

**Testimony of David Steib
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**Before the Committee on Public Services & Consumer Affairs,
Council of the District of Columbia**

**Agency Performance Oversight Hearings
Department of Consumer and Regulatory Affairs
Fiscal Year 2011-2012**

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Introduction

The Department of Consumer and Regulatory Affairs (DCRA) plays an important role in maintaining public safety as the agency responsible for inspecting rental units to ensure compliance with the housing code. This role is seriously jeopardized when DCRA fails adequately to serve whole segments of the DC population because of language barriers. Such a failure is also a violation of DC law.

The District of Columbia is a pioneer in protecting the language access rights of its residents. In 2004, the DC Council passed the Language Access Act, a vital and innovative piece of legislation intended to ensure that all residents – regardless of the languages they speak - have meaningful access to the city’s services. In broad terms, the Act first requires District government agencies to offer oral language services to any individual who contacts the agency, regardless of the language spoken by the individual. Second, the Act requires District government agencies to provide written translations of documents in certain specified languages.

Our concern is the degree to which DCRA is meeting its interpretation and translation obligations under the Language Access Act. Furthermore, regardless of the languages spoken by tenants, we are concerned that DCRA is failing to provide tenants with any copies whatsoever of the inspection reports pertaining to their units.

The Department of Consumer and Regulatory Affairs fails to offer consistent language access services.

As a lawyer for the Legal Aid Society of DC, I helped one of my clients file a language access complaint with the Office of Human Rights (OHR) against DCRA in 2010. My client was a tenant living in a rented apartment riddled with housing code violations that her landlord refused to fix. My client wanted the city to conduct an inspection of her apartment, a routine DCRA activity. On several occasions, DCRA sent a monolingual English-speaking inspector to my client’s home. Although my client is a monolingual Spanish-speaker, the inspector did not

¹ The Legal Aid Society of the District of Columbia was formed in 1932 to “provide legal aid and counsel to indigent persons in civil law matters and to encourage measures by which the law may better protect and serve their needs.” Legal Aid provides assistance in public benefits, housing, family, and consumer law matters.

use his cell phone to call a telephone interpretation service, as he should have done pursuant to DCRA's stated policy. Rather, the inspector entered my client's home and conducted the inspection without ever speaking to her in Spanish. Later, my client called DCRA to request a copy of her inspection report, but the DCRA employee with whom she spoke stated, "No, we don't speak Spanish," and hung up on her. Only after my client reached out to representatives from the Mayor's Office on Latino Affairs was she able to obtain a copy of her inspection report, and even then, it was entirely in English.

In June of 2011, OHR issued a determination in my client's case. The determination stated that DCRA had violated the Language Access Act by failing to offer interpretation services to my client during a series of inspections that occurred at her home and during attempted telephone communications. Regarding DCRA's failure to translate the inspection report into Spanish for my client, OHR found that DCRA did not have to translate the report because it was intended for my client's landlord, and not for her.

In August, 2011, OHR issued corrective actions to DCRA in an attempt to help the agency to come into compliance with the Language Access Act. The corrective actions required DCRA to issue materials to, and conduct trainings for, DCRA inspectors and public contact position staff in an effort to improve the language access services offered by the agency.

Unfortunately, my office continues to hear stories of language barriers that preclude customers from accessing the services offered by DCRA. Attorneys from my office report that Spanish-speaking tenants still have difficulty requesting inspections by phone. When Spanish-speaking tenants do arrange for DCRA inspections, the inspectors do not always use telephonic interpretation to communicate with the tenants. Rather, an inspector will sometimes enter a tenant's home to learn about the housing code violations that must be documented without any successful communication with the tenant.

The Legal Aid Society of DC urges DCRA to continue to train and test its staff on the provision of services in a manner that complies with the Language Access Act.

The Department of Consumer and Regulatory Affairs should amend its regulations to require service of the inspection reports on both tenants and landlords, and, in the meantime, the Department should comply with current law by providing tenants with copies of the inspection reports that have been served on landlords.

In response to my client's language access complaint, DCRA stated that it did not have to translate the inspection report, which documented the problems in my client's home, into Spanish. DCRA reasoned that no translation was required because the report was meant only for my client's landlord and not for my client herself. In reality, although the law does not require DCRA to serve my client with a copy of the inspection report, the law does require DCRA to provide my client with a copy of the inspection report that has been served on her landlord. Unfortunately, DCRA's normal practice is to disregard its duty to provide copies of inspection reports to tenants.

Judging by DCRA's practice and by the arguments that DCRA made to OHR, DCRA's position is that a tenant living with housing code violations does not need to be able to read the city's findings on those violations. DCRA must change its position and recognize that inspections of rental housing are performed for the sake of both the landlord and the tenant. The tenant has an equal interest in learning whether his or her apartment is in violation of the housing code and in being informed of the timeframe under which any problems must be remedied.

The District of Columbia has an aging housing stock that requires care and attention in order to remain safe and habitable. This Council has sought to ensure the quality of rental housing by enacting a housing code with clear standards. This Council has also legislated that leases in the District of Columbia shall be void if a landlord fails to correct, in a timely manner, all known housing code violations. Although DCRA plays an important role in the public enforcement of the housing code, there are a wide variety of private remedies and forums in which tenants serve as the enforcers.

In April, 2010, the DC Superior Court launched the Housing Conditions Calendar, a new forum where tenants may sue their landlords in order to obtain repairs to their apartments. This important development has created a landscape where the housing code is enforced in large part through the actions of private tenants. The Council's goal of maintaining safe and sanitary housing for the residents of DC is frustrated when the city's tenants are kept in the dark regarding the laws and procedures involved in enforcing the housing code.

DCRA's decision to inspect rental properties and then fail to report the results to tenants leads to a complete breakdown in the process. Tenants do not know whether or not the city has found violations of the housing code in their apartments. Without this information, tenants are uncertain whether or not to pursue cases in the Housing Conditions Calendar. DCRA is also depriving itself of valuable information from tenants about when and whether the landlord has corrected the violations. DCRA must send copies of inspection reports to tenants so that private enforcement of the housing code may be supported as a means of realizing this Council's goals.

Legal Aid recommends the following steps to improve DCRA's role in the public and private enforcement of the housing code:

- **DCRA should continue to test and to train its staff on the provision of services in compliance with the DC Language Access Act.**
DCRA should ensure that all inspectors and public contact position staff are trained in the use of Language Line Services and are provided with Language Line Services Quick Reference Guides. All staff should also be trained in cultural competency and in working with interpreters. DCRA should partner with bilingual staff members, OHR, or an outside entity to conduct blind tests of its inspectors and public contact position staff on the use of Language Line.
- **DCRA should improve its ability to track customers who do not speak English.**
When a tenant who does not speak English calls DCRA to request an inspection, a bilingual employee or an interpretation service must be used. During that initial contact, the tenant should be tagged so that the inspector assigned to conduct the inspection may

be alerted ahead of time that the tenant does not speak English. Management may review Language Line invoices to ensure that telephonic interpretation service is always used in the field when inspectors are visiting the homes of tenants who have been tagged as tenants who do not speak English.

- **Additional funding should be allocated to DCRA in order to ensure compliance with the Language Access Act.**

Each DC government agency must have the necessary funds to collect data concerning the population served or encountered, to analyze the population likely to be served or encountered, and to provide legally mandated translations of vital documents and interpretation services. We urge the DC Council to give full force and effect to the Language Access Act by increasing funding to the programs and agencies created to implement the legislation.

- **DCRA must begin complying with existing law by sending copies of inspection reports to tenants.**

DC law requires that “[a]fter an inspection of a habitation, the Director shall provide the tenant of the habitation a copy of any notification with respect to that habitation issued to the owner...” 14 DCMR 106.1 (2011). Too often, tenants do not receive the reports from DCRA regarding the inspections conducted in their homes. Often only the most persistent tenants, who contact DCRA several times, ever receive a copy of their reports.

- **DCRA should amend its regulations to require that inspection reports be served on tenants living in the subject units, clarifying that both landlords and tenants are the intended recipients of the reports.**

DCRA inspection reports should be served not only on the landlord, but also on the tenant. This change in policy is not overly burdensome. The law already requires DCRA to provide the tenant with a copy of the report. Not only should tenants be served a copy of the report, but the reports should also be amended to include a paragraph explaining a tenant’s right to sue in the Housing Conditions Calendar, along with a list of legal service providers available to help bring such suits. By adopting these changes, DCRA will strengthen the private-public partnership necessary to enforce the housing code.

- **Regardless of whether tenants are served with their inspection reports or are provided a copy of their inspection reports, the reports should be translated into the primary language spoken by the tenant.**

It is disingenuous for DCRA to refuse to translate an inspection report simply because the law only requires that DCRA provide a copy of the report to the tenant rather than actually serve the tenant. Inspection reports are vital documents for tenants and should be translated when necessary as required by the DC Language Access Act.

We believe that these steps will help to ensure a safe and sanitary housing stock for tenants in DC by removing barriers to the mechanisms created to encourage private enforcement of the housing code. Furthermore, in the case of offering language access, such services are already required by DC law.