



**TEXT AMENDMENT TO ELIMINATE THE CERTIFICATE OF OCCUPANCY
REQUIREMENT FOR COMMUNITY BASED RESIDENTIAL FACILITIES HOUSING
SIX OR FEWER PERSONS WITH DISABILITIES**

Washington, D.C.

Delegated Action of the Executive Director

November 29, 2007

Pursuant to delegations of authority adopted by the Commission on August 6, 1999, I find that the proposed text amendment to eliminate the certificate of occupancy requirement for community based residential facilities (CBRFs) housing six or fewer persons with disabilities would not be inconsistent with the Comprehensive Plan for the National Capital nor adversely affect any other identified federal interests.

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The Zoning Commission has referred to NCPC for review and comment a proposed action to eliminate the certificate of occupancy requirement for (Community Based Residential Facilities (CBRFs) that house six or fewer persons with disabilities. The U.S. Department of Justice filed a lawsuit claiming that the District of Columbia has violated the Fair Housing Act by imposing a precondition to the occupancy of a residential dwelling that applies only to persons with disabilities. In response to this lawsuit, the Office of Planning proposes a text amendment that would eliminate the certificate of occupancy (C of O) requirement for CBRFs intended to house six or fewer unrelated persons with disabilities.

At present, the Zoning regulations require C of Os for all uses except one-family dwellings. A "one-family dwelling" is defined as a "dwelling used exclusively as a residence for one family." A family is defined to include one or more persons related by blood, marriage, or adoption or six or fewer unrelated persons. Thus, six unrelated persons constitute a "family" and may occupy a dwelling without obtaining a C of O. However, if such individuals require one or more persons to live with them to provide "treatment, rehabilitation, assistance, or supervision in their daily living," their dwelling would meet the definition of a community based residential facility and a C of O must be obtained. Thus, whether or not six unrelated persons must obtain a C of O for a dwelling depends solely upon whether the group needs an additional resident to provide the assistance needed for them to live in a non-institutional setting. This situation will be remedied by the proposed action.

Marcel C. Acosta
Acting Executive Director