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Committee of Housing and
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DC's Department of Housing and Community Development

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Thank you, Councilmember Bonds and members of the Committee for this opportunity to testify regarding DC's Department of Housing and Community Development. My name is Anne Cunningham. I am a Senior Policy Attorney with Children's Law Center¹ and a District resident. Children's Law Center fights so every DC child can grow up with a loving family, good health and a quality education. With nearly 100 staff and hundreds of pro bono lawyers, Children's Law Center reaches 1 out of every 9 children in DC's poorest neighborhoods – more than 5,000 children and families each year.

Before I became a Policy Attorney with Children's Law Center, I was an attorney in our medical-legal partnership, where I represented DC families referred by their doctors because their housing conditions were harming the health of the children. Our clients included parents, grandparents, and caregivers of children being harmed by the poor conditions in their homes. The conditions I saw ran the gamut, and regularly included things like sewage leaking into a family's living room, floor to ceiling mold, building-wide mouse and roach infestations, and severely deteriorating walls as a result of unaddressed leaks. I also learned from the medical providers about the lifelong, devastating consequences that lead exposure can have on children, including decreased cognitive ability, permanent impact on physical development, and learning delays.

Several years ago, CLC received a call from one of our medical partners at Children's National Health System who wanted to refer us an urgent case. One of their

patients, two-year-old Heavenz Luster, had the highest blood lead levels her doctors had ever seen.² The blood lead level (BLL) that triggers government involvement in DC is five micrograms per deciliter.³ Heavenz' BLL was over 120. She was hospitalized for several weeks and went through four rounds of excruciating chelation therapy⁴ before her BLL began to approach a non-toxic level. She will suffer life-long challenges as a result of her severe lead poisoning, including stunted physical growth and global delays in her cognitive development.

Heavenz' case perfectly illuminates the number of times our system fails families like hers. Because her family was renting their home using a Housing Choice Voucher, DCHA had inspected the privately-owned property in which Heavenz was poisoned *before* her family moved in. Unfortunately, DCHA merely conducted a visual inspection and did not do any swipe testing to detect the toxic lead paint dust that was coming off the poorly-maintained walls of the home and coating the spaces on which Heavenz crawled and played with her toys.⁵ DCRA was called to inspect the property once Heavenz' elevated BLLs were identified, but DCRA failed to use their code-enforcement resources to hold the Lusters' landlord accountable.

As a result, Heavenz' family of seven became homeless. They couldn't return to the poisonous home that their landlord refused to remediate, and it took six months and over 60 applications before we could finally find a landlord who would accept their Voucher and rent to them.⁶

One resource that could have helped the Lusters was DHCD's now-defunct Lead Safe Washington program.⁷ Lead Safe Washington was the branch of DHCD responsible for implementing DC's Lead-Based Paint Hazard Reduction grant, financed by the US Department of Housing and Urban Development (HUD).⁸ This HUD grant is given to selected jurisdictions throughout the US to address lead-based paint hazards in rental housing occupied by low-income tenants. Property owners who rent to low-income tenant families with young children can receive up to \$17,500 toward the cost of remediating lead-based paint hazards in their property.

Sadly, when the Lusters looked into the program as an option for making their dangerous home livable, we quickly learned that the bureaucracy involved in accessing these funds put remediation on a timeline that likely would not have shortened the Lusters' period of homelessness. As it turns out, the challenges we experienced in accessing these potentially life-saving funds were not unique.⁹

This past fall, I had an opportunity to research DC's practices surrounding lead-based paint hazards in rental housing. Remembering Heavenz' case, one resource I wanted to understand better was Lead Safe Washington. In September, I called DHCD and quickly learned that Lead Safe Washington no longer existed. When I asked an informed DC employee why it no longer existed, they told me they had been explicitly instructed not to speak to anyone outside the government about Lead Safe Washington. Naturally, this alarmed me. So, I called HUD and learned the following:

1. DHCD had failed to meet the grant's benchmarks for each of the two grant cycles in which it had participated, going back to 2012. (Each grant cycle lasts three years). For the grant cycle that ended in July, 2018, DHCD had remediated only 35 of the 225 properties it was required to remediate and had only drawn down \$233,000 of the ~\$3.75M grant.
2. DHCD could have received up to \$4.1M for the grant cycle beginning in FY19, but was ineligible to even reapply for the grant because of its failure to draw down the grant funds in the preceding cycles.
3. Not only is DHCD ineligible to reapply for the grant, but no other DC agencies are eligible to apply for the grant for at least two years, at which point DC will have to demonstrate that we have invested in and augmented our ability to implement the grant.
4. Several invoices DHCD submitted to HUD were not reimbursed because the work was ineligible for reimbursement under the grant.

DHCD officials' ongoing justification for the loss of these significant federal funds has been that they have other local programs to fill the void left behind by Lead Safe Washington's failure. Specifically, they cite their Single Family Residential Rehabilitation Program (SFRRP). Not only does this fail to address the fact that DHCD has lost DC residents upwards of \$10M in *federal* funds, it is also misleading. SFRRP is a grant/loan program that is only available to DC *homeowners* who occupy their homes, and it is not specific to lead remediation. LSW was the only DC grant program for remediating lead hazards in rental homes occupied by tenants. Thanks to DHCD's mismanagement of this grant, this resource no longer exists.

Furthermore, in analyzing the budget documents DHCD submitted to the Council, I found concerning discrepancies between the figures HUD provided and the figures DHCD reported. Though HUD shared that DHCD had only spent a total \$233,000 from the 2014-2018 grant, DHCD reported spending \$511,807 in FY16, \$572,543 in FY17, and \$179,186 in FY18 (to date).¹⁰ These were categorized in their budget as coming from federal (not local) funds. At the time they submitted those figures in February, 2018, DHCD said they planned to spend \$2.5M total in FY18. Because the HUD program had a firm end date of July, 2018, DHCD was effectively telling the Council they planned to move \$2.2M over the course of five months—a quantity they hadn't been able to move cumulatively in at least four years.

With respect to local funds allocated to LSW, DHCD stated that they underspent those funds by \$190,000 in 2016 and \$600,000 in 2017. However, they then requested a \$300,000 reprogramming of intra-district funds to LSW in 2017 to “cover additional project work...not eligible for LHRD HUD grant funds...”¹¹

Chairperson Bonds and Committee-members, the consequences of childhood lead exposure are profound. Exposed children and their families may be burdened for decades, and the long-term costs for DC—medical, educational, behavioral, professional—are astronomical. We hope you will take urgent action in the following ways:

1. **Create a locally-funded grant for remediating lead hazards in rental housing occupied by low-income tenants to make up for the federal funds we have lost.**

Around 104,000 rental units in DC were constructed before 1978.¹² The most recently available statistics show several hundred DC children annually are newly found to have BLLs above five micrograms per deciliter.¹³ There is no shortage of units in DC requiring immediate attention and remediation. Councilmember Allen's Lead Hazard Prevention and Elimination Amendment Act of 2018¹⁴ includes such a fund. We ask that you continue to support this bill when it is reintroduced. In the meantime, however, we urgently ask you to allocate recurring local funds in the coming budget for lead remediation in rental housing occupied by low-income tenants. We also ask that you consider appointing DOEE or a non-profit organization to receive and disburse the grant money as DHCD cannot be trusted to do so.

2. **Investigate the reasons DHCD failed to move these funds.**

It is important that we understand the barriers and failings DHCD experienced here to ensure we can learn from this loss and prevent its recurrence. In doing this investigation, other DHCD funds for housing rehabilitation should also be examined as their usage has not been clear.

3. **Work with other Councilmembers and the Administration to ensure DC can demonstrate expanded capacity to HUD in 1.5 years and regain eligibility for the grant.**

Shannon Steinbauer,¹⁵ the HUD official who oversees implementation of this grant nationally, told me that even following DC's two-year 'probation,' DC will not qualify for the grant if it cannot demonstrate that it has built up its capacity to meaningfully put the grant to use in the community. Unfortunately, for seven years DHCD has demonstrated itself incapable of doing this work. Consequently, we implore you to identify a different agency within which to build this capacity.¹⁶

4. **Investigate and report publicly on the above-mentioned budgeting discrepancies in DHCD's 2018 oversight documents.**
5. **Determine how DHCD spent the \$1.72M in local and intra-district funds it had allocated to this grant for FY18.**

As we have not yet received DHCD's oversight responses for this year, I cannot say whether they explain what happened to the \$1.72M in local funds they had appropriated to Lead Safe Washington for FY2018. I hope this Committee will thoroughly investigate where and how those funds were spent as we know they likely were not spent remediating lead-based paint hazards in rental housing for low-income tenants as originally intended.

Conclusion

Our failure to use this resource is a travesty and we hope this Committee will ensure this wrong is righted. Thank you for this opportunity to testify.

¹ Children’s Law Center fights so every child in DC can grow up with a loving family, good health, and a quality education. Judges, pediatricians, and families turn to us to be the voice for children who are abused or neglected, who aren’t learning in school, or who have health problems that can’t be solved by medicine alone. With 100 staff and hundreds of pro bono lawyers, we reach 1 out of every 9 children in DC’s poorest neighborhoods--more than 5,000 children and families each year. And, we multiply this impact by advocating for city-wide solutions that benefit all children.

² “2-year-old girl diagnosed with extreme lead poisoning in DC,” Feb. 2, 2017. *See*

<http://www.fox5dc.com/news/dc-news/2-year-old-girl-diagnosed-with-extreme-lead-poisoning-in-dc>.

³ *See* 22 DCMR §3399.1 (2014). *See also* “CDC- What Do Parents Need to Know to Protect Their Children?” https://www.cdc.gov/nceh/lead/acclpp/blood_lead_levels.htm for the current CDC reference standard.

⁴ “Chelation therapy is the preferred medical treatment for metal poisoning, including acute mercury, iron (including in cases of sickle-cell disease and thalassemia), arsenic, lead, uranium, plutonium and other forms of toxic metal poisoning. The chelating agent may be administered intravenously, intramuscularly, or orally, depending on the agent and the type of poisoning.” *See* https://en.wikipedia.org/wiki/Chelation_therapy.

⁵ This is a chronic issue that has affected many families like the Lusters in DC. Terrence McCoy, “Many Children Have Been Poisoned by Lead in Homes Approved by DC Housing Inspectors,” Aug 15, 2018. Available at https://www.washingtonpost.com/local/social-issues/many-children-have-been-poisoned-by-lead-in-homes-approved-by-dc-housing-inspectors/2018/08/14/5633a144-9b24-11e8-8d5e-c6c594024954_story.html.

⁶ “Family of DC girl with severe lead poisoning struggling to find new housing, facing homelessness,” Apr. 12, 2017. *See* <http://www.fox5dc.com/news/local-news/family-of-dc-girl-diagnosed-with-severe-lead-poisoning-having-trouble-finding-housing>.

⁷ Department of Housing and Community Development, Lead Safe Washington Program. <https://dhcd.dc.gov/service/lead-safe-washington-program-lsw>.

⁸ FR-6200-N-12TC, Lead-Based Paint Hazard Reduction Program, Department of Housing and Urban Development. Opportunity Synopsis available at <https://www.grants.gov/web/grants/view-opportunity.html?oppId=308148>.

⁹ We heard from partners that the length of time between referral and receipt of assistance, as well as the extensive personal information required from both landlord and tenant, were likely significant barriers to the success of the program.

¹⁰ DHCD Responses to Questions in Advance of the Performance Oversight Public Hearing on Fiscal Years 2017/2018, Feb. 28, 2018. Available at <http://dccouncil.us/wp-content/uploads/2018/10/dhcd.pdf>.

¹¹ *See* DHCD Responses to Questions in Advance of the Performance Oversight Public Hearing on Fiscal Years 2017/2018.

¹² Morgan Baskin, “D.C. Chronically Failed to Spend Federal Funds to Remediate Lead Paint Hazards, HUD Says,” Feb. 21, 2019. Available at <https://www.washingtoncitypaper.com/news/housing-complex/article/21048191/dc-chronically-failed-to-spend-federal-funds-to-remediate-lead-paint>.

¹³ Government of the District of Columbia Department of Energy and Environment Lead and Healthy Housing Division, “District Implements CDC-funded lead screening initiative,” Sept. 2015. Available at https://doee.dc.gov/sites/default/files/dc/sites/ddoe/service_content/attachments/Lead%20Newsletter.pdf.

¹⁴ B22-956. Available at <http://lims.dccouncil.us/Download/40934/B22-0956-Introduction.pdf>.

¹⁵ Shannon Steinbauer is the Director of HUD’s Office of Lead Hazard Control and Healthy Homes Division, which distributes and oversees HUD’s Lead-Based Paint Hazard Reduction grants nationally.

¹⁶ Though HUD made very clear to me that DC would not be eligible to reapply for at least two years even if we could identify another agency to implement the grant, we did learn of at least one city that,

with the help of an outside environmental policy organization, was able to negotiate with HUD to have a different agency apply for the grant under similar circumstances.