC to jointly lead the Height Master Plan (Height Plan), which explores the future of one of the most significant contributors to the form and character of our nation’s capital, the federal Height of Buildings Act (Height Act). The Height Plan, requested by Chairman Darrell Issa on October 3, 2012, explores potential strategic changes to the Height Act that both protect national interests and meet important long-term goals for the District of Columbia. I am pleased to return today to present the Height Plan results and share the Commission’s recommendations.

As the capital of the United States, Washington, DC is a unique place with its own authentic character and identity. For more than a century, the Height Act has played a central role in

shaping Washington's unmistakable and symbolic skyline. It protects the setting and views to and from the National Mall, the institutions of our democracy and our national parks and memorials. The Height Act fosters an open, pedestrian scale that is enjoyed and valued by residents of the District of Columbia, the nation's citizens, and millions of visitors who come here annually. The form of the capital city is a national trust and a legacy for future generations. Our year-long study reaffirmed the continuing importance of the Height Act.

Based on its actions beginning in 1790 and continuing until as recently as 1990, the U.S. Congress has identified the design of Washington, D.C as an abiding federal interest. Congress reaffirmed the federal interest in building heights as part of the 1973 Home Rule Act, to protect the interests of the federal government and ensure the city remains "a capital for all American citizens." Congress has acted as steward of the capital city's form to ensure that the image and experience of the capital city reflects the preeminence of our civic and democratic institutions and national icons, including a lasting, symbolic skyline recognized around the world. The NCPC – by mission and by statute –prioritizes and protects these national interests.

NCPC coordinated extensively with other federal agencies to identify numerous interests potentially affected by building height changes. These include federal properties and cultural resources, such as landscapes and vistas, especially those listed on the National Register of Historic Places and National Historic Landmarks. While the L'Enfant City has the highest concentration of these resources, they are located throughout Washington, and include among others the setting of the topographic bowl, national parks, monuments and historic sites, Civil War fortifications, federal headquarters and other facilities and foreign missions. Federal agencies raised concerns about potentially adverse impacts of height changes to historic and cultural resources, their views and settings, and the market conditions influencing historic preservation.

From a federal operational and mission perspective, the Height Act continues to meet the essential interests, protections, and needs of the federal government, and it is anticipated that it will continue to do so in the future. Federal agencies had operational and site specific

concerns requiring more detailed future evaluations related to any building height changes, including costs to evaluate and respond to new security concerns at federal facilities.

The Height Plan was conducted in three phases. First, NCPC developed case studies on the ways cities have regulated building heights, and NCPC and the District of Columbia Office of Planning (DCOP) framed issues shaping federal and local interests. In the second phase, the DCOP provided market feasibility findings and developed a digital model of the city to illustrate conceptual approaches for modifying building heights, selecting illustrative sites for visual modeling. During the last phase, NCPC released its draft findings and recommendations on September 12, and the DCOP released its draft findings and report, including new growth and capacity information based on recently observed short-term growth trends, on September 20. Following a formal comment period and public hearings conducted by NCPC and the District of Columbia Council, the Commission finalized its recommendations on November 19, 2013.

Extensive outreach occurred throughout all phases, including ten public meetings across the city, a robust website and online comment portal, and focused meetings with stakeholder groups. The outreach activities and public comments are included in NCPC's written Height Plan report.

Conducted under tight deadlines, the public outreach was as rigorous as time permitted, engaging District residents from across the city, civic, business, development, and historic preservation stakeholders, and federal agencies. At all hearings, we heard overwhelmingly that most valued the Height Act as it stands, understanding its role and significance for the national capital; for making District neighborhoods unique and distinct; for protecting panoramic and street-level views; and for providing a predictable context for city development. Many recognized the District's future growth and capacity needs, but found those pressures not immediate. Most civic and advocacy organizations expressed opposition to changes to the Height Act, although a limited number of business, development and design organizations expressed support for some changes to the Height Act and increased local control over development choices. The strong majority of the public discouraged any

changes to the existing height limits; some public testimony considered the Height Plan as a starting point of future work, and encouraged continued study, further growth and economic analysis, public engagement, and the need to thoughtfully tie any alterations in building heights to a fully-vetted future growth strategy.

A summary of the Commission's final recommendations is as follows:

- The Commission recommended that the federal Height Act remain in place city-wide and no changes be made to the formula or approach for calculating allowable building heights.
- The Commission recognized that there may be some opportunities for strategic change in the areas outside of the L'Enfant City where there is currently less concentration of federal interests. However, in the end the Commission determined additional study is required by both NCPC and the District to understand whether strategic changes to the Height Act would impact federal interests within this area.
- The Commission supported amendments to the Height Act to allow for human occupancy in existing and future penthouses citywide, subject to protections for select buildings and design criteria described in the NCPC report. These protections address the type of permitted uses and setback and height limitations.
- Both the District and NCPC agree that the city's most significant view-sheds, including those to and from the U.S. Capitol and White House, should be further evaluated and federal and local protections established. Based on the visual modeling studies, full build-out under the existing Height Act may adversely impact these important views.

The visual modeling work conducted as part of the Height Plan study demonstrated potential for significant adverse impacts to national resources, particularly within the L'Enfant City. Mindful of the Committee's guidance to proceed carefully in this area, NCPC strongly recommends no changes to the Height Act should be considered within the L'Enfant City, except as noted for penthouses. Although the District has proposed specific changes to add height within the L'Enfant City, it is of note that there is capacity to grow outside of the L'Enfant City, where impacts to national resources and federal interests are less likely at this time, and the constraints on maximum height and bulk are largely determined by the

District's zoning regulations rather than the Height Act. As a general principle, the L'Enfant City should not be the first place identified to accommodate future growth through height changes.

We also evaluated the District's proposed 'Ratio Approach' and found that it allowed greater height precisely where it was least appropriate, on L'Enfant streets framing views of the U.S. Capitol and the White House. Buildings along these avenues should be scaled in deference to these symbolic structures, an idea often reinforced in today's zoning. The "Ratio Approach" offers little new capacity and replaces a predictable regulatory framework with a new approach in some of the most nationally-significant parts of the city.

While certain areas were modeled for illustrative purposes, the District did not propose any geographically-specific areas outside the L'Enfant City for potential changes to building heights. The Commission believes that there may be opportunities for strategic changes to the Height Act in areas outside of the L'Enfant City where there is currently less concentration of federal interests. However, the Commission recommends sufficiently detailed, and joint planning work through the *Comprehensive Plan for the National Capital* prior to proposing any changes to this long-standing law by Congress. This includes an update to the District Elements of the Comprehensive Plan to account for the new growth forecasts as outlined in the District's Height Report. It also includes an update to the Federal Elements that more clearly protects federal interests on matters related to height. The Commission is prepared to continue this effort through the currently established comprehensive planning process as well as additional planning study and analysis, but does not support amending the law today.

Cities evolve and Washington must also respond to 21st century demands and opportunities. Like all cities, it must address changing development trends, manage long-term growth, provide necessary infrastructure and services, and balance a variety of interests as it plans for the future. The NCPC shares the District's vision for a strong, vital capital city that addresses long term challenges in a sophisticated, multidimensional way for the people of the District of Columbia and for all Americans. We understand that change may occur in the

future, but there is sufficient time to fully review any new growth forecasts in the context of a larger discussion about the city's future development, which may or may not include changes to the federal Height Act.

We appreciate the opportunity to conduct this important study, which has reaffirmed the importance of the Height Act and the federal governments' enduring stewardship role in the form and character of the nation's capital.

**Marcel C. Acosta**  
Executive Director  
National Capital Planning Commission

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*, *Monumental Core Framework Plan*, and *SW Ecodistrict Initiative*.

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