



OFFICE OF THE GENERAL COUNSEL

Council of the District of Columbia
1350 Pennsylvania Avenue NW, Suite 4
Washington, DC 20004
(202) 724-8026

September 13, 2013

VIA Email to carl@media.org

Dear Mr. Malamud:

At the outset, I want to thank you for your demonstrated interest in ensuring widespread public access to the District's laws.

As you know, the Council of the District of Columbia is charged by law to publish the District of Columbia Official Code ("Code"). The Code, among other things, is essentially a compilation of the District's laws, organized principally by title, chapter, and sections.

The Code also includes annotations. Some of these annotations are prepared for the District under contract by LexisNexis. These annotations and editorial notes are original works, involving analyses of administrative and judicial interpretation, and are the product of significant effort by the publisher. Accordingly, they are entitled to copyright protection, which should be respected by all citizens. Other annotations are prepared by the District, or at the direction of the District, and are not original works of the publisher.

The publishing contract requires a version of Code that does not include the original works of the publisher to be published at no additional charge and made available to the public. Specifically, LexisNexis has agreed to provide a digital copy of the Code without the original annotations within 2 months of the publication of each Code supplement (including pocket parts and annual supplements). Pursuant to this arrangement, LexisNexis has provided the Council with an updated version of the Code, which is now available in plain text on the Council's website.

Through this arrangement I will personally see to it that the 8 Principles of Open Government Data¹ will be met with respect to the Code. In particular, the Code will be: (1) complete, including all published supplements; (2) primary; (3) timely (provided within 60 days of publication); (4) accessible;² (5) machine-readable; (6) non-discriminatory; (7) non-proprietary; and

¹ See www.opengovdata.org/home/8principles (December 8, 2007).

² The annotated Code will remain available for public view at any District of Columbia Library and the digital Code will be available on the internet.

(8) license-free.³ As the individual charged with supervising the publication of the Code, I will ensure that either I or the Codification Counsel will be available to respond to any complaints or usage questions.

Given this good-faith effort to ensure widespread access to the Code and our mutual interest in ensuring the highest-quality of data in the Code for future publications of the Code, I respectfully request that you take immediate steps to remove the annotated D.C. Official Code from your website.⁴

Thank you for your attention to this matter. Please let me know if you have any questions.

Regards,

/s/ V. David Zvenyach

V. David Zvenyach
General Counsel

³ As with the two publicly available versions of the Code, I will release new versions with CC0 license. See <http://www.dccouncil.us/UnofficialDCCode>

⁴ I am aware of your view that there may be no legal distinction between an annotated Code and one without annotations. Although I respect your view, I disagree with it. But more importantly, at least with respect to the District's Code, it may be counterproductive. Our contractual relationship with LexisNexis affords the District with the ability to maintain the quality and integrity of the official Code while limiting our costs. The practical reality is that the providing copyright protection of the annotations ensures that the public has *greater* access to the Code, not less. Everyone wins when the Code is public and widely available; it is less clear who wins if an official, annotated Code is not viable.