



Testimony Before the District of Columbia Council  
Committee of the Whole  
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Performance Oversight Hearing:  
*Department of Consumer and Regulatory Affairs*

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Good afternoon Chairperson Mendelson and members of the Council. My name is Kathy Zeisel and I am a DC resident and a Senior Supervising Attorney at Children's Law Center, which fights so every DC child can grow up with a stable family, good health and a quality education. 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.

We are once again here to testify about DCRA and to tell you that nothing has meaningfully changed with the agency. This is especially concerning this year because the Mayor has apparently tasked DCRA with setting up the Department of Buildings (DOB). This year, we must consider the failings of DCRA's housing inspections unit in the context of how this could impact the new agency, and therefore the Council must step in to ensure that these same failures are not just transferred over to DOB.

As we testified last year, DCRA continues to fail to ensure that DC residents live in safe and healthy housing. We have had several clients who had inspections where the landlord was cited for no smoke detector, but no follow up was done and no smoke detector was provided by the landlord. Two of our clients experienced life-threatening fires and barely escaped with their children, experiencing serious damage to their belongings. In a functioning inspection and enforcement system, the agency should have utilized their authority to fine the landlord at the \$2000/day or even the \$4000/day double fine that is permitted for life and safety violations.<sup>i</sup> If the landlord does not

quickly remedy the issue, then DCRA should make the repair from its abatement fund and seek to recoup the funds from the landlord.

Since the Kennedy Street tragedy, we have observed that DCRA is instead shutting down the unit and requiring that the tenants move out of the unit immediately and stay in a hotel. That hotel would be paid for by the Office of the Tenant Advocate for two weeks, but if the repairs were not done at the end of two weeks, the tenant would be left homeless. None of the clients had an experience where DCRA did anything to ensure the repairs were completed and their unit was reopened. While we agree it is important to get tenants out if there is a life and safety issue, the next step has to be to ensure the unit is made safe for them. If the landlord does not do so, then DCRA must abate the condition and recoup the costs from the landlord. Otherwise, we have simply created a way for landlords to constructively evict tenants with the aide of a government agency.

The current KPIs do not incentive DCRA to do anything except inspect because that is the only standard for which they are measured.<sup>ii</sup> If we want to actually measure outcomes that are meaningful, we need to measure not only whether inspections happen, but also whether repairs are made within a reasonable time after violations are found, the timeliness of those repairs, whether the housing inspection agency re-inspects, whether it pursues successful actions against the landlords if they do not make repairs, and if they remediate serious housing code violations where landlords fail to do

so in a timely manner. KPIs should also include measuring whether DCRA addresses the most serious unsafe and unhealthy code violations in a timely manner.

While DCRA does not have these as KPIs now, we can try to assess some of these questions. We can see that even when DCRA responds to conduct complaint-based inspections, the agency fails to do meaningful follow up to be certain that repairs have happened. The DCRA Oversight Answers show that in complaint based inspections, there were 4017 inspections resulting in violations in FY21 and only 861 repairs in the same year; and, an additional 230 repairs from prior fiscal years.<sup>iii</sup> In FY22, 1321 complaint based inspections have resulted in violations and only 245 violations were abated in the same fiscal year, with an additional 127 abatements from prior fiscal years.<sup>iv</sup> This means that even with the option to self-report abatement by landlords, DCRA was unable to confirm that the repairs were made for the vast majority of violations found.<sup>v</sup> And, since this data is based on self-reported repairs, it is not clear whether the repairs were properly done or long lasting. A long-delayed repair is very problematic for a family living in unhealthy housing, and it is a real question whether this is truly a success for the agency when so many of the repairs occur after the fiscal year the violation is found in. This does not even address the question of whether the agency is truly finding the most serious violations in the city.

Timely repairs are important both to the health and safety of individual tenants and families and to ensuring that we preserve our affordable housing stock. The picture

of long-delayed repairs we get from the DCRA Oversight Answers and DCRA's dashboard highlights that the Council cannot simply allow DCRA to recreate a mirror image of itself in the new Department of Buildings.

As in years past, enforcement remains a concern. DCRA served more notices of infraction in housing inspection cases in FY21 than in prior years. However, DCRA's dashboard does not show much it has actually collected from landlords unless one searches by individual landlord. This again illustrates the problem of tracking an input (rather than a result) such as tracking issuing notices of infraction rather than whether enforcement was actually done, or more specifically, whether DCRA ever conducted OAH action, collected the fine, or did abatement and placed a lien. That information does not appear to be available in an aggregated way on the dashboard or in the Oversight Answers. We also want to flag now that if DCRA or DOB actually starts doing enforcement in a meaningful way, the Office of Administrative Hearings is likely to need additional resources to hear those cases in a timely way.

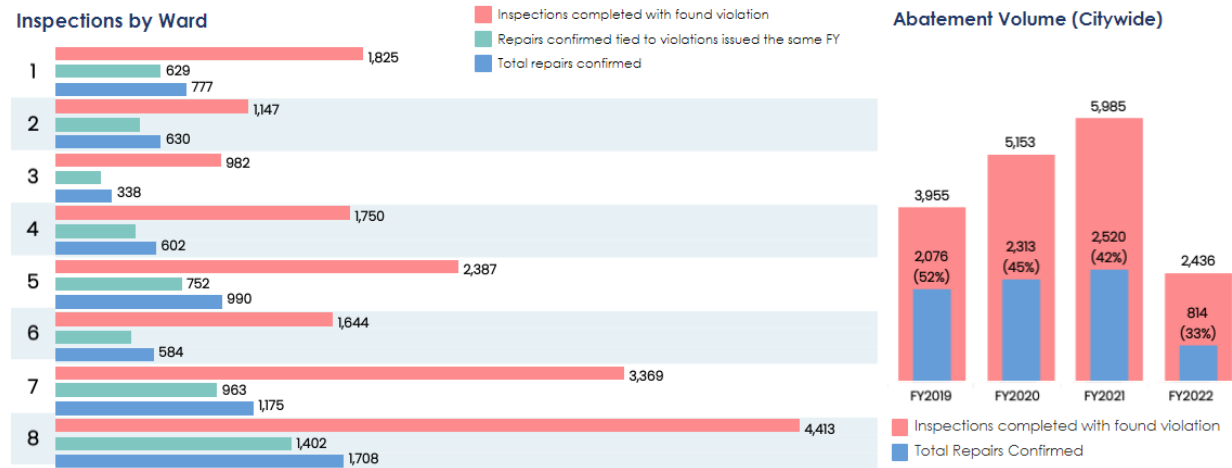
In conclusion, the same problems persist at DCRA. What is important this year is that the Council must step in to ensure these same problems don't exist under a different name when the Department of Buildings opens its doors in the next fiscal year.

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<sup>i</sup> 16 DCMR § 3305.1(a)

ii The two KPIs that are relevant are: Percent of Property Maintenance (Housing) inspections that are completed within 15 business days from date of request and Percent of Property Maintenance (Housing) Notices of Infraction (NOI) that are initiated within 2 business days following inspections where violations were observed. Neither of these get to whether the actual issue was resolved for the tenant.

iii DCRA 2021-22 Oversight Answers, p79. The DCRA Dashboard online is missing numbers and seems to reflect different inspections (perhaps including proactive NOIs), so it is difficult to give exact comparisons. But, from the bar graph comparisons, it is evident that the same year repairs lag behind the total repairs, and that the unrepaired violations are a far greater total.



iv DCRA 2021-22 Oversight Answers, p79.

v Landlords can self-certify about abatement using this form: <https://dcra.kustomer.help/contact/abatement-tracking-BJbZLthgw>