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

**Performance Oversight Hearing Regarding
the Department of Consumer & Regulatory Affairs**

March 3, 2020

The Legal Aid Society of the District of Columbia¹ welcomes this opportunity to share our thoughts about the performance of the Department of Consumer & Regulatory Affairs (“DCRA”) and needed legislative changes to improve the agency. Legal Aid provides advice, brief services, and representation to hundreds of tenants in the District every year. Many of these tenants are living in substandard conditions, with serious housing code violations that threaten the health and safety of their families. Lack of code compliance by landlords and under-enforcement by the District government both contribute to this public health challenge.

Legal Aid has appeared before this Committee on fifteen separate occasions over the past few years to share our concerns about DCRA’s fundamental failure to enforce the housing code and protect tenants in the District. Despite a change in leadership at DCRA over a year ago, Legal Aid continues to experience problems, indicating that very little has changed. This agency failure is an issue of critical importance to our client community.

Fundamental agency transformation is challenging but the Council cannot afford to continue to wait. Legal Aid recommends the Council respond on two tracks:

1. Enact the Department of Buildings Establishment Act (B23-0091), amending the bill to create a new agency focused exclusively on residential housing inspections; and
2. Enact comprehensive reforms to the compliance and enforcement structure governing landlords, outlined below, including proposals found in other pending bills.

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.” Over the last 87 years, tens of thousands of the District’s neediest residents have been served by Legal Aid staff and volunteers. Legal Aid currently works in the areas of housing, family law, public benefits, immigration, and consumer protection. We also help individuals with the collateral consequences of their involvement with the criminal justice system. From the experiences of our clients, we identify opportunities for court and law reform, public policy advocacy, and systemic litigation. More information about Legal Aid can be obtained from our website, www.LegalAidDC.org, and our blog, www.MakingJusticeReal.org.

Problems with DCRA Are Long-Standing and Well-Documented

In past testimony, Legal Aid has shared problems that we continue to observe in DCRA’s rental housing inspections program. Too often, tenants encounter obstacles and delays in scheduling inspections, a variety of difficulties during the inspection process, and challenges obtaining reports after the inspection process. Even when violations are found, DCRA fails to pursue fines and other remedies against landlords who have broken the law and also lacks strategic focus to target problem landlords. The result is under-enforcement of the housing code.

The vast majority of tenants that Legal Aid meets with each year are living with poor housing conditions. Our legal assistants conduct hundreds of home visits and inspections each year. Their reports back confirm conditions such as lack of heat, lack of utilities, defective appliances, infestation, leaks and water damage, mold, defective wiring, holes in walls and ceilings, defective door locks, and windows and doors that do not keep out the elements. Recent enforcement actions by the Office of Attorney General have confirmed numerous code violations at slum properties. Legal Aid has represented tenants at many of these properties, including Terrace Manor (owned by Sanford Capital)², Oak Hill (Sanford Capital), Bennington Road and Astor Place (Mehrhad Valibeigi/Bennington Corporation and Astor Limited Partnership),³ and Forest Ridge/The Vistas (Joe Kisha/Vista Ridge Limited Partnership)⁴.

Many of the concerns about DCRA raised by tenants and advocates over the years have been confirmed by recent government reports. In September 2018, the D.C. Auditor issued a report that focused on enforcement lapses at a property known as Dahlgreen Courts as a case study of agency failures at DCRA.⁵ In May 2019, the Office of Inspector General issued a report that focused on one step in the enforcement process – the collection of fines once DCRA has cited violations and issued civil infractions – and detailed how fine collection breaks down.⁶ Most recently, in October 2019, a District-commissioned investigative report by Alvarez & Marsal found that systemic breakdowns caused DCRA to fail to respond to reports of housing violations before a fire destroyed the property at 708 Kennedy Street, N.W. and killed two tenants.⁷

² *District of Columbia v. Terrace Manor, LLC*, 2016 CA 007767 (23rd Street & Savannah Street, SE).

³ *District of Columbia v. Bennington Corporation*, 2018 CA 007253 B (4559 – 4569 Benning Rd SE; 4480 C Street SE); *District of Columbia v. Astor Limited Partnership*, 2019 CA 001845 B (5058 Astor Pl SE).

⁴ *District of Columbia v. Vista Ridge Limited Partnership*, 2018 CA 007285 B (Forest Ridge and the Vistas).

⁵ Office of the District of Columbia Auditor, *Housing Code Enforcement: A Case Study of Dahlgreen Courts* (Sept. 24, 2018) (“D.C. Auditor Report”).

⁶ 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) (“D.C. OIG Report”).

⁷ Alvarez & Marsal Disputes & Investigations, LLC, *Review and Investigation of Code Enforcement Policies, Procedures, and Inter-Agency Communications Between DCRA, FEMS, and MPD* (Oct. 25, 2019) (“Alvarez & Marsal Report”).

Legal Aid has outlined the findings of these government investigations in greater detail in prior testimony. The following conclusions from these reports are well-documented and are consistent with our ongoing experiences with DCRA:

1. DCRA Fails to Adopt and Its Employees Fail to Follow Standard Operating Procedures. DCRA lacks standard operating procedures to guide agency enforcement of the housing code, and too often agency employees fail to follow the policies that do exist.⁸ This lack of clarity on agency roles and functions contributes to many of the other problems identified below.
2. DCRA Fails to Track Housing Conditions Complaints & Enforcement Activities. Because of its reliance on informal systems and its employees' failure to use formal systems that do exist, DCRA fails to track housing conditions complaints adequately.⁹ To cite a few examples, DCRA fails to provide current information on individual enforcement actions, to track key performance indicators on the length and results of its enforcement activities, or to track which landlords or properties have problematic records.¹⁰
3. DCRA Fails to Follow Through on Housing Conditions Complaints. Perhaps due in large part to its lack of formal policies and poor tracking systems, DCRA often fails to follow through on complaints about housing conditions.¹¹ As a result, tenants encounter inconsistent agency responses and, too often, a complete failure to act.
4. DCRA Lacks Adequate Staffing to Enforce the Housing Code. DCRA also fails to follow through on housing conditions complaints because it lacks adequate staffing to do so.¹² The District has approximately 165,000 renter-occupied housing units.¹³ Yet, DCRA's Housing Inspections and Housing Code Enforcement sections employ only 23 housing code inspectors and specialists to perform this work, or one inspector for every 7,000 units, far below other jurisdictions.¹⁴ This chronic understaffing appears to be a

⁸ D.C. OIG Report at 4-5, 6-7; Alvarez & Marsal Report at 18-23, 26.

⁹ Alvarez & Marsal Report at 5, 25, 39; D.C. OIG Report at 11-13.

¹⁰ D.C. Auditor Report at 6, 21-27.

¹¹ Alvarez & Marsal Report at 4-5, 36-37, 43, 48; D.C. OIG Report at 17.

¹² Alvarez & Marsal Report at 33, 46, 54, 66.

¹³ American Community Survey Data, Physical Housing Characteristics for Occupied Housing Units, 2018 1-Year Estimates, *available at* <https://www.census.gov/acs/www/data/data-tables-and-tools/>.

¹⁴ D.C. Auditor Report at 5. A survey by Legal Aid found that Minneapolis, MN employs one inspection staff person for every 2,000 units; Montgomery County, MD employs one person for every 4,000 units; and Boston employs one staff person for every 5,000 units. *See* Written Testimony before the Committee of the Whole, Council of the District of Columbia, Budget Oversight Hearing Regarding the Department of Consumer & Regulatory Affairs (March 27,

critical factor in the low quality of DCRA housing code inspections, as well as the lack of enforcement follow-up.

5. DCRA Lacks a Culture or Mission Focused on Tenant Health & Safety. At the most fundamental level, DCRA lacks an agency culture and mission focus on protecting tenant health and safety through vigorous enforcement of the housing code.¹⁵ As Alvarez & Marsal concluded, there is a “lack of responsibility and ownership of building safety issues across multiple agencies,” including DCRA.¹⁶

While these government reports have focused on the current state of enforcement at DCRA and the leadership of former Director Melinda Bolling and current Director Ernest Chrappah, it is important to note that the problems identified in these reports have been ongoing for years. It has been over ten years since the *Washington Post*'s investigative series on the systemic failures in DCRA's rental housing inspection program, including a near total failure to cite violations or assess or collect fines against landlords. The *Post*'s conclusions were based on a review of thousands of court records and agency documents. DCRA Director Linda Argo responded at the time by assuring the public that the agency would provide more training to employees and develop a system to better track inspections and re-inspections.¹⁷ These promises have been echoed by subsequent directors, including Director Chrappah, but meaningful reform remains elusive.

Legal Aid Continues to Experience Problems Working with DCRA

Even with new leadership in place for over a year, DCRA continues to struggle with the same long-standing problems, including poor communication and failure to support the private enforcement efforts of Legal Aid and other tenant advocates. A recent client story illustrates our ongoing challenges in receiving timely, reliable information from the agency.

Legal Aid currently represents a client who lives in a building that had been placarded by DCRA for uninhabitable living conditions. When a building is placarded, tenants are ordered to vacate the building until repairs are completed. Our client had been displaced from her home for nearly a year.

2019). The Children's Law Center has done a similar survey of additional jurisdictions and found similar ratios.

¹⁵ D.C. Auditor Report at 12-20; D.C. OIG Report at 9.

¹⁶ Alvarez & Marsal Report at 41. DCRA's initial failure to respond to the MPD officer's email about Kennedy Street illustrates this point. The DCRA Duty Officer who received the email explained that he did not respond because the complaint appeared to deal with business licensing issues, which are outside of his jurisdiction. As Alvarez & Marsal note, the email was titled “Serious Code Violations” and attached an incident report referencing “DCRA housing code violations,” issues that fall directly under the Duty Officer's responsibility. *Id.* at 33.

¹⁷ Debbie Cenziper & Sarah Cohen, “A Failure in Enforcement,” *Washington Post*, Mar. 11, 2008, <http://www.washingtonpost.com/wp-dyn/content/article/2008/03/10/AR2008031003193.html>.

More recently, our client reported that tenants appeared to be living in the building again. In court, the landlord then questioned whether the building ever was closed by DCRA. Having heard about these developments, the Legal Aid attorney representing the client reached out to DCRA in an attempt to confirm the status of the building.

The Legal Aid attorney initially spoke with an employee who relayed contradictory and confusing information, first suggesting our client could move back in, then noting she could not determine the status of the building in DCRA's computer and would need to speak with an agency employee who was on leave, because he was the only one who knew. The employee then referred us to a different, high-level official. Our attorney attempted to call this official five times and left three separate voicemails but never received any response. Eventually the DCRA official's assistant referred our attorney to a different agency employee, who confirmed the building in fact remained closed.

However, because the landlord continued to question our claim that the building remained closed, the court then required that we subpoena a DCRA official with knowledge to come to an upcoming court hearing. Because DCRA requires that we subpoena the agency, not any particular employee, we were concerned that the wrong witness might appear in court. After serving the subpoena, we attempted to follow up with two high-level officials to seek their assistance in identifying the appropriate contact at the agency. We did not receive any response to that email until we raised the issue publicly at a hearing before this Committee in December.

Once we were back in court with the right high-level DCRA official appearing as a witness, our frustration continued. The DCRA official reported that the building no longer was closed. He denied any placards remained in place until our client showed him live video of the placard on our client's apartment front door. The DCRA official then responded that he could come remove the placard, which he subsequently did. But we continued to receive inconsistent responses from the same DCRA official about whether the building had ever been re-inspected and found to be safe.

When a D.C. Superior Court judge later contacted DCRA directly, the agency reported that they could not find any record of a subsequent re-inspection of the building. At our next court hearing, the DCRA official, still under subpoena, simply failed to show up.

While this example is mundane, it also is commonplace. Even when Legal Aid attorneys are in court working to enforce the housing code through private legal action, we often find it difficult to obtain the information that we need from DCRA. In another case in which Legal Aid is representing a tenant facing eviction and defending based on housing code violations, an attorney recently requested DCRA inspection records using a new form provided by DCRA. This initial request yielded documents from one DCRA inspection, but we knew others existed. Our attorney then subpoenaed records and received documents from two DCRA inspections, but even those records appeared incomplete, because we know that DCRA has inspected the unit at least three times. We still do not have complete records from DCRA to help this tenant defend her rights in court.

Legal Aid previously has testified about other concerns we have regarding Director Chrappah's leadership and changes he has implemented. For example, working groups initially convened by Director Chrappah and his senior staff were disbanded without any new substantive changes in policy. Legal services attorneys and tenant organizers also have tried to reinstate regular meetings with the agency director and senior staff – meetings which took place quarterly under the prior director – to no avail.

DCRA's Inspections and Enforcement Data Are Trending in the Wrong Direction

Legal Aid also continues to have concerns about DCRA's shift to issuing only notices of infractions, not notices of violations, because of the results we are seeing on the ground. First, we believe the number of violations issued overall has declined. While notices of infraction are up – from 687 in FY17 to 1,683 in FY19 – we believe this figure is lower than the combined number of notices of violations and notices of infractions that had been issued in past years.¹⁸ Second, and perhaps related, the number of housing inspections conducted is trending down, from 7,955 in FY17 to 7,588 in FY19 and only 1,169 inspections conducted in the first quarter of FY 2020, the lowest of the last 13 quarters.¹⁹ Legal Aid is concerned that both of these trends may be the result of up-front triaging that DCRA is conducting when tenants call requesting an inspection, rather than actual repairs and abatement.

This concern appears to be confirmed by figures on the percentage of inspections where housing code violations are cited and subsequently repaired. This figure is trending down not up, with a much lower percentage of cited violations being repaired. DCRA's data show that 50 percent of violations were repaired in FY17 and FY18, compared to only 30 percent for FY19.²⁰ This also suggests that DCRA's overall strategy of eliminating notices of violation and relying solely on notices of infraction is not having the intended effect of bringing more landlords into compliance with the housing code.

DCRA's Systemic Failures Require Systemic Change

Ultimately, Legal Aid continues to believe that a comprehensive approach to reforming housing code enforcement in the District is needed to fully address the problems identified at this and past hearings, including establishment of an independent rental housing inspections agency. Legal Aid supports moving rental housing inspections out of DCRA altogether, as envisioned by B23-0091, the Department of Buildings Establishment Act, and believes the Act should go even further. We support the creation of an independent agency focused exclusively on residential housing inspections, led by a term-appointed Director removable only for cause, with high-level

¹⁸ DCRA Agency Dashboard, *Enforcement*, available at <https://eservices.dcradepartment.gov/DCRAAgencyDashboard/index>. The notices of violations numbers are not currently available on DCRA's Dashboard.

¹⁹ *Id.*, *Inspections & Compliance*.

²⁰ *Id.*

officials focused on public health and strategic enforcement, and with a deputy general counsel focused on rental housing enforcement and compliance.

Many of DCRA's challenges with respect to rental housing inspections stem from a broken agency culture. DCRA does not have a clear sense of mission to enforce the housing code, and it brings neither a public health nor strategic perspective to its work. The importance of tenant health and safety is lost among other agency functions. Indeed, the focus of DCRA's overall mission is business development and regulation, and far too often it appears that landlord interests are trumping tenant interests in the realm of rental housing inspections. Without a transformation in agency mission and culture, we fear that real change never will be realized, and tenants throughout the District will continue to live in unsafe conditions.

Other Changes in District Law Are Needed to Protect Tenants and Ensure Compliance

Wherever housing code enforcement activities are housed, other changes are needed to ensure that tenant health and safety are protected and that landlords actually comply with the law. Legal Aid has testified about these proposals in greater detail at prior hearings. Many of our recommendations can be found in other bills currently pending before this Committee.

The Committee Should Require DCRA to Employ Sufficient Inspectors and to Deploy Them in Court

As noted above, DCRA simply does not employ enough inspectors to allow for vigorous enforcement of the housing code. In explaining their failure to respond to communications about the Kennedy Street property where a fire last August killed two tenants, DCRA employees cited a "high volume of emails" received, "overwhelming" workloads, and being "too busy with administrative duties".²¹ Bill 23-0394 mandates that the agency employ one residential housing inspector for every 2,000 residential housing units, and Legal Aid supports this ratio.

Increasing the number of inspectors also is in line with provisions in Bill 23-0394 that would require all inspections to be performed by DCRA employees, which Legal Aid also supports. We previously have testified about our concerns that DCRA Director Ernest Chrappah's new citizen inspection program will only weaken an already troubled enforcement environment by leading to lower quality inspections, less consistency, and less follow through on enforcement. These are precisely the problems we have witnessed over the years with the use of private, contract inspectors in the proactive inspections program.

Legal Aid also supports provisions in Bill 23-0394 requiring DCRA to attach inspectors to both the Housing Conditions Calendar (where tenants sue landlords for repairs) and the Landlord and Tenant Branch (where landlords sue tenants for eviction and tenants defend based on conditions) in D.C. Superior Court. These inspectors would be tasked with attending court sessions, performing inspections when directed to do so by the Court, preparing reports, and reporting

²¹ Alvarez & Marsal Report at 33, 46, 54, 66.

back to the Court on the findings. Our longstanding experience representing tenants facing eviction suggests that the overwhelming majority of these tenants also have repair needs in their unit – and in many cases, substantial housing code violations – but typically do not raise these issues or get relief. Attaching DCRA inspectors to the Court would ensure that tenants have easy access to obtain an inspection, raise housing code violations defenses, and obtain needed repairs.

The Committee Should Require DCRA Inspectors to Inspect and Cite for Violations of the District’s Mold and Lead Laws

Five years ago, a coalition of organizations that included Legal Aid worked with the Council to enact one of the strongest mold statutes in the nation, the Air Quality Amendment Act of 2014.²² Unfortunately, the law relies on private enforcement, with no government agency charged with inspecting, citing violations, and enforcing the law. While DCRA is authorized to rely on a professional mold assessment to issue a notice of violation for a defective surface, in violation of the Housing or Property Maintenance Code,²³ the agency has refused to use this authority. DOEE performs limited inspections under its Healthy Homes program, but this option is only available to qualifying families with children with underlying health conditions or pregnant women who are lucky enough to get connected to the agency.²⁴ The resulting inspections are not performed by licensed professionals, and DOEE does not have authority to issue citations, impose fines, or otherwise penalize landlords that do not remediate.

Legal Aid supports Bill 23-0132, the Indoor Mold Remediation Enforcement Amendment Act of 2019, which squarely addresses these gaps in current law by requiring DCRA to certify its inspectors in mold assessment and to issue notices of violation and impose penalties when landlords fail to comply with the mold law. Enacting this bill will allow tenants to request a single inspection from one agency that will cover both housing code violations and mold. For the same reason, Legal Aid supports amending the bill to require DCRA inspectors to be certified to inspect for and identify violations of DC’s lead hazard law. DCRA could be granted similar authority to issue notices of violation and administrative orders relating to lead-based paint hazards and to enforce these orders through its fine process, or to turn over those cases to DOEE for enforcement. Tenants living with different types of housing conditions problems should not have to contact and coordinate with multiple agencies to obtain relief. Instead, DCRA inspectors should be qualified and authorized to inspect, cite, and enforce violations of the housing code, the mold law, and the lead hazard law.²⁵

²² D.C. Code §§ 8-241.01, *et seq.*

²³ D.C. Code § 8-241.05(b).

²⁴ <https://doee.dc.gov/service/dc-partnership-healthy-homes>. Several years ago, DOEE established a direct referral relationship with Legal Aid for tenants whom we identify through our intake process. We are grateful to DOEE for working with us and other providers to make these services available, but we worry about tenants who never make it through our doors.

²⁵ Legal Aid also supports Bill 23-0407, the Lead Hazard Prevention and Elimination Amendment Act of 2019, which lowers acceptable levels for lead exposure, extends the law’s protections to all tenants, creates a fund to help landlords bring properties occupied by low-

The Committee Should Enact Legislation to Codify and Strengthen the Proactive Inspections Program

The Omnibus Tenant Protections Act of 2008, Bill 17-1037, introduced in November 2008, would have required the Mayor to inspect every rental housing property in the District every two years. DCRA responded to this proposal by creating its own proactive inspections program, launched in August 2010. DCRA never codified the program in statutory or regulatory provisions and has revised its basic parameters several times over the intervening years. As currently envisioned, the goal of the proactive inspections program is to select properties randomly for scheduled inspections, ensuring that each of the approximately 4,300 rental housing properties in the District with 3 or more units is inspected every four to five years, with more frequent inspections for properties with documented housing code violations. For properties with 3 to 4 units, half of the units are inspected; for properties with 5 to 49 units, 30 percent are inspected; and for properties with 50 or more units, 15 percent are inspected.²⁶ DCRA utilizes contractors to perform these proactive inspections.

Legal Aid has seen many problems over the years with the implementation of the proactive inspections program. Although the program has been in operation for over eight years, many rental properties have only been inspected once. At least some rental properties have not been inspected at all, while some have been inspected two or three times. Our understanding is that until recently properties were chosen randomly for inspection, and DCRA has not used the program to target problem actors or properties. We have also seen properties receive certificates of compliance despite serious housing code violations, a problem that may be attributable to the quality of inspections by private contractors but also to the low percentage of units targeted in each building. Moreover, once a property receives a certificate of compliance, tenants sometimes encounter resistance when they contact DCRA to request a complaint-based inspection.

To ensure that the proactive inspections program is as effective as possible, its requirements should be codified by statute or regulation and strengthened:

- Agency inspectors, not contractors, should perform all proactive inspections.
- All residential buildings in the District (or at least all built before a certain year) should be inspected at least every 4 years.

income tenants into compliance, and provides tenants with a private right of action if their landlord does not comply.

²⁶ DCRA, “Proactive Inspections Program, Frequently Asked Questions,” *available at* https://dcra.dc.gov/sites/default/files/dc/sites/dcra/page_content/attachments/Proactive%20Inspection%20Program%20FAQs.pdf.

- The agency should prioritize properties with known, individual risk factors, such as a certain number of violations found during complaint or proactive inspections during a certain period, for more frequent proactive inspections every 2 years.
- The agency also should use publicly-available data about neighborhood characteristics – for example, the prevalence of asthma and other health outcomes – to target properties in certain areas of the District for more frequent inspections.
- The agency should ensure that proactive inspectors visit a substantial percentage of units in every building. Specifically, we recommend inspecting at least 50 percent of units for buildings under 25 units, at least 40 percent for buildings between 25 and 49 units, and at least 30 percent for buildings with 50 or more units.
- A “pass” on a proactive inspection should not be an impediment to subsequent complaint inspections, either for individual units or entire buildings.
- The agency should follow up on violations found during proactive inspections in the same way as a complaint-based inspection and refer an owner to enforcement if it does not abate the violations during the prescribed time period. Similarly, all proactive inspection data should be available publicly through PIVS.

The Committee Should Enact Legislation to Strengthen the Basic Business License Process as a Tool to Ensure Code Compliance

Licensing requirements exist to ensure that businesses that provide goods and services to consumers are in compliance with the law. They deter businesses from offering unsafe goods and thereby putting consumers at risk. In the District, landlords are required to obtain a basic business license with a housing endorsement in order to rent out a property to tenants. Landlords are required to allow DCRA and other government agencies to inspect their properties and must maintain their properties in compliance with the housing code as conditions of holding a basic business license.

Unfortunately, these legal requirements lack sufficient enforcement mechanisms. Under current law, a landlord’s failure to obtain a basic business license, or even the revocation of a basic business license for housing code or other violations of the law, is treated as a technical, paperwork issue. Unlicensed landlords are allowed to increase rents and file suits in D.C. Superior Court to evict tenants for nonpayment of rent or other grounds, and lack of a business license cannot be used as a defense to eviction.

Bill 23-0394 would clarify current law to require that landlords filing an eviction suit for possession or seeking to increase a tenant’s rent must have and show proof of a valid basic business license. We recommend strengthening the bill further by adding a provision that a landlord may not collect rent if the landlord does not hold a valid basic business license. Adding these penalties will create a more effective and complete enforcement structure to ensure that

landlords comply with the law – not only by obtaining a license in the first place, but also by avoiding misconduct that would cause the landlord to lose the license. This change in the law must be coupled with efforts by DCRA to ensure that landlords that are repeatedly cited for code violations, do not abate code violations, and otherwise fail to comply with licensing requirements face a real threat of revocation or non-renewal of their license until these issues are addressed.

The Committee Should Engage in a Comprehensive Review to Remove Discretion, Shorten Timelines, and Increase Penalties

Finally, the Committee should engage in a comprehensive review of current law, enacted but unfunded legislation, and pending bills to tighten timelines, increase penalties, and ultimately to remove discretion in the enforcement process. To incentivize voluntary compliance with the housing code, the District's enforcement system must ensure that violators face timely and strong penalties. Against the backdrop of government reports showing that DCRA uses its current discretion to show leniency to landlords and fails to collect fines even when levied, the Committee should be removing discretion from the enforcement process whenever possible.²⁷ Dahlgreen Courts provides a telling case study on this problem: DCRA cited 105 violations and issued 24 notices of violation with potential fines totaling \$36,300. Although only half of these notices of violation were resolved as abated, the only penalty the landlord faced – over seven months later – was fines totaling \$2,500 on three notices of infraction filed.²⁸

The Department of Consumer & Regulatory Affairs Omnibus Amendment Act of 2018 (Act 22-0317) contains many provisions strengthening District law to better ensure enforcement of and compliance with the housing code. Among other changes, the Act:

- Requires landlords to abate housing code violations within 30 days or less and limits extensions to cases where the landlord has taken all reasonable steps to meet the deadline;
- Requires that DCRA issues a notice of violation or infraction and notify the Attorney General for certain types of serious, unabated housing code violations;
- Requires expedited hearings when a landlord challenges a notice of violation or notice of infraction based on housing code violations;

²⁷ The D.C. Auditor found that DCRA shows leniency towards landlords and allows violators to escape consequences by extending timelines for landlords to abate violations; not pursuing fines and other penalties, even when ongoing violations are documented; and, in general, not creating sufficient deterrents to bring problem landlords into compliance with the housing code. D.C. Auditor Report at 12-20. The Office of Inspector General similarly found that inconsistencies in DCRA's policies and procedures for collecting fines mean that violators likely can escape any consequences of failure to pay. D.C. OIG Report at 17.

²⁸ *Id.* at 9.

- Earmarks fines levied on repeat housing code violators to go to the Nuisance Abatement Fund, which allows DCRA to abate longstanding violations ignored by landlords; and
- Requires corporate entities to disclose ownership and controlling interests, improving transparency for residential properties owned by private corporate entities.

When fully implemented, these changes should mitigate many of the longstanding concerns that Legal Aid and other tenant advocates have about DCRA's performance. However, the Act was not funded by the Council last budget season.²⁹

These provisions also should be compared to similar provisions in Bill 23-0394 that would create tight, automatic enforcement timelines and would increase penalties for landlords that violate the housing code, particularly repeat violators. These provisions include:

- Creating a specific timeline for DCRA to issue a notice of violation following an initial inspection, to provide a copy to the tenant, to re-inspect the unit following the allowed abatement period, and to forward cases with ongoing violations to enforcement for further action, including consideration of whether DCRA should abate the conditions and charge the landlord;
- Creating a specific timeline for DCRA to issue notices of infraction following a re-inspection finding ongoing violations and to provide a copy to the tenant, limiting the granting of extensions to landlords; and
- Requiring DCRA to notify the Office of the Attorney General of repeat housing code violators and requiring regular reviews of enforcement data by DCRA, with reporting to the Council.

Conclusion

Thank you for this opportunity to testify about our ongoing concerns about DCRA's lapses in enforcement. We look forward to working with members of the Committee of the Whole, staff, and other advocates to ensure that the Department of Buildings Establishment Act and other legislation addressing DCRA's systemic failures can be considered and moved forward this Council period.

²⁹ The Fiscal Year 2020 Budget Support Clarification Amendment Act of 2019, Bill 23-0504, amended and enacted the provisions of the Act related to disclosure of ownership interests in corporate entities – Section 3 of the original Act - and clarified that these provisions have no fiscal impact, so those provisions of the Act have been able to go into effect.