

**NCPC Executive Director Statement**

**Joint Standing Committee on the National Capital and External Territories of the  
Australian Parliament Inquiry Into Allocation of Land for Diplomatic Missions**

Washington, D.C., as the seat of the United States Government, is host to over 160 foreign missions, defined as any mission to or agency in the United States involving the diplomatic, consular, or other government activities of a foreign government or an international organization that meets certain criteria. A foreign mission, in Washington, D.C. parlance, is considered to be the collection of residential and non-residential facilities associated with the diplomatic mission of a particular country. For example, this could include residential facilities such as an Ambassador's residence or a residential dormitory for mission employees. It could also include nonresidential facilities referred to as chanceries, which include the principle offices of a foreign mission used for diplomatic or related purposes, and annexes to such offices (including ancillary offices and support facilities).

Regulation of foreign mission locations, and specifically chanceries, in Washington, D.C. dates to the late-1950s / early-1960s. In 1964, the United States Congress passed the Fulbright Act which established the first set of federal regulations pertaining to the locations of foreign missions in the District of Columbia. This early set of regulations placed restrictions on chanceries when proposed to be located in residential areas, as delineated by the local zoning regulations, and subjected these proposals to review by the District of Columbia Board of Zoning Adjustment, or BZA, a five-member, quasi-judicial body composed of federal and local

representatives. Established by Congress in 1938, the BZA is empowered to grant relief from the strict application of the DC Zoning Regulations, approve certain uses of land, hear appeals of certain types of local government actions, and, as discussed later, preside over certain applications to locate a chancery in the District of Columbia.

In 1982, Congress passed the Foreign Missions Act (FMA) which established the current framework under which locations of foreign missions on non-federal land are regulated. The Act also provides the Secretary of State authority to implement an exchange of property between the United States Government and a foreign government for purposes of establishing diplomatic or consular facilities. With the FMA, Congress found that the operation of foreign missions in the United States is a matter of Federal jurisdiction and established a policy to facilitate the secure and efficient operation of foreign missions within the United States. Due to the concentration of foreign missions in Washington' D.C., and the history of regulating such facilities established by the Fulbright Act, the FMA includes a specific section pertaining to the location, replacement, and expansion of foreign missions in the District of Columbia. In general terms, the FMA defines two areas in which chanceries can locate commonly referred to as "matter of right areas" and "non-matter of right areas," both of which are primarily based on a collection of local zoning districts. The FMA also established the Office of Foreign Missions within the United States Department of State whose mission it is to, in part, regulate the activities of foreign missions in the United States in a manner that will protect the foreign policy and national security interests of the United States and to provide the appropriate privileges, benefits, and services on a reciprocal basis to the foreign mission community in the U.S.

"Matter of right areas" refers to areas zoned for commercial, industrial, waterfront, and mixed use. Within these specific areas, foreign governments are free to locate chanceries or chancery

annexes as these areas are already considered suitable for general office or institution uses under the local zoning regulations. Prior to establishing a chancery in one of these areas, a foreign government need only receive clearance to proceed from the U.S. Department of State Office of Foreign Missions.

“Non-matter of right areas” refers to areas zoned for medium-high or high density residential uses, and any other area within the District of Columbia determined on the basis of existing uses. Foreign governments that aspire to locate a chancery within a “non-matter of right area” are first subject to review by the D.C. Board of Zoning Adjustment in a public hearing. Due to the heightened federal interest associated with these types of proceedings, the FMA prescribes the exact composition of the BZA to ensure that two of the five sitting members are federal representatives. The FMA stipulates that the two federal representatives must be the Executive Director of the National Capital Planning Commission, and the Director of the National Park Service or other designee as identified by the President of the United States. In making its determinations concerning the location of chanceries, the BZA is bound to specific criteria contained in the Foreign Missions Act. Generally, these criteria relate to: the international obligation of the United States to facilitate acquisition of adequate and secure facilities for foreign missions, historic preservation, the adequacy of off-street parking and public transportation, the ability to provide adequate security, and other municipal and federal interests. In addition, these proceedings are carried out as a “rule-making” as opposed to an adjudicatory nature. Therefore, while the proceedings are public and afford opportunities for public testimony, there is no cross examination permitted of foreign representatives.

While the primary purposes of the FMA are to protect federal interests and facilitate the international obligations of the United States by providing services and assistance to foreign

missions to assure appropriate privileges and benefits on a reciprocal basis, in order to promote a balance between federal interests and the potential impacts of foreign missions on surrounding neighborhoods, the FMA stipulates that the U.S. Department of State shall require foreign missions to substantially comply with District of Columbia building and related codes in a manner that is not inconsistent with the international obligations of the United States, and that other laws applicable with respect to the location, replacement, or expansion of real property in the District of Columbia shall apply with respect to chanceries only to the extent that they are consistent with the FMA.

For the convenience of foreign governments, the FMA processes and requirements summarized above for locating chanceries within matter of right areas and non-matter of right areas are outlined in a booklet entitled “Foreign Missions and International Organizations Real Property Manual,” which was jointly prepared by the United States Department of State, the National Capital Planning Commission, and the District of Columbia government.

In addition to the regulatory framework established by the 1982 Foreign Missions Act, which leaves the responsibility of identifying and acquiring sites for chanceries with the foreign governments under free market conditions with limited regulations depending upon the desired location, there are examples of the United States Government taking a more proactive role in providing foreign governments with sites for chanceries and other related facilities. In 1968, Congress passed the International Chancery Center Act. The purpose of this Act was to facilitate the conduct of foreign relations by the U.S. Department of State in Washington, D.C., through the creation of a more favorable atmosphere for foreign missions to establish offices and other related facilities. The Act identified a specific area of land already owned by the United States Government, presently referred to as the International Chancery Center or ICC, and authorized

the Secretary of State to apportion the land, through sale or lease arrangements, to foreign governments and international organizations. According to the Act, every lease, contract of sale, and any other document of transfer must provide that the property be devoted to foreign mission purposes, or that the international organization devote the property to its official uses.

In accordance with the International Chancery Center Act, developments carried out within the ICC are not subject to local zoning and building requirements. Rather, these developments are subject to review and approval by the National Capital Planning Commission (NCPC), the central planning agency for the federal government in the National Capital Region. In order to help guide the development of the ICC, NCPC and the United States Department of State worked together to develop a master plan for ICC and an accompanying set of development controls which take into consideration the policies of the Comprehensive Plan for the National Capital, developed by NCPC and the District of Columbia government, the special character and development potential of ICC, and the character and quality of the surrounding area. In general, the development controls establish a uniform set of guidelines for the design and construction of chanceries at ICC. More specifically, they are intended to preserve existing topography, tree cover, and natural vegetation; minimize storm water runoff; establish maximum building heights; maximize efficient use of limited land area; provide flexibility in design and architectural treatment; control vehicular traffic and impacts to surrounding roadways; and provide adequate on and off-street vehicular parking capacity. While taking longer than anticipated, the ICC reached its full development capacity within the last ten years. These development controls served as the primary review device used by NCPC throughout the ICC development.

With the ICC at full capacity, the United States Department of State is in the process of acquiring a recently closed federally owned military installation for purposes of establishing another

foreign missions center. The remainder of the installation has been acquired by the local government and will be redeveloped with a mix of commercial, residential, and institutional uses. Similar to the existing ICC, proposals for chanceries and similar facilities within the new foreign missions center will be subject to NCPC review and approval, and therefore, NCPC is working closely with the U.S. Department of State to develop a master plan that will guide the development. In addition, it is anticipated that a set of development controls, similar to the ICC, will be prepared which will take into consideration not only the policies of the Comprehensive Plan and the programmatic needs of the diplomatic community, but also lessons learned from ICC, future development plans of the local government, impacts to the surrounding community, historic constraints, and sustainability goals and objectives.