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Testimony Before the District of Columbia Council  
Committee on Transportation & the Environment  
June 14, 2021

Budget Oversight Hearing:  
*DC Department of Energy and the Environment*

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Thank you, Chairperson Cheh and members of the Committee for the opportunity to testify regarding the budget for the Department of Energy and Environment (DOEE). My name is Elizabeth Oquendo and I am a senior policy attorney at Children's Law Center, which fights so every DC child can grow up with a loving family, good health, and a quality education.<sup>1</sup> With almost 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.

Poor housing conditions can pose a serious risk to a child's health. Every year we represent hundreds of families in trying to get their landlords to repair these conditions.<sup>2</sup> The most serious cases often involve a landlord's failure to ensure a tenant's home is safe from mold and lead-based paint hazards, as required by DC law.<sup>3</sup> DOEE plays a critical role in fighting these hazards.

***Funding the Residential Housing Environmental Safety Amendment Act of 2020  
and Strengthening DC's Lead Laws***

Last December, the Council passed the Residential Housing Environmental Safety Amendment Act of 2020 (B23-132, Act 23-607) to strengthen enforcement of DC's mold and lead laws. The fiscal impact of this new law mainly affects DCRA's budget, and Children's Law Center will be submitting testimony to the Committee of the Whole strongly urging it to provide funding to ensure DCRA enforces the District's mold law.

But one aspect of Act 23-607 has a small effect on DOEE's budget as the result of several modifications to DC's lead law:

- The Act changes the threshold for what constitutes an "elevated blood level" under the law from 10 micrograms of lead per deciliter (u/dL) to 5 u/dL, which is the current CDC reference level;
- The Act changes the threshold for what constitutes "lead-based paint" from 1.0 mg/f<sup>2</sup> to 0.7 mg/f<sup>2</sup>, which is the standard currently used in Maryland; and
- The Act changes the threshold for what constitutes "lead-contaminated dust" to bring DC law into line with technical standards adopted by HUD in 2017 governing rental housing lead inspections.<sup>4</sup>

These stricter thresholds will require DOEE to hire an additional compliance specialist to manage an expected increase in caseload. As a result, DOEE will need an additional \$85,000 in annual funding beginning in FY21 through FY24.<sup>5</sup> We urge the Committee on Transportation & Environment to ensure these small amounts are included in DOEE's budget.

The modifications described above were originally included in B23-407 (the *Lead Hazard Prevention and Elimination Amendment Act of 2019*), a bill introduced in 2019 to strengthen DC's lead laws. Act 23-607 does not include several important provisions of B23-407, including provisions that would require more comprehensive and more frequent lead inspections of DC rental housing units and better enforcement mechanisms to help ensure landlords comply with DC's lead laws. The Committee stated that it did not include these provisions in Act 23-607 because they might impose costs on small landlords and DOEE at a time when both the DC government and small

landlords were facing financial constraints caused by COVID-19. The Committee stated that it would reconsider these provisions during Council Period 24, after the COVID-19 public health emergency has concluded.<sup>6</sup>

Now that we are hopefully approaching the end of the pandemic, we urge the Committee to move forward with the remaining aspects of B23-407. The bill was introduced or co-sponsored by Chairperson Cheh as well as Councilmembers Allen, Bonds, Gray, Nadeau and Robert White during the last Council period and received broad support, including from the American Academy of Pediatrics (DC Chapter), Children's National Hospital, the Green & Healthy Homes Initiative, Bread for the City, the Legal Aid Society, and Yachad. Enactment of the remaining provisions of B23-407 will strengthen DC's lead law and help prevent lead hazards before children suffer lead poisoning. Children's Law Center looks forward to working with Councilmembers Cheh, Allen, and the members of this Committee during FY22 to pass even more comprehensive legislation in to ensure that DC's children are not exposed to lead in their own homes.

### *Promoting Health Homes in DC*

DOEE's Lead-Safe and Healthy Homes Division, which is part of DOEE's Environmental Services Administration, takes proactive steps to prevent harm caused by indoor environmental health threats. The Division plays a critical role in enforcing

DC's lead law and protecting children against lead hazards. Our clients have also benefited from the Division's work in addressing mold contamination in DC housing, a common occurrence which can greatly exacerbate a child's asthma.

As this Committee has observed, "[i]n late 2019, DOEE began the process to hire two mold inspectors, with plans to expand the program even further. Unfortunately, due to budget constraints stemming from the ongoing public health emergency, DOEE ... put this program—and the hiring of these two FTEs—on hold."<sup>7</sup> Since then, it is our understanding that the Division has hired one mold inspector and is planning to hire one additional inspector. We support increasing DOEE mold inspections and enhancing its enforcement of the District's mold contamination law. We recommend that the Council provide the funding DOEE needs to increase inspections and enforcement of DC's mold and lead laws.

This funding would be money well spent, not only because it will help keep families and children safe but also because it will reduce the enormous societal costs (*e.g.*, increased health care and social assistance spending) arising from harm caused by unhealthy housing conditions. Our research demonstrates home conditions like mold have a serious impact on children's health, and by improving housing conditions, we can keep a child out of the hospital. In our multiyear study, we found that when we improve a family's housing, Medicaid saves over \$10,000 per year for each child with asthma.<sup>8</sup> We ask the Council to continue prioritizing safe and healthy housing for DC's

children by preserving the investments made in the Mayor's FY22 budget to the Lead Safe and Healthy Homes program.<sup>9</sup>

### *DOEE's Lead Reduction Program*

Last year, DOEE showed strong leadership in the fight against lead hazards by establishing its Lead Reduction Program with a \$3.6 million grant from the U.S. Department of Housing and Urban Development (HUD).<sup>10</sup> It is our understanding that DOEE is matching 10% of the grant with local funds as required by HUD.<sup>11</sup>

Under this program, DOEE provides eligible DC families up to \$11,000 to remove lead-based paint hazards in their homes. According to HUD's announcement, the grant will allow DOEE to "address lead hazards in 158 housing units providing safer homes for low and very low-income families with children" and "perform healthy homes assessments in 158 units, and work with other medical and social service providers."<sup>12</sup>

We applaud DOEE for obtaining the HUD grant and setting up this important program to protect the health of some of the District's most vulnerable children. We urge the Committee to ensure the Council's final budget for DOEE includes the required matching local funds for this program. This would help ensure that tenants who otherwise might not qualify for federal remediation funds (due to being

undocumented or other potential restrictions) would nonetheless receive assistance in removing lead-paint hazards from their homes.

***Preserve Critical Investments in DOEE's Budget That Will Assist with Weatherization, Lead, and Mold Remediation***

The Mayor's FY22 budget includes \$9 million in critical funds that will help ensure that DOEE can conduct the vital work of weatherization and mold and lead remediation.<sup>13</sup> We urge the Council to preserve these important investments in DOEE's budget in order to ensure that District families have access to lead and mold remediation and abatement. The funds will also help families access much needed weatherization services by expanding the weatherization project. We also ask the Council to protect the 10 million dollars in American Rescue Plan Act funding provided for the Lead Pipe Replacement Program.<sup>14</sup> We urge the Council to ensure that these critical investments remain funded in DOEE's FY22 budget.

***Conclusion***

We commend DOEE, and its hard-working staff, for their efforts in promoting healthy homes in the District and urge the Committee to ensure DOEE has the tools to carry out this critical mission.

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<sup>1</sup> Judges, pediatricians, and families turn to Children’s Law Center 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 nearly 100 staff and hundreds of pro bono lawyers, we reach one out of every nine children in DC’s poorest neighborhoods--more than 5,000 children and families each year. We multiply this impact by advocating for city-wide solutions that benefit all children. *See* <https://www.childrenslawcenter.org/>.

<sup>2</sup> Children's Law Center frequently represents families whose homes’ poor conditions are so severe they harm the health of the children living in them. In those instances, the child’s pediatrician refers the family to us for legal representation to secure healthy, code-compliant conditions.

<sup>3</sup> *See* D.C. Code § 8-231.01 *et seq.* (DC lead law), D.C. Code § 8-241.01 *et seq.* (DC mold law).

<sup>4</sup> The Act also modifies the type of relocation expenses tenants are entitled to receive when lead abatement work is conducted in their apartment; tenants will now be able to receive per diem food expenses and travel expenses in certain circumstances. This aspect of the Act will have no fiscal impact on the District’s budget.

<sup>5</sup> Fiscal Impact Statement – Residential Housing Environmental Amendment Act of 2020 (Dec. 1, 2020), *available at* [https://lims.dccouncil.us/downloads/LIMS/41819/Other/B23-0132-FIS\\_Residential\\_Housing\\_Environmental.pdf](https://lims.dccouncil.us/downloads/LIMS/41819/Other/B23-0132-FIS_Residential_Housing_Environmental.pdf).

<sup>6</sup> *See* Committee on Transportation and Environment, Committee Report on B23-132, at 5-6 (Nov. 9, 2020).

<sup>7</sup> On Transportation & Environment, Committee Report on B23-132 at 3 (Nov. 9, 2020), *available at* [https://lims.dccouncil.us/downloads/LIMS/41819/Committee\\_Report/B23-0132-Committee\\_Report2.pdf](https://lims.dccouncil.us/downloads/LIMS/41819/Committee_Report/B23-0132-Committee_Report2.pdf).

<sup>8</sup> *See* Testimony of Evan Cass, Children’s Law Center Before Comm. on Transportation & Environment at 1-2 (Dec. 9, 2019), *available at* <https://www.childrenslawcenter.org/sites/default/files/attachments/testimonies/CLC%20Testimony%20for%20Dec.%209%20Hearing%20on%20Indoor%20Mold%20Bill%20B23-132.pdf>.

<sup>9</sup> The DOEE Lead Safe and Healthy Homes program received an increase of \$2,947,000.00 in the FY22 budget including 1.2 additional FTEs . Table KGO-4, line 3090.

<sup>10</sup> HUD awarded DOEE this grant in September 2019, with the performance period for the grant starting in 2020. The grant includes \$2,994,371 under HUD’s Lead Based Paint Hazards Reduction program and \$600,000 in HUD Healthy Homes Supplemental funding. HUD Project Descriptions – Awards Announced Sept. 30, 2019, 2019 Lead Based Hazard Reduction Grant Program, *available at* [https://www.hud.gov/sites/dfiles/Main/documents/Lead\\_HH\\_Grants.pdf](https://www.hud.gov/sites/dfiles/Main/documents/Lead_HH_Grants.pdf).

<sup>11</sup> *See* Green & Healthy Homes Initiative, Lead Funding Toolkit at 5 (describing HUD program and matching requirements), *available at* [https://www.greenandhealthyhomes.org/wp-content/uploads/Lead-Funding-and-Financing-Toolkit-5-29-19\\_final.pdf](https://www.greenandhealthyhomes.org/wp-content/uploads/Lead-Funding-and-Financing-Toolkit-5-29-19_final.pdf).

<sup>12</sup> *Id.*

<sup>13</sup> DOEE FY22 Budget Table KG0-4, Line 6010.

<sup>14</sup> DOEE FY22 Budget Table KG0-4, Line 3090.