

(d) Protection from future hostile intelligence activities in United States

(1) After December 22, 1987, real property in the United States may not be acquired (by sale, lease, or other means) by or on behalf of the foreign mission of a foreign country described in paragraph (4) if, in the judgment of the Secretary of Defense (after consultation with the Secretary of State), the acquisition of that property might substantially improve the capability of that country to intercept communications involving United States Government diplomatic, military, or intelligence matters.

(2) After December 22, 1987, real property in the United States may not be acquired (by sale, lease, or other means) by or on behalf of the foreign mission of a foreign country described in paragraph (4) if, in the judgment of the Director of the Federal Bureau of Investigation (after consultation with the Secretary of State), the acquisition of that property might substantially improve the capability of that country to engage in intelligence activities directed against the United States Government, other than the intelligence activities described in paragraph (1).

(3) The Secretary of State shall inform the Secretary of Defense and the Director of the Federal Bureau of Investigation immediately upon notice being given pursuant to subsection (a) of this section of a proposed acquisition of real property by or on behalf of the foreign mission of a foreign country described in paragraph (4).

(4) For the purposes of this subsection, the term “foreign country” means—

(A) any country listed as a Communist country in section 2370(f) of this title;

(B) any country determined by the Secretary of State, for purposes of section 2405(j) of the Appendix to title 50, to be a country which has repeatedly provided support for acts of international terrorism; and

(C) any other country which engages in intelligence activities in the United States which are adverse to the national security interests of the United States.

(5) As used in this section, the term “substantially improve” shall not be construed to prevent the establishment of a foreign mission by a country which, on December 22, 1987—

(A) does not have a mission in the United States, or

(B) with respect to a city in the United States, did not maintain a mission in that city.

(Aug. 1, 1956, ch. 841, title II, § 205, as added Pub. L. 97-241, title II, § 202(b), Aug. 24, 1982, 96 Stat. 285; amended Pub. L. 99-93, title I, § 127(d), (e), Aug. 16, 1985, 99 Stat. 418; Pub. L. 100-204, title I, § 161, Dec. 22, 1987, 101 Stat. 1356; Pub. L. 103-236, title I, § 162(o)(5), Apr. 30, 1994, 108 Stat. 410.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-236, § 162(o)(5)(A), substituted “Secretary prior to” for “Director prior to” in introductory provisions.

Subsec. (c)(2). Pub. L. 103-236, § 162(o)(5)(B), struck out “authorize the Director to” before “dispose of”.

1987—Subsec. (d). Pub. L. 100-204 added subsec. (d).

1985—Subsec. (a)(1). Pub. L. 99-93, § 127(e), substituted “shall” for “may” and inserted “, including any mission to an international organization (as defined in section 4309(b)(2) of this title),” after “foreign mission” in first sentence, and substituted “The” for “If such a notification is required, the” in second sentence.

Subsec. (b)(3). Pub. L. 99-93, § 127(d), added par. (3).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103-236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103-236, as amended, set out as a note under section 2651a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4306, 4307 of this title.

§ 4306. Location of foreign missions in the District of Columbia

(a) Section as governing location, replacement, or expansion

The location, replacement, or expansion of chanceries in the District of Columbia shall be subject to this section.

(b) Acceptable areas; limitations and conditions

(1) A chancery shall be permitted to locate as a matter of right in any area which is zoned commercial, industrial, waterfront, or mixed-use (CR).

(2) A chancery shall also be permitted to locate—

(A) in any area which is zoned medium-high or high density residential, and

(B) in any other area, determined on the basis of existing uses, which includes office or institutional uses, including but not limited to any area zoned mixed-use diplomatic or special purpose,

subject to disapproval by the District of Columbia Board of Zoning Adjustment in accordance with this section.

(3) In each of the areas described in paragraphs (1) and (2), the limitations and conditions applicable to chanceries shall not exceed those applicable to other office or institutional uses in that area.

(c) Filing of application with Board of Zoning Adjustment; publication of notice; public participation; final determination

(1) If a foreign mission wishes to locate a chancery in an area described in subsection (b)(2) of this section, or wishes to appeal an administrative decision relating to a chancery based in whole or in part upon any zoning map or regulation, it shall file an application with the Board of Zoning Adjustment which shall publish notice of that application in the District of Columbia Register.

(2) Regulations issued to carry out this section shall provide appropriate opportunities for participation by the public in proceedings concerning the location, replacement, or expansion of chanceries.

(3) A final determination concerning the location, replacement, or expansion of a chancery

shall be made not later than six months after the date of the filing of an application with respect to such location, replacement, or expansion. Such determination shall not be subject to the administrative proceedings of any other agency or official except as provided in this chapter.

(d) Criteria for determination

Any determination concerning the location of a chancery under subsection (b)(2) of this section, or concerning an appeal of an administrative decision with respect to a chancery based in whole or in part upon any zoning regulation or map, shall be based solely on the following criteria:

- (1) The international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the Nation's Capital.
- (2) Historic preservation, as determined by the Board of Zoning Adjustment in carrying out this section; and in order to ensure compatibility with historic landmarks and districts, substantial compliance with District of Columbia and Federal regulations governing historic preservation shall be required with respect to new construction and to demolition of or alteration to historic landmarks.
- (3) The adequacy of off-street or other parking and the extent to which the area will be served by public transportation to reduce parking requirements, subject to such special security requirements as may be determined by the Secretary, after consultation with Federal agencies authorized to perform protective services.
- (4) The extent to which the area is capable of being adequately protected, as determined by the Secretary, after consultation with Federal agencies authorized to perform protective services.
- (5) The municipal interest, as determined by the Mayor of the District of Columbia.
- (6) The Federal interest, as determined by the Secretary.

(e) Consistency of regulations, proceedings, and other actions; review and comment by National Planning Commission

(1) Regulations, proceedings, and other actions of the National Capital Planning Commission, the Zoning Commission for the District of Columbia, and the Board of Zoning Adjustment affecting the location, replacement, or expansion of chanceries shall be consistent with this section (including the criteria set out in subsection (d) of this section) and shall reflect the policy of this chapter.

(2) Proposed actions of the Zoning Commission concerning implementation of this section shall be referred to the National Capital Planning Commission for review and comment.

(f) Rule-making nature of proceedings

Regulations issued to carry out this section shall provide for proceedings of a rule-making and not of an adjudicatory nature.

(g) Compliance with District of Columbia building and related codes

The Secretary shall require foreign missions to comply substantially with District of Colum-

bia building and related codes in a manner determined by the Secretary to be not inconsistent with the international obligations of the United States.

(h) Approval of Board of Zoning Adjustment or Zoning Commission not required

Approval by the Board of Zoning Adjustment or the Zoning Commission or, except as provided in section 4305 of this title, by any other agency or official is not required—

- (1) for the location, replacement, or expansion of a chancery to the extent that authority to proceed, or rights or interests, with respect to such location, replacement, or expansion were granted to or otherwise acquired by the foreign mission before October 1, 1982; or
- (2) for continuing use of a chancery by a foreign mission to the extent that the chancery was being used by a foreign mission on October 1, 1982.

(i) Membership on Zoning Commission and Board of Zoning Adjustment

(1) The President may designate the Secretary of Defense, the Secretary of the Interior, or the Administrator of General Services (or such alternate as such official may from time to time designate) to serve as a member of the Zoning Commission in lieu of the Director of the National Park Service whenever the President determines that the Zoning Commission is performing functions concerning the implementation of this section.

(2) Whenever the Board of Zoning Adjustment is performing functions regarding an application by a foreign mission with respect to the location, expansion, or replacement of a chancery—

- (A) the representative from the Zoning Commission shall be the Director of the National Park Service or if another person has been designated under paragraph (1) of this subsection, the person so designated; and
- (B) the representative from the National Capital Planning Commission shall be the Executive Director of that Commission.

(j) Application of other laws

Provisions of law (other than this chapter) 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 this section.

(Aug. 1, 1956, ch. 841, title II, § 206, as added Pub. L. 97-241, title II, § 202(b), Aug. 24, 1982, 96 Stat. 286.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4309 of this title.

§ 4307. Preemption

Notwithstanding any other law, no act of any Federal agency shall be effective to confer or deny any benefit with respect to any foreign mission contrary to this chapter. Nothing in section 4302, 4303, 4304, or 4305 of this title may be construed to preempt any State or municipal law or governmental authority regarding zoning, land use, health, safety, or welfare, except that a denial by the Secretary involving a bene-