



PUBLIC.RESOURCE.ORG ~ *A Nonprofit Corporation*

Open Source America's Operating System

"It's Not Just A Good Idea—It's The Law!"

September 18, 2013

Mr. V. David Zvenyach
Office of the General Counsel
Council of the District of Columbia
1350 Pennsylvania Avenue, NW, Suite 4
Washington, DC 20004

Dear Mr. Zvenyach:

Thank you for your letter of September 13, 2013, and for being so responsive by phone and email. It is a pleasure to see a government official charged with promulgation of the law so actively engaged with the interested public. I'm sure you have been as delighted as I have been to witness the substantial volunteer efforts by developers in the District who have pitched in to create the open source DCCode.Org effort.

Your letter requested that we remove an old copy of the D.C. Official Code from our web site. That version we posted was prepared by your previous contractor, however your request is evidently prompted by concerns expressed by your current contractor. Your letter also drew a distinction in the work performed by your current contractor between annotations prepared by the District or at the direction of the District and those annotations that are "original."

While I applaud the efforts you and the dedicated volunteers of the District of Columbia have taken to make a machine-readable unofficial version of the code available, it is important to understand that these are just unofficial versions. Your site distributes the December 2012 and September 2013 versions at dccouncil.us/UnofficialDCCode and the site stresses that this "is not an official copy and should not be relied upon for legal purposes."

Again, I applaud your efforts to make available this data in bulk, but a careful examination of the September 2013 version you have just released shows that it is not only unofficial, it is quite incomplete. The release is a plain text file with no markup in XML or other language that indicates the different types of data contained in the file. For example, it is difficult to differentiate a section title from the section contents. In addition, substantial information, such as tables, are missing from this version.

Likewise, the web site provided by your contractor is substantially incomplete. There are numerous technical deficiencies, such as the lack of permanent bookmarks, restrictions on browser compatibility, and limited number of search results allowed. In addition, the terms of use are highly restrictive and prohibit a large class of valid uses.

The marketing literature from your vendor stresses that the web site online is incomplete and also stresses that the print version "is the only version of the District of Columbia Code that is reviewed and approved by the government of the District of Columbia, meaning that this is the definitive, authoritative Code you know you can trust." Not only is the text prepared under your direct supervision, copyright in the document is claimed by the District of Columbia as part of your duties to publish and promulgate the Official District of Columbia Code.

I am sympathetic to the financial burden of publishing and promulgating the laws of your jurisdiction. To be clear, we have no issue whatsoever with the District or your contractor selling documents. However, once we have purchased a copy of the District of Columbia Official Code, it is very clear under the U.S. Constitution and a long line of court rulings that all citizens have the right to freely read, know, and speak these laws. That principle is foundational to the rule of law in our country and it is the principle that breathes life into guarantees of free speech, due process, and equal protection that make our system of government so vibrant and long-lasting.

Sincerely yours,



Digitally signed by Carl
Malamud
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