



**Testimony of Jennifer Lavallee  
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**Before the Committee on the Judiciary & Public Safety  
Council of the District of Columbia:  
Bill 22-0170  
“At-Risk Tenant Protection Clarifying Amendment Act of 2017”**

**September 21, 2017**

The Legal Aid Society of the District of Columbia<sup>1</sup> submits this testimony to express our strong support of Bill 22-0170, the At-Risk Tenant Protection Clarifying Amendment Act of 2017. The bill would clarify that the Office of the Attorney General can bring actions in Superior Court to enforce the Consumer Protection Procedures Act (“the CPPA”)<sup>2</sup> and obtain consumer redress where the improper trade practices at issue involve landlord-tenant relations. We also urge the Committee to consider an amendment that would allow tenants to similarly bring claims against their landlords. While we are deeply appreciative of the OAG’s ongoing work in this area, our on-the-ground experience tells us that unfair and deceptive business practices by landlords are widespread, and the OAG simply cannot target every bad actor in the city. Empowering tenants to bring claims under the CPPA would complement the OAG’s work and more effectively address problematic practices District-wide.

The Council already has recognized the importance of these issues by enacting emergency and temporary legislation clarifying the Attorney General’s authority to enforce the CPPA against landlords.<sup>3</sup> As stated in the accompanying resolutions, “the District government is increasingly looking to protect tenant-consumers from unscrupulous housing providers that fail to live up to their obligations.” D.C. Council Res. 22-33 (Mar. 7, 2017). Among other things, the Attorney General is currently taking actions to protect tenants who are living in “slum-like conditions.” *Id.* These actions are of critical importance in protecting the rights of tenants—

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<sup>1</sup> The Legal Aid Society of the District of Columbia is D.C.’s oldest and largest general civil legal services organization. Since 1932, Legal Aid lawyers have been making justice real in individual and systemic ways for persons living in poverty in the District. Legal Aid’s Consumer Law Unit represents defendants in debt collection actions, including those brought by landlords in D.C. Superior Court to collect rent allegedly owing after a tenant has vacated the premises or been evicted. Legal Aid’s Housing Unit represents tenants in eviction cases in the Landlord and Tenant Branch of Superior Court and in administrative hearings to preserve housing subsidies and challenge unlawful rent increases. Legal Aid housing law attorneys also assist clients living with deplorable housing conditions by representing them in affirmative suits to obtain repairs.

<sup>2</sup> The CPPA protects D.C. consumers against “all improper trade practices” and provides mechanisms to remedy and deter such practices. D.C. Code § 28-3901(b)(purposes of the act).

<sup>3</sup> The bill is properly described as a clarification because the landlord-tenant restriction set forth in § 28-3903 of the CPPA pertains to the Department of Consumer and Regulatory Affairs (“DCRA”) and has never applied to the Attorney General’s separate authority. The D.C. Court of Appeals has held that the landlord-tenant restriction also applies to the private right of action, the scope of which was originally tied to DCRA’s authority, *see Gomez v. Independence Mgmt. of Delaware, Inc.*, 967 A.2d 1276, 1287 (2009), but has not addressed the scope of the Attorney General’s authority to enforce the CPPA.

particularly those living in poverty—and in deterring certain landlords from engaging in predatory and abusive practices that have long gone unchallenged. Legal Aid believes that the OAG’s work in this area is vital, and the Council should make this clarification permanent.

Legal Aid also urges the Council to consider an amendment that would allow individuals to similarly bring CPPA claims against their landlords for unfair and unscrupulous business practices. Without such an amendment, landlords and management companies that lie or cheat in the course of transacting business with tenants or collecting on alleged debts—the type of conduct that would create CPPA liability for nearly any other type of business entity—are effectively sheltered from liability (and as a result, undeterred from continuing such conduct) because of the D.C. Court of Appeals’s decision holding that landlord-tenant relations are not within the scope of activities covered by the private right of action.<sup>4</sup>

There is no sound policy basis for exempting landlords from such liability. To the contrary, given the vulnerability of tenants living in apartments controlled by slumlords and unscrupulous management companies—combined with the extreme shortage of affordable housing in our city—the District should place particular priority on providing a full range of relief for tenants who suffer at the hands of their landlords.

The same types of unlawful trade practices by housing providers that are the target of the Attorney General’s enforcement actions also directly impact individual tenants who need a mechanism to seek redress for their harm and effectively deter future violations by bad actors. Such practices may include landlords charging and collecting costs and fees that are prohibited by law, threatening to evict tenants based on unpaid utility or other charges that have been mischaracterized as rent, collecting on bogus debts for rent allegedly accrued after a tenant vacated a property with proper notice, charging and collecting application fees and security deposits without any intention of renting to a prospective tenant, misrepresenting the conditions of a rental unit, and countless other unfair and deceptive practices. Allowing tenants to file claims or counterclaims under the CPPA would complement the Attorney General’s authority and place much-needed power in the hands of the District’s most vulnerable residents.

While we do not want to slow the progress of this vital piece of legislation, we would be happy to discuss how to incorporate a right of action for tenants into the bill.<sup>5</sup> Ultimately, we believe that Legal Aid, the OAG, and the Council share the same goal of protecting tenants from unfair trade practices. Our hope is that the Council will grant both OAG and District tenants the full range of tools necessary to achieve it.

Thank you for the opportunity to testify.

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<sup>4</sup> See *Gomez*, 967 A.2d at 1287 (stating that the Court of Appeals could find no indication that the D.C. Council intended to expand the CPPA private right of action to cover landlord-tenant relations when the restrictive language tying the scope of the private right of action to DCRA’s authority was deleted from the Act).

<sup>5</sup> For example, such an amendment could be accomplished by adding a new subsection (k)(6) to the private right of action set forth in DC Code sec. 28-3905, clarifying that "an action by a person under this subsection shall not be dismissed on the ground that it applies to landlord-tenant relations," or affirmatively stating that "the right of action established by this subsection applies to trade practices arising from landlord-tenant relations."