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Testimony before the District of Columbia Council

Committee on Transportation and the Environment

and

Committee on Economic Development

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Joint Hearing on B20-368, the Air Quality Amendment Act of 2013 and B20-569, the Air Pollution Disclosure and Reduction Act of 2013

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Good morning Chairwoman Cheh, Chairwoman Bowser and members of the committees. My name is Kathy Zeisel. I am a Senior Supervising Attorney at Children's Law Center (CLC)[1] and a resident of the District of Columbia. I am testifying today on behalf of CLC, the largest non-profit legal services organization in the District and the only devoted to children. Every year, we provide services to more than 2,000 low-income children and families, with a focus on abused and neglected children, and on those with special health and educational needs. Many of these children have asthma or other respiratory problems and live in homes with terrible housing conditions that aggravate their health conditions. I am testifying today in support of B20-569, the Air Pollution Disclosure and Reduction Act of 2013, which will help address some of the current gaps in the law. I want to thank Councilmember Cheh for introducing this important legislation.

CLC is also proposing, along with several other organizations, amendments that will make the legislation even more effective. Specifically, we propose that the DC Department of the Environment (DDOE) conduct inspections where the substantial presence of mold is suspected in rental housing, that inspectors and mold remediators be licensed by DDOE, and that landlords be required to remediate where the substantial presence of mold is found.

We are proposing a scheme similar to the District's lead law, widely considered an effective law. DDOE is the natural agency to implement the law because they already handle lead and asbestos inspection and enforcement, and are already doing some very limited mold work. DDOE also has a mold inspector on staff who can guide their implementation of the law.

As with the lead laws, the mold inspection and remediation licensing provisions are needed to protect both the tenants and also the workers who do the remediation to ensure that these workers know and utilize safe practices under the law. Finally, the remediation provision is needed to make it clear that, as with the property maintenance code and the lead laws, the landlord is responsible for ensuring a safe and habitable home and bears the responsibility to remediate where there is a substantial presence of mold. It is critical that the landlords be held responsible for safely remediating both the mold and the underlying cause of the mold so that the tenants can safely reside in the unit.

We see the need for changes in the law every day through our work. CLC serves over 800 children per year through our medical legal partnerships with Children's National Health System (formerly Children's National Medical Center) and with Mary's Center for Maternal and Child Health. In these partnerships, our lawyers work side-by-side with pediatricians in clinics that treat low-income families. Together, the doctors

and lawyers find legal remedies to health problems that get in the way of a child's success.

For the past five years, I have personally worked in our office at the Children's National Health Center at Good Hope Road, SE, in the heart of Ward 8. In that time, I have had the opportunity to work with many outstanding primary care pediatricians as well as specialists from Children's National's cutting-edge emergency room asthma program, IMPACT DC, and from the Mid-Atlantic Center for Children's Health and the Environment. From them, I have learned about the rise in asthma rates among DC's children, especially among low-income families, and the clear links between mold and children's respiratory health.

The fact is that asthma is on the rise and that medical costs related to uncontrolled asthma are enormous. Nationally, 9% of children have asthma. In DC, that number soars to 16% of our children who are diagnosed with asthma.[2] Asthma rates have risen the most among black children, with an almost 50% increase seen nationally from 2001-2009.[3]

This increase in asthma is leading to thousands of hospital visits in DC. There were 4,689 emergency room (ER) visits by children due to asthma-related emergencies in 2011, leading to 655 pediatric in-patient admissions. Approximately 65% of children who were treated in the ER for their asthma had public insurance.[4] This is also a

serious problem among the District's adults. Some 8,666 adults went to the ER for asthma-related emergencies in 2011, and 945 were admitted.[5] Approximately 56% of those adults were on public insurance.

For both adults and children, the vast majority who were treated in the ER for their asthma came from DC neighborhoods with the most poverty.[6] In fact, people living in Ward 8 are more likely than all other wards to have asthma. Some 16.1% of Ward 8 residents have asthma, compared to 10.1% of DC residents overall who have the condition. [7]

The data available also clearly demonstrate asthma's enormous economic cost due to frequent emergency room visits and hospitalizations. From 2002 to 2007, the annual economic cost of asthma was $56.0 billion in the U.S.; this includes direct health care costs of $50.1 billion and indirect costs (lost productivity) contributing an additional $5.9 billion.[8] However, this does not account for the thousands of hours of lost instructional time for children who are too sick to go to school, nor the work hours their parents have missed due to taking their asthmatic children to the hospital or caring for them at home.

The research is clear that mold can trigger asthma attacks and other respiratory conditions.[9] Yet, in spite of the extremely high asthma rate in DC and the enormous economic costs of failing to curb uncontrolled asthma, we do not have any legal

protections against mold and the city agencies do not assist tenants who have complaints about serious mold.[10]

In our last fiscal year, approximately a quarter of the referrals from Children's National to CLC were for housing conditions cases.[11] The vast majority were for families with children whose asthma was aggravated by indoor air quality issues, including mold. What we have found is that many of the families we work with live in housing with a history of floods and/or other water leakage that has never been properly repaired, and as a result, there is substantial mold. Often, the first time that these families find anyone to help them is when they take their children to the ER or their primary care doctor because of asthma that is triggered at home. Their doctors inquire about their housing conditions, and then refer the family to us when they learn about the mold.

Many of these families have tried calling various DC Government agencies, only to be told that they do not inspect for mold or that the landlord painting over the mold is sufficient to pass an inspection. Under current law it is very difficult, if not nearly impossible, to get landlords to take effective action. To illustrate the severity of the situation, I want to share a few typical examples from our clients where the lack of legal protections has seriously impacted their child's health.

Our client Ms. White and her six-year-old daughter, Chantelle, lived in a Project-Based Section 8 unit with serious mold issues.[12] Chantelle has asthma and allergies, and the doctors believed that the frequency of her flare ups was due to the presence of mold growing in Chantelle's room. Chantelle's frequent doctor's appointments kept her out of school and made it difficult for Ms. White to work. Chantelle's primary care doctor at Children's National referred the family to CLC because they were having trouble controlling Chantelle's asthma when she was at home. The landlord's only attempt to address the issue was to paint over the mold, a solution that failed to solve the problem, but did allow the unit to pass inspection.

Another client, Ms. Smith, has allergies and chronic sinus issues, both of which developed after she was exposed to the mold in her moderate rehabilitation unit, and her 15-year-old daughter, Allison, has asthma and is allergic to mold. Both had been having trouble with their breathing when in their home, and Allison had missed many days of school due to respiratory illness. The apartment had repeated flooding, and after hiring a mold inspector at CLC's expense, we found that there was substantial mold in the walls, floors and in the HVAC unit. However, because this wasn't visible to the naked eye, no city agency would require the landlord to make repairs.

Yet another client, Ms. Jones, and her three children lived in a moderate rehabilitation unit with visible mold on the walls. The children and Ms. Jones all had

persistent headaches and allergic rhinitis that began only when they moved into the unit, and which doctors said was consistent with being caused by an environmental source. The children missed many days of school and Ms. Jones was unable to work because she had to take too many sick days. The unit had passed inspections from DCHA and DCRA because the landlord repeatedly painted over the mold. Although Ms. Jones eventually moved, we later learned from another tenant in the building that the landlord had moved in another family after repainting over the mold yet again, and the unit had passed the initial inspection.

To make sure that these children and the many others who live in similar housing conditions do not continue to have their health compromised by substantial presence of mold in their homes, CLC strongly supports the proposed legislation. This legislation helps close a major loophole in the law. Mold is not currently included in the housing code and the legislation would add it and require landlords to notify tenants if there has been mold in the unit. This will allow tenants to make an educated decision about whether a particular unit poses a danger to their child's health because they will know if there has been mold in the unit. No such notification occurs now, and our clients often find out too late that the prior tenants had complained of mold numerous times and the landlord had just painted over it.

We also encourage the Council to amend the legislation to make it even more effective at addressing mold in housing units. Specifically, we are requesting provisions requiring landlords to remediate the mold and the underlying causes; to require licensing for mold remediation professionals; and to require the DDOE to inspect units where a substantial presence of mold is suspected.[13] These provisions are needed for the law to be a meaningful tool to ensure that mold remediation occurs. As we have highlighted, in the current regulatory scheme, landlords can paint over the mold and pass inspections conducted by the DC Government.

We are hopeful that by closing the loopholes that allow landlords to simply paint over mold and pass city inspections, we can help prevent emergency room visits and in-patient hospitalization of children whose asthma and other respiratory conditions are triggered by mold in their homes. We will also save on health care costs.

Thank you for the opportunity to testify. I look forward to answering any questions you may have.

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[1] Children's Law Center works to give every child in the District of Columbia a solid foundation of family, health and education. We are the largest provider of free legal services in the District and the only to focus on children. Our 80-person staff partners with local pro bono attorneys to serve more than 2,000 at-risk children each year. We use this expertise to advocate for changes in the District's laws, policies and programs. Learn more at www.childrenslawcenter.org.

[2] Annie E. Casey Foundation, National Kids Count Report, 2011-12, at: http://datacenter.kidscount.org/data/tables/30-percent-of-children-with-asthma-problems?loc=1&loct=2#ranking/3/any/true/1021/any/300

[3] Centers for Disease Control. Asthma in the US – CDC Vital Signs. May 2011. Available at: http://www.cdc.gov/vitalsigns/Asthma/

[4] Teach, Stephen, Quint Shelef, Deborah. Asthma Surveillance in DC Emergency Departments. http://www.childrensnational.org/files/PDF/impactdc/IMPACT_DC_Surveillance_2002-2011_website_%5BCompatibility_Mode%5D.pdf

[5] Id.

[6] Id.

[7] Id.

[8] American Lung Association. Trends in Asthma Morbidity and Mortality. September, 2012, citing Barnett SB, Nurmagambetov TA. Costs of Asthma in the United States: 2002-2007. Journal of Allergy and Clinical Immunology, 2011; 127(1):145-52.

[9] See EPA. Asthma Triggers: Gain control, available at: http://www.epa.gov/asthma/molds.html; CDC. Mold-General Information. Available at: http://www.cdc.gov/mold/faqs.htm. Institute of Medicine. Damp Indoor Spaces and Health. 2004. Available at: http://www.iom.edu/Reports/2004/Damp-Indoor-Spaces-and-Health.aspx. Mayo Clinic. Mold allergy. Available at: http://www.mayoclinic.com/health/mold-allergy/DS00773. See also World Health Organization. Guidelines on Indoor Air Quality: Dampness and Mold. October 2009. Available at: http://www.euro.who.int/__data/assets/pdf_file/0017/43325/E92645.pdf. The WHO Working Group found sufficient scientific evidence to say, "[There is] Sufficient epidemiological evidence is available from studies different countries and under different climatic conditions to occupants of damp or mouldy buildings, both houses and public increased risk of respiratory symptoms, respiratory infections exacerbation of asthma. Some evidence suggests increased risks of asthma. Although few intervention studies were available, that remediation of dampness can reduce adverse health outcomes. There is clinical evidence that exposure to mould and other microbial agents increases the risks of rare conditions, such hypersensitivity pneumonitis, allergic alveolitis, chronic rhinosinusitis sinusitis. Toxicological evidence obtained in vivo and in vitro supports showing the occurrence of diverse inflammatory and toxic exposure to microorganisms isolated from damp buildings, spores, metabolites and components. While groups such as atopic and allergic people are particularly biological and chemical agents in damp indoor environments, effects have also been found in nonatopic populations."

[10] Neither DCRA nor DDOE currently inspect or require remediation in rental housing with mold on a large scale basis. Currently, the only DC Government agency that takes any action on mold is the DC Department of the Environment's (DDOE) Healthy Homes project, and that is a very limited pilot. While the Housing Conditions Court may force landlords to correct the underlying problem in a few extreme cases, we have generally not found that to be an effective forum for relief for our clients with serious mold problems. The Mayor's recent report, A Vision for a Sustainable DC, also highlighted the importance of keeping homes free from mold, allergens and other indoor hazards to ensure the health and well-being of every district resident.[10] Yet, DC Government has not yet taken action to implement this. Office of the Mayor of the District of Columbia. A Vision for A Sustainable DC. April 2012. Available at: http://sustainable.dc.gov/node/135652

[11] In addition to our referrals from CNMC, we also get housing conditions referrals from Mary's Center for Maternal and Child Health. Because of the concerns about the link between asthma and air quality concerns in the home, CLC is part of an innovative grant through Mary's Center to partner with their asthma program to address housing conditions, including mold.

[12] The names and identifying facts have been changed to protect the identity of our clients.

[13] The current proposed legislation as well as the amendments we are proposing align with the industry standards set by the internationally recognized Institute of Inspection Cleaning and Restoration Certification (IICRC), specifically the IICRC S520-2008. At least one other state has based their statute directly on IICRC and the standards are based in the consensus of mold remediation experts. Information about the IICRC S520-2008 is available at: http://www.iicrc.org/standards/iicrc-s520/.