



**Written Testimony of Evan Henley
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The Legal Aid Society of the District of Columbia**

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

Bill 22-381, Landlord Transparency Amendment Act of 2017

November 9, 2017

The Legal Aid Society of the District of Columbia¹ submits this testimony to recommend amendments to Bill 22-381, the Landlord Transparency Amendment Act of 2017 (“the bill”). The motivation for the bill—to allow the Department of Consumer and Regulatory Affairs (DCRA) to identify other problem properties owned by “bad actor” landlords and engage in inspection and enforcement regarding housing code violations—is commendable. However, Legal Aid believes that these efforts would be much more effective if the disclosures required by the bill, or similar ones, were required of *all* landlords as part of their registration requirements. DCRA should not have to go through a cumbersome subpoena process to identify individuals who are flouting the law and subjecting their tenants to unsafe and unhealthy living conditions. Creating front-end disclosure requirements is a far more efficient way of making this information readily accessible, and making such disclosures public would also allow tenants and prospective tenants to know more about their landlords and potential landlords. New York City offers a model that the District should follow regarding landlord disclosure requirements and how this information can be used.

As currently written, the bill allows the Mayor to subpoena records regarding ownership of an inspected property, and other properties in which the owners of the inspected property have an ownership or management interest. This subpoena power would be triggered where a DCRA inspection reveals that ten housing code violations exist in a single unit, or thirty-five violations exist in a single building.

The subpoenaed records would reveal two important pieces of information: 1) the individuals behind any business organization that owns and/or manages the property; and 2) what other properties these individuals own and manage. This information would allow DCRA to identify at-risk properties and the individuals who are responsible for the substandard conditions at these properties. With this information, DCRA could better target its inspection and enforcement efforts.

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.” For 85 years, Legal Aid staff and volunteers have provided legal services to tens of thousands of the District’s neediest residents. Legal Aid currently works in the areas of housing, family law, public benefits, and consumer law. More information about Legal Aid is available at our website, www.legalaiddc.org, or on our blog, www.makingjusticereal.org.

In its current form, however, the bill will be of limited utility: the subpoena process unnecessarily delays and complicates the process to obtain this critical information; the violation threshold is too high and will not cover enough bad actor landlords; and there is no guarantee the information will be publicly shared. Adopting a registration requirement for owners and management entities akin to that in New York City would be a much more effective way to achieve the same policy objectives.

In New York City, owners must annually submit a registration statement which becomes publicly available and, among other things:

- a) identifies the premises by street address and square and lot number;
- b) identifies the owner by name, residence, and business address. If the owner is a corporation or partnership, the registration must include
 - 1) the name and address of the corporation or partnership as well as the names, residences, and business addresses of the officers of the corporation and the general partner;
 - 2) the names and addresses of any persons with over a twenty-five percent share of the corporation or limited partners with over a twenty-five percent share in the partnership;
- c) designates a “head officer” who is responsible for the maintenance and operation of the rental units and is authorized to correct emergency conditions and make repairs;
- d) provides a phone number at which an owner or officer can be reached at all times by the government (this phone number is not a public record).²

Adopting a law which comprehensively promotes transparency, like New York City, would allow DCRA to quickly identify and respond to problem landlords and would address the following problems with the current bill:

1. *Slow and cumbersome process.* When the subpoena power is invoked, there is sure to be a delay between the time that violations are found and when the subpoena is issued. Then, the entity will need time to respond. Finally, given that the records are demanded by subpoena, compliance against uncooperative landlords can only be enforced by bringing a judicial action. This will be overly time- and resource-intensive for an agency that is already overburdened.

Owners should be required to disclose ownership information up front, so that information is easily accessible. The subpoena process is unnecessarily cumbersome and puts a weighty burden on the District. Instead, the burden to report ownership information should be put on the landlord. This could easily be done not only when a landlord first registers a unit, but also when the landlord renews its basic business license or when ownership or management of a property changes. Once the information was stored in DCRA’s database, other properties owned or managed by the individual(s) could be located with a few keystrokes following an inspection which revealed substantial housing code violations. DCRA could then quickly dispatch inspectors to those buildings to determine if the owners were neglecting those buildings as well.

Similarly, owners should be mandated to name a person responsible for maintenance and repairs, so that DCRA has an effective address to which it could send inspection reports and

² See NYC Admin. Code § 27-2098, attached as Attachment 1.

reliable contact information for when emergency repairs are needed. Legal Aid attorneys often encounter cases where landlords claim that they never received inspection reports (which are sent to the address for the owner on file with the Office of Tax and Revenue). Currently, landlords frequently provide the address for the building for this purpose or a distant corporate office, meaning that records get sent to an address which does not exist (because there is no unit number) or an office that is not responsible for making repairs.

2. *Underinclusive threshold for invoking the subpoena power.* The threshold the bill sets for DCRA to have subpoena power, ten violations in a unit or thirty-five in a building, is too high and makes no distinction based on the severity of violations. DCRA should be able to review more in-depth ownership information from any building where substantial violations are present.

For example, under the bill's current form, the District could not subpoena records from a landlord of a five-unit building where, in December, each unit had 1) severe water damage and daily flooding from a leaking roof; 2) no heat; 3) no working stove; 4) bedbugs; and 5) mice. Given the severity of these violations, it would be in the public interest for the District to quickly know who actually owned and managed this building, so that it could determine whether similar conditions existed in other buildings with the same owner or manager which had not yet been reported to or inspected by DCRA. Were the landlord required to disclose this information itself, inspections could be scheduled within days. Under the current language of the bill, the landlord could not be compelled to disclose ownership information *at all* because only five violations were found per unit, and only twenty-five violations in the building.

The District should have discretion to exercise its subpoena power whenever substantial violations are found, rather than being circumscribed by an arbitrary threshold. If ownership information must only be disclosed in response to a subpoena, then some threshold is needed. While a threshold is always somewhat arbitrary, as the example above shows, one that rests solely on a certain number of violations is especially so.

3. *Information Not Publicly Available.* Although the information obtained by subpoena will be of use to DCRA to target inspections and enforcement, it would be much more useful if a substantial portion of it were readily, and publicly, available to current and prospective tenants, other government bodies, and tenant advocates. Tenants could use the information about the "head officer" to know whom to contact when their complaints go unaddressed by property managers. Prospective tenants could check into how owners maintain not just the building they are considering, but other buildings with the same owner. Tenant advocates could build coalitions of tenants across buildings to demand change from owners who fail to adhere to the law. All of these actions would contribute to housing code compliance.

New York City provides an example of how government agencies can use and share this kind of information with the public to great effect. The Public Advocate, a government office, tallies the number of housing code violations at properties associated with each "head officer" and creates a list of the "100 Worst Landlords" in New York City.³ DCRA should work with the Office

³ See Public Advocate for the City of New York, *About the Watchlist*, <https://advocate.nyc.gov/landlord-watchlist/criteria> (last visited Nov. 6, 2017), attached as Attachment 2.

of Tenant Advocate or some other governmental body to create a similar list. This list would help to shame landlords into complying with the law.

Thank you for this opportunity to share our thoughts regarding the Landlord Transparency Amendment Act. Legal Aid welcomes the opportunity to work with the Council to revise the bill and more comprehensively promote transparency regarding the ownership of rental housing in the District. Should the Council choose not to amend the bill, Legal Aid still urges passage of the bill in its current form, as it is an improvement over the status quo and will enable improved enforcement of the housing code.

ATTACHMENT 1



1 of 1 DOCUMENT

Administrative Code of the City of New York

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**** Current through November 02, 2017 ****

NYC Administrative Code 27-2098

New York

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 2 HOUSING MAINTENANCE CODE

SUBCHAPTER 4 ADMINISTRATION

ARTICLE 2 REGISTRATION

§ 27-2098 Registration statement; contents.

a. The registration statement shall include the following information:

(1) An identification of the premises by block and lot number, and by the street numbers and names of all streets contiguous to the dwelling, or by such other description as will enable the department to locate the dwelling. If the dwelling is a garden-type maisonette dwelling project required to register pursuant to paragraph four of subdivision (b) of section 27-2099 of this article, the owner who files the first registration statement with the department for such project shall list on the registration statement the street numbers for each dwelling in the project and shall designate an address by which the project dwellings are to be identified by the department.

(2) An identification of the owner by name, residence and business address. If the owner is a corporation, the identification shall include the name and address of such corporation together with the names, residences and business

addresses of the officers. If the owner of a multiple dwelling is a corporation, the identification shall also include the names and addresses of any person whose share of ownership of the corporation exceeds twenty-five percent. For the purposes of this subdivision, any person owning a share of a parent corporation shall be deemed to be an owner of a share of a subsidiary corporation equal to the product of the percentage of his or her ownership of the parent corporation multiplied by the percentage of the parent corporation's ownership of the subsidiary corporation. If the owner of a multiple dwelling is a partnership, the identification shall include the name and business address of such partnership together with the names and business addresses of each general partner and for each limited partner whose share of ownership of the partnership exceeds twenty-five percent, the names and business addresses of all such limited partners. If the owner is under the age of eighteen years or has been judicially declared incompetent, his or her legal representative shall file the registration statement.

(3) If the dwelling is a multiple dwelling, the name and address of a managing agent designated by the owner to be in control of and responsible for the maintenance and operation of such dwelling and to authorize, on behalf of the owner, the correction of any emergency conditions or the making of any emergency repairs for which the owner is responsible under the provisions of the multiple dwelling law or this code. To qualify for such designation, an agent shall be a natural person over the age of twenty-one years and shall reside within the city or customarily and regularly attend a business office maintained within the city. An owner or corporate officer who meets such qualifications may be designated to serve and registered as the managing agent.

(4) If the dwelling is a multiple dwelling or a one- or two-family dwelling where neither the owner nor any family member occupies the dwelling, the number of a telephone within the greater metropolitan area, as identified by the department, where an owner or officer, if the owner is a corporation, or the managing agent may reasonably be expected to be reached at all times. The telephone number contained in the registration statement shall not constitute a public record and shall be accessible only to duly authorized employees or officers of the department and used exclusively by such personnel in connection with an emergency arising on the premises for which the owner is responsible under the provisions of the multiple dwelling law or this code. The department may promulgate regulations to implement the provisions of this paragraph.

(5) If the dwelling is a one- or two-family dwelling and neither the owner nor any family member occupies the dwelling, the name and address of a natural person who is over the age of twenty-one years and a resident of the city, designated by the owner to receive service of notices, orders or summonses issued by the department.

(6) For the purposes of this section, a United States postal service mail delivery box, a mail delivery box maintained through a privately operated mail handling facility or the address at which any similar service is provided shall be deemed an invalid business address and the department shall not accept for filing any registration statement containing only such an address.

b. The registration statement shall be signed by the owner or, if the owner is a corporation, by any officer. In the appropriate case, either the managing agent or the designee described in paragraph five of subdivision a of this section shall sign the statement to indicate consent to the designation except that such consent is not required if an owner or officer of a corporation is registered as the managing agent.

c. The registration statement shall be filed on forms to be prescribed by the department and shall be accompanied by a filing fee of thirteen dollars. In the case of an owner previously registered with the department, no new filing fee shall be required for the filing of a supplemental registration.

d. The department may require that a multiple dwelling registration statement contain such other information, in addition to the information specifically required by this article, which it deems to be related to the ownership or management of such dwelling.

HISTORICAL NOTE

ATTACHMENT 2



Letitia James

Public Advocate for the City of New York

Translate ▾

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Landlord Watchlist

- [View the Watchlist \(http://landlordwatchlist.com\)](http://landlordwatchlist.com)
- [100 Worst Landlords \(/landlord-watchlist/worst-landlords\)](/landlord-watchlist/worst-landlords)
- [About the Watchlist \(/landlord-watchlist/criteria\)](/landlord-watchlist/criteria)
- [Landlord FAQs \(/landlord-faq\)](/landlord-faq)
- [Buildings in Rehabilitation \(http://advocate.nyc.gov/buildings-in-rehabilitation\)](http://advocate.nyc.gov/buildings-in-rehabilitation)
- [Tenant FAQs \(/landlord-watchlist/tenant-faqs\)](/landlord-watchlist/tenant-faqs)
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- [Methodology \(/methodology\)](/methodology)

About the Watchlist

The Landlord Watchlist

The Public Advocate's Worst Landlords Watchlist is an information-sharing tool intended to allow residents, advocates, public officials, and other concerned individuals to identify which property owners consistently flout the City's laws intended to protect the rights and safety of tenants.

The Watchlist includes the buildings owned by the New York City's 100 "worst" landlords. Landlords are ranked according to the number of violations issued to their buildings by the Department of Housing Preservation and Development and the Department of Buildings (DOB). The Watchlist also includes the 20 "worst" buildings for each borough, ranked according to the number of violations issued, regardless of ownership.

In addition to violation data, the Watchlist includes information from the City's Department of Finance (DOF) to identify buildings for which unpaid municipal debt was sold through the City's annual tax lien sale in either 2016 or 2015. This information is presented because inclusion in the tax lien sale is a recognized indicator of building distress.

Identifying the "Worst" Landlords

Individual buildings that meet the building selection criteria (see "Methodology" below) are then grouped according to the name of the "head officer" of that building, as registered with HPD, and the name of the head officer is considered the building's landlord. Landlords are then ranked according to the total number of violations for all of their buildings that made the building selection criteria. The 100 landlords with the most HPD violations and DOB violations are considered the "100 Worst Landlords in New York City."

Owners of multi-family residential buildings are required to register with HPD every year and provide information about the ownership of that building, including the name of the head officer. (To fail to do so is a violation of state law.) It is the responsibility of building owners to ensure that the building's registration is up to date and correct.

Worst Buildings by Borough

In addition to the buildings owned by the top 100 worst landlords, the top 20 worst buildings in each borough are included on the Watchlist, regardless of their ownership. Buildings that meet the selection criteria are ranked according to the total number of HPD and DOB violations issued to that building.

About the Data

HPD issues Housing Maintenance Code violations as part of its responsibility to enforce State and City laws and codes relating to housing quality and safety. HPD violations are classified according to their severity, with Class A being the least severe and Class C being the most severe. The Worst Landlord Watchlist only includes Class B and C violations. Examples of Class B violations include: failing to provide self-closing public doors or adequate lighting in public areas, lack of posted Certificate of Occupancy, or failure to remove vermin. Class C violations include: immediately hazardous violations such as inadequate fire exits, rodents, lead-based paint, and lack of heat, hot water, electricity, or gas. An owner has 24 hours to correct a C violation and five days to certify the correction to remove the violation.

DOB issues violations to building owners and contractors for infractions against the City's Construction Code, Zoning Resolution, or other applicable laws and regulations. DOB inspectors issue either ECB Notices of Violation or DOB violations.

The DOF administers the City's annual tax lien sale. When a property owner does not pay their property taxes, water bills, and other charges against their property, these unpaid charges become tax liens that may be sold in a tax lien sale. Each year, DOF sells tax liens for eligible properties. The list of properties for which liens have been sold is published by DOF every year.

Excluded Properties

Certain buildings may be excluded from the Watchlist if they are participating in a city-sponsored rehabilitation program. Buildings in the 7A program are excluded if they have been given a court-appointed administrator. Buildings in other HPD rehabilitation programs are excluded if they have received government financing within the past two years.

The Worst Landlord Watchlist does not exclude properties that may be vacant primarily there is no data source that would indicate whether or not an individual building is currently vacant.

Legal Disclaimer

Data for the Public Advocate's Worst Landlord Watchlist is obtained from open data sources from the New York City Department of Housing Preservation and Development (HPD) and the Department of Buildings (DOB), as well as the Department of Finance (DOF). These agencies are solely responsible for its accuracy. HPD data includes all violations issued through August 31, 2016 and DOB data reflects violation status as of September 6, 2016. For current status of violations or building information please visit HPD (www.nyc.gov/hpd) and DOB (www.nyc.gov/buildings).

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