



www.legalaiddc.org
1331 H Street, NW
Suite 350
Washington, DC 20005
(202) 628-1161

**Testimony of Eleni P. Christidis
Supervising Attorney, Housing Law Unit
Legal Aid DC**

**Before the Committee of the Whole
Council of the District of Columbia**

Budget Oversight Hearing Regarding the Department of Buildings

April 24, 2024

Legal Aid DC¹ submits the following testimony regarding the Department of Buildings (DOB). Every day, Legal Aid attorneys and staff hear from District tenants dealing with unacceptable living conditions like leaks, mold, and pest infestations. Despite a robust housing code and the legal guarantee of habitable housing contained in all residential leases, we hear story after story of housing providers violating the housing code and ignoring tenants' requests for repairs. Legal Aid is actively working with tenants at multi-building properties in a state of disrepair from years of inadequate maintenance, including where DOB has repeatedly cited the landlord for violations.

Legal Aid appreciates DOB's new focus on public health and safety, transparency, and accountability under the leadership of Director Brian Hanlon. This important and long-needed shift in agency focus and culture is reflected in DOB's first Annual Enforcement

¹ Legal Aid DC is the oldest and largest general civil legal services program in the District of Columbia. The largest part of our work is comprised of individual representation in housing, domestic violence/family, public benefits, and consumer law. We also work on immigration law matters and help individuals with the collateral consequences of their involvement with the criminal legal system. From the experiences of our clients, we identify opportunities for court and law reform, public policy advocacy, and systemic litigation. For more information, visit www.LegalAidDC.org.

Report, published in late February of this year.² The report lays out DOB’s strategic enforcement objectives, which include recruiting, training, and retaining additional highly qualified housing inspectors.³ Legal Aid is grateful to the Council for passing the Residential Housing Environmental Safety Amendment Act of 2020 (Law 23-188) to enhance DOB’s ability to inspect and cite for mold in residential housing, and the Proactive Inspection Program Act of 2023 (Law 24-141) to formalize and improve DOB’s Proactive Inspection Program. We also reiterate our appreciation for this Committee’s detailed report on DOB’s broken inspections process and our desire to see DOB fully implement the Committee’s recommendations.⁴

Yet, DOB’s strategic enforcement goals and the Council’s legislative and oversight agenda are not adequately supported by the Mayor’s proposed budget, which would reduce funding to the Rental Housing Inspections Program at a time when more, better-trained, and mold-certified residential housing inspectors are needed to ensure that DC families are living in safe, habitable, and mold-free housing.⁵ We ask the Council to fully fund the Residential Housing Environmental Safety Amendment Act of 2020; fully fund the Proactive Inspection Program Act of 2023; and restore and add funding to enhance DOB’s hiring and training of its residential housing inspectors. Additionally, the Council must fully fund OAH’s capacity to adjudicate the backlog of DOB Notices of Infraction (NOIs). Given the lengthy delay from NOI issuance to fine collection, as well as budgetary constraints, this Committee must push DOB to find ways to work with other District agencies to obtain landlord compliance through enforcement activities in addition to issuing infractions and collecting fines.

² See DOB Office of Strategic Code Enforcement, Fiscal Year 2023 Annual Report (Feb. 26, 2024), available at <https://dob.dc.gov/sites/default/files/dc/sites/dob/2024-02-26%20OSCE%20Yearly%20Enforcement%20Report.pdf>.

³ See *id.* at Appendix 1, “Strategy 1: Focus on Abatement of Housing Life-Safety Violations.”

⁴ See Council of the District of Columbia, Committee of the Whole, Report on the District’s Housing Code Inspection Process: Broken and in Need of Repair (Jan. 18, 2023).

⁵ See Government of the District of Columbia, FY 2025 Proposed Budget and Financial Plan, Volume 4 (Department of Buildings) (“DOB FY2025 Budget”).

DOB Needs More Housing Inspectors to Address the Adverse Health Impacts of Mold and to Support a Robust Proactive Inspection Program

The Council Should Fund the Residential Housing Environmental Safety Amendment Act

Mold remains a relentless and pernicious concern for the hundreds of low-income tenants who seek out Legal Aid's help every year. The presence of mold in the home impacts tenants' respiratory health as well as their mental health, as tenants worry about the negative health effects mold is having on their loved ones, especially their children. Exposure to mold has been linked to upper respiratory tract symptoms, coughing, and wheezing in otherwise healthy people, as well as a higher risk of developing asthma, and to asthma symptoms in people with asthma.⁶ One in six District residents has asthma.⁷ Residents in Wards 7 and 8 – and in particular low-income, children of color – are disproportionately affected.⁸ Children living in Ward 8 are 20 to 25 times more likely to visit an emergency room and 10 times more likely to be hospitalized for asthma than children living in Northwest DC.⁹ Doctors have identified mold and other poor housing conditions as one of the primary factors contributing to the District's asthma epidemic.¹⁰

Mold and its causes, such as leaks or aging building exteriors, are especially prevalent at chronically neglected properties, including several rent-controlled buildings where Legal Aid has worked closely with tenants in recent years. Local news media have highlighted

⁶ See Centers for Disease Control and Prevention, "Basic Facts About Mold and Dampness," available at <https://www.cdc.gov/mold/faqs.htm>.

⁷ World Health Organization, 2022 Health and Climate Change Urban Profile: Washington, District of Columbia, available at https://cdn.who.int/media/docs/default-source/climate-change/55232_o3_who-city-profile_washington_web.pdf?sfvrsn=ee7b4a6b_3&download=true.

⁸ See Morgan Baskin, "Doctors Blame D.C.'s High Asthma Rates in Part on Poor Housing," Washington City Paper (May 22, 2019), available at <https://washingtoncitypaper.com/article/180182/doctors-blame-dcs-high-asthma-rates-in-part-on-poor-housing/>.

⁹ *Id.*

¹⁰ *See id.*

stories of mold being among the conditions driving tenant displacement and ultimately contributing to the elimination of affordable, rent-stabilized units.¹¹

Legal Aid advocated in strong support of Bill 23-0132, the Indoor Mold Remediation Enforcement Amendment Act of 2019, which required the Department of Consumer and Regulatory Affairs to certify its inspectors in mold assessment and to issue notices of violation and impose penalties when landlords fail to comply with the District's mold law, the Air Quality Amendment Act of 2014.

Although the Council passed this legislation in the form of the Residential Housing Environmental Safety Amendment Act of 2020 (Law 23-188),¹² sections of the law requiring DOB inspectors to be certified in mold assessment and to issue notices of infraction for mold remain subject to appropriations. The law, which was only partially funded in the FY 2022 budget, was estimated to require \$3.9 million in the first fiscal year and \$14 million in the four-year financial plan.¹³ Now is the last chance for the Council to fund this badly needed legislation, which is subject to repeal if not funded in this year's Budget Support Act.¹⁴ Along with our partners in the Fair Budget Coalition, Legal Aid calls on the Council to fully fund this law, which has the potential to translate into improved health outcomes and a better quality of life for District residents, as well as better maintenance and preservation of existing affordable housing.

¹¹ See, e.g., Amanda Michelle Gomez, "Landlords Receive Federal Funds for Rental Assistance, Even When Tenants Live in Poor Conditions," Washington City Paper (July 15, 2021), available at <https://washingtoncitypaper.com/article/523476/landlords-receive-federal-funds-for-rental-assistance-even-when-tenants-live-in-poor-conditions/>; Morgan Baskin, "The Next Hottest Rental Strategy? Market to Housing Choice Voucher Holders," DCist.com (March 20, 2023), available at <https://dcist.com/story/23/03/20/sam-razjooyan-housing-choice-voucher-holders-rent/>.

¹² Available at <https://lims.dccouncil.gov/Legislation/B23-0132>.

¹³ Ofc. of the Chief Fin. Ofcr., Fiscal Impact Statement – Residential Housing Environmental Safety Amendment Act of 2020 (Dec. 1, 2020), available at https://lims.dccouncil.gov/downloads/LIMS/41819/Other/B23-0132-FIS_Residential_Housing_Environmental.pdf.

¹⁴ See Rules of Organization and Procedure for the Council of the District of Columbia, Rule 736, <https://dccouncil.gov/wp-content/uploads/2021/01/PR24-0001a.pdf>.

The Council Should Fund the Proactive Inspection Program Act

For similar reasons, we urge the Council to fully fund the Proactive Inspection Program Act of 2023 (B25-0048).¹⁵ For years, Legal Aid has testified about the need to legislate a proactive inspections program based on national best practices in advancing healthy housing.¹⁶ A key advantage of a proactive inspection program is that it can catch unsafe properties where tenants with language barriers, with disabilities, or who fear retaliation are being underserved by the existing complaint-based system.¹⁷

The final version of the law represents a compromise that still gives DOB discretion and leaves room for further refinement. Legal Aid is pleased that the law as passed relies on data and health-related risk factors to target for more frequent inspection properties most likely to have poor housing conditions and fills the longstanding need to codify a proactive inspection program into law. Funding this law is crucial to ensuring an equitable and effective inspection framework that benefits all DC renters and promotes the maintenance and preservation of DC's existing affordable housing stock.

¹⁵ Available at <https://lims.dccouncil.gov/Legislation/B25-0048>.

¹⁶ See, e.g., Written Testimony of Shavannie Braham and Beth Mellen Harrison, Performance Oversight Hearing on the Department of Consumer and Regulatory Affairs (March 8, 2018), available at <https://www.legalaiddc.org/media/675/download>; Written Testimony of Beth Mellen Harrison, Performance Oversight Hearing on the Department of Consumer & Regulatory Affairs (March 3, 2020), available at <https://www.legalaiddc.org/media/561/download>; Written Testimony of Beth Mellen and Eleni P. Christidis, Budget Oversight Hearing on the Department of Buildings (March 24, 2022), available at <https://www.legalaiddc.org/media/273/download>.

¹⁷ See ChangeLab Solutions, "A Guide to Proactive Rental Inspections Programs," at p. 13, available at https://www.changelabsolutions.org/sites/default/files/2022-11/A-Guide-to-Proactive-Rental-Inspections_FINAL_20221031A.pdf.

The Council Should Restore and Enhance Funding Cut by the Mayor's Budget

DOB's challenges in the areas of rental housing inspections and enforcement, particularly in the collection of fines, are well-known and documented.¹⁸ So while the Mayor's proposed budget made relatively small cuts to DOB overall, Legal Aid is disappointed to see that these cuts were made to the Rental Housing Inspections Program (-\$176,000), the Housing Rehabilitation Program (-\$380,000), and Civil Infractions and Fine Assessment (-\$29,000) – the very programs tasked with identifying and citing violations of the housing code; abating property maintenance code violations; and processing infractions with the Office of Administrative Hearings (OAH), collecting fines, and placing liens for unpaid fines.¹⁹

Funding the Residential Housing Environmental Safety Amendment Act of 2020 and the Proactive Inspection Program Act of 2023 as discussed above would provide funding for 12 additional housing inspectors.²⁰ According to DOB's performance oversight responses, there are currently 36 residential housing inspectors.²¹ Funding and hiring 12

¹⁸ See, e.g., Council of the District of Columbia, Committee of the Whole, Report on the District's Housing Code Inspection Process: Broken and in Need of Repair (Jan. 18, 2023); Written Testimony of Eleni P. Christidis, Budget Oversight Hearing Regarding the Department of Buildings (March 28, 2023) (noting, based on data from DOB's Public Dashboard, that DOB had yet to collect over \$70.5 million in fines from notices of infraction issued for complaint-based and proactive housing inspections from FY2019 to FY2022), available at <https://www.legalaiddc.org/media/3417/download?inline>.

¹⁹ See DOB FY2025 Budget, *supra* n. 5.

²⁰ See *supra* n. 13; Ofc. of the Chief Fin. Ofcr., Fiscal Impact Statement – Proactive Inspection Program Act of 2023 (Dec. 18, 2023), available at https://lms.dccouncil.gov/downloads/LIMS/52108/Other/B25-0048-FIS_Proactive_Inspection_Act_of_2023.pdf?ld=182227.

²¹ See Dep't of Buildings, DOB Standard Oversight Questions, FY2024 Performance Oversight Hearing, at p. 38 (Feb. 16, 2024) ("DOB FY2024 Oversight Responses"). Legal Aid has advocated that DOB ultimately employ one residential housing inspector for every 2,000 residential housing units, as originally proposed in the Tenant and Homeowner Accountability and Protection Amendment Act of 2019 (Bill 23-0394). The District currently has an estimated 192,850 renter-occupied housing units, meaning DOB would ultimately need 96 inspectors to achieve the 1:2,000 ratio of

more would bring the total to 48. At a minimum, the Council should restore the 2.0 FTEs cut from the Residential Housing Inspections Program and press DOB about its progress toward filling the 15 vacancies in that department identified in its FY2024 Performance Oversight Responses.²²

While Legal Aid appreciates the proposed additional \$450,000 in the Mayor’s budget “to support Nuisance Abatement and Proactive Inspection activities,” this was coupled with a reduction of \$380,000 to the Housing Rehabilitation Program, which “abates property maintenance code violations, manages abatement contracts, and issues special assessments for unpaid abatement costs.”²³ It is unclear whether on balance the allocation of these funds is supporting more effective deployment of Nuisance Abatement activities that translate into safer living conditions for tenants, or merely to aesthetic improvements to vacant properties. We hope the Committee will press DOB to fully explain and justify the apparent shift of funds within its Nuisance Abatement program and prioritize the use of Nuisance Abatement funds to abate life-safety violations in tenant-occupied units, and particularly violations that displace tenants.

OAH Must Be Adequately Funded to Work Through the Backlog of DCRA and DOB NOIs

DOB admits, in its first Annual Enforcement Report, that its efficacy in enforcing the housing code is limited by an OAH adjudication process that “routinely take[s] about six (6) months [or] longer.”²⁴ OAH, in turn, appears to be overburdened by DOB filings. DCRA and DOB cases filed in FY2023 totaled 10,272, and DCRA and DOB cases account for nearly 38% of OAH’s currently identified case backlog.²⁵

inspectors to residential units, or 55 inspectors to achieve a 1:3,500 ratio. See U.S. Census Bureau, available at <https://data.census.gov/cedsci/> (last visited April 20, 2024).

²² See DOB FY2024 Oversight Responses, *supra* n. 21, at p. 1.

²³ See DOB FY2025 Budget, *supra* n. 5.

²⁴ *Supra* n. 2, at p. 4.

²⁵ See Office of Administrative Hearings, Performance Oversight FY2023-2024 Pre-Hearing Questions, at pp. 18, 40.

Legal Aid urges the Council to restore the Mayor’s proposed cuts to OAH’s Adjudication Support and Administrative Adjudication Services programs,²⁶ which are crucial to ensuring OAH can timely resolve an increased volume of filings and work through the backlog of DCRA and DOB cases.

Additional Oversight is Needed to Improve DOB’s Enforcement Through Means Other than Fines

The scale of the OAH backlog and the unacceptable delay from NOI issuance to final adjudication underscores the need for DOB to work with other District agencies to enforce the housing code through means other than NOIs and fines alone. Legal Aid has repeatedly called on DOB to coordinate with the Rental Accommodations Division of the Department of Housing and Community Development (DHCD) to enforce the law that prohibits landlords of rent-controlled properties from increasing rents on units with substantial housing code violations.²⁷ A basic first step would be a formal memorandum of understanding between the agencies to coordinate and share information about known housing code violations in real time.

In addition, DOB needs to proactively work with the Department of Licensing and Consumer Protection (DLCP) to share data about OAH final orders to ensure DLCP is enforcing existing Clean Hands laws prohibiting the issuance or renewal of a basic business license where a housing provider has outstanding fines above a certain threshold.²⁸ Director Hanlon’s oversight testimony in February underscored that there is currently a lack of formalized coordination and data-sharing between DOB and DLCP. This is a lost opportunity to use DLCP’s business licensing function to incentivize landlord resolution of NOIs. The Office of Inspector General previously reported that DCRA lacked policies for suspending business licenses and declined to do so as an

²⁶ See Government of the District of Columbia, FY 2025 Proposed Budget and Financial Plan, Volume 2 (Office of Administrative Hearings).

²⁷ See, e.g., Written Testimony of Eleni P. Christidis, Budget Oversight Hearing Regarding the Department of Buildings (March 28, 2023), *supra* n. 18; Written Testimony of Eleni P. Christidis, Performance Oversight Hearing Regarding the Department of Buildings (Feb. 22, 2024), available at <https://www.legalaiddc.org/media/3871/download?inline>; D.C. Code § 42–3502.08(a)(1).

²⁸ See D.C. Code § 47–2862(a)(1)(D).

enforcement mechanism, even though it had this authority.²⁹ Landlords who repeatedly fail to abate housing code violations should face a real risk of suspension or non-renewal of their license.

Legal Aid hopes this Committee will continue to convene oversight roundtables and investigate further the root causes of DOB's enforcement delays, including convening an inter-agency roundtable with representatives from DOB, DLCP, DHCD, OAH, the Office of Tax and Revenue (OTR), and the Central Collections Unit (CCU) to identify bottlenecks and opportunities to streamline DOB's enforcement capabilities.

Conclusion

Thank you for this opportunity to testify on DOB's proposed budget. We urge the Council to fully fund legislation to protect the public health and safety and maintain and preserve existing affordable housing. We ask the Council to pass a Budget Support Act that ensures DOB is adequately staffed and funded to achieve its strategic enforcement goals in FY2025.

²⁹ See District of Columbia Office of the Inspector General, "Department of Consumer and Regulatory Affairs: Civil Infractions Program Lacked a Strong Internal Control Environment" (May 2019).