



Testimony Before the District of Columbia Council
Committee of the Whole
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Roundtable

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Good afternoon Chairperson Mendelson and members of the Council. My name is Kathy Zeisel and I am DC resident and a Senior Supervising 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. 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.

Thank you for the opportunity to testify about the Department of Buildings (DOB), an agency which we hope will be key to ensuring that all DC residents can live in safe and healthy housing. If DOB is to succeed where DCRA has failed, we cannot simply replicate DCRA again. We must explicitly give the agency the mission of ensuring safe and healthy housing for DC residents, a mission which it has not chosen for itself thus far, ensure that it is adequately staffed, and that it approaches its mission in new ways. This Council asked the Mayor to think big, to do better than DCRA, and that did not happen.

Unfortunately, the initial plans sent to the Council do not set up the agency for success. The December 2021 Transition plan seems to be a cut and paste of DCRA's current structure with only minimal changes.ⁱ The February 2022 Communications Plan illustrates even further that there is no planning for DOB to address the serious deficits does not even mention housing code inspections or enforcement specifically, a major item to leave out given the origins of the agency.

It seems this Council must step in and legislate more precisely what is needed in order to ensure that we are not testifying next year about why DOB is failing. We have the opportunity now to ensure this agency does things correctly from the beginning, and the Executive is not doing that. We cannot have the same leadership with the same number of housing code inspectors under the same structure and expect different results.ⁱⁱ Yet, the documents released thus far reveal that seems to be what the Mayor is planning.

To start with, the mission statement outlined in the Communication Document highlights that the Mayor is fundamentally starting from a different place. That statement actually is more limited than that of DCRA in that it only looks to protect the safety and not health of DC residents, something that is the direct opposite of the testimony and hearings that led to the creation of DOB in the first place.ⁱⁱⁱ This is worrying as it could indicate that although the Council has passed legislation requiring DCRA inspectors to be mold inspectors and has possibly signaled intent around lead inspections, DCRA is carving those tasks out of the future mission of DOB.

For DOB to be effective in the area of ensuring safe and healthy housing for DC residents, an area where DCRA has failed over and over, we need to clearly and fully define that this is a core mission of the agency. We need to devote adequate resources. Yesterday's planning document indicates that the Mayor does even not anticipate

adding any additional staffing to the housing code inspection staff in spite of the fact that we know we need more inspectors.

In order for residential code inspection and enforcement to be effective, we need the vast majority of landlords to comply voluntarily because we simply do not have the resources to inspect every single unit. For that to happen, we need a system wherein landlords know that they face consequences if they do violate the law, something akin to our parking system in DC where drivers know they are likely to get a ticket if they violate our parking rules. Because drivers fear parking tickets, we do not have cars parked on the national mall. Because landlords do not fear our housing inspection system, we have millions in unpaid fines and landlords forcing tenants to live in unsafe and unhealthy housing with impunity.

Today, we would like to provide recommendations about what can still be done to improve the agency before it opens its doors. We would be very happy to work with the City Administrator directly.

(1) The Agency's Mission For Residential Housing Inspections Must be Clearly Defined as Responsibility for Safe and Healthy Housing for all DC Residents through Housing Code Education, Inspection, and Enforcement

First, we urge the agency to orient itself towards the idea that healthy housing should be its central focus, not simply inspections for the sake of inspections, and that we are not just issuing a citation without ensuring that the problem is actually fixed. By

this, we mean that the agency should be approaching its work to try to ensure that DC residents are living in healthier housing, specifically that we are making sure that fire hazards are repaired so that buildings don't burn down with tenants in them, that we are preventing lead exposure in children, and that we are preventing and correcting housing conditions linked to asthma exacerbations. If landlords fail to make repairs after an initial inspection, then the agency must pursue enforcement and potentially abate the issue and pursue a lien.

A mission-driven agency will need to approach its work substantially differently than DCRA. The different parts of the housing code enforcement spectrum must work collaboratively, and must add in new elements in order for there to actually be successful housing code compliance and enforcement in DC.

(2) Rebuild Trust through Community-Based Inspection Teams that Include Community Outreach Worker

Initially, the agency will need to rebuild community trust in the agency and will need to help DC residents understand how it is different from DCRA. We recommend that the agency establish ward-level inspection units which are responsible for all inspections in that ward and which get to know residents in that ward. Those units should include community outreach workers in addition to inspectors to best reach resident and landlords. Such teams could also offer resources to tenants and landlords

about the city's remediation programs to help ensure that such programs are fully utilized.

(3) Re-envision Proactive Inspections

In order for proactive inspections to be more effective, the agency needs to re-envision how they are conducted. While the agency should and must be responsive to complaints, something I will address further below, it must also step up its education, proactive inspection, and enforcement efforts to be effective. Proactive inspections are important because they allow landlords to address issues before they become emergencies, they allow DC to better preserve our affordable housing stock, and they mean that we do not have to rely solely on tenant complaints to ensure safe and healthy housing. Proactive inspections are also an important tool in strategic enforcement to be able to assess the properties of a landlord. Greg Maio from Change Lab solutions will offer some insight from national best practices.

(4) DC must use a wide variety of data to inform inspections and enforcement

Furthermore, DC must consider data from various sources in determining which buildings to inspect and as part of a broader strategic enforcement strategy. There is some research to suggest that brief outside inspections of the properties can help determine risk factors for significant habitability issues, and such inspections could help DC prioritize buildings for proactive inspections.^{iv} However, a proactive inspections algorithm should additionally consider public health data, especially regarding

conditions highly correlated to unhealthy housing such as lead exposures and asthma exacerbations. My colleague from the Institute for Public Health Innovation will provide testimony about importance of public health data and the role of DOB in ensuring healthy equity in DC.

(5) DC Needs More Professional Inspectors

DC does have a sufficient number of professional inspectors for either complaint-based or proactive inspections. Proactive inspectors should work for DOB rather than be contractors so that DOB can ensure the quality of their work and ensure that they have control over the data from their inspections. We also do not have a sufficient number of inspectors to ensure that we can respond to all complaints and conduct the necessary re-inspections for effective enforcement. We need to determine what the appropriate level of inspectors is as soon as possible and increase the funding to the agency so that they are adequately staffed with professional inspectors. We cannot trust the healthy and lives of DC residents to anything less.

(6) Strategic Enforcement Personnel should Sit Within Inspections

The Strategic Enforcement division will be of critical importance in the new DOB. We recommend that this division have personnel who sit within the residential inspections unit, not just separately. We saw at DCRA that the gap between the units caused numerous problems over the years, including years when the inspectors' reports

were legally insufficient for enforcement and a complete lack of communication about enforcement.

(7) High level Public Health Position with Strategic Enforcement

A high level public health position within the Strategic Enforcement branch is necessary to ensure that someone with the appropriate expertise in public health and health equity is available to help guide the strategic enforcement strategy, analyze the data, work with proactive inspections, and simply have a public health lens on the healthy housing work of the agency.

(8) Liaisons and MOUs with Sister Agencies are Necessary

We also recommend that there be liaisons in this office with relevant agencies to coordinate with the relevant licensing bodies, inspectors, abatement and enforcement entities on actions. This should include coordinating to identify landlords, to conduct strategic inspection and enforcement actions, and to abate and put liens on properties as needed. One of the big gaps now in enforcement is that there simply is no coordination even though each of these entities may be responsible for an aspect of enforcement related to the housing code or a directly parallel or related provision of the law. From the tenant's perspective, they are all DC government and the failure to coordinate only leads to a messy and time consuming failure to enforce the law against problem landlords. We propose that the DOB should be the coordinating agency for healthy housing enforcement.^v

We urge the City Administrator to develop memorandums of understanding with other executive agencies now, including DLCP, DOEE, DOH, DC Fire, DCHA, DHCD, and OAG, so that the relationships are in place when the agency starts. Specifically, we ask that there be coordination with respect to inspections, enforcement, data, and where relevant, abatement and remediation. As an example, DC Department of Energy and Environment (DOEE) currently does inspections for lead and mold, two highly relevant conditions for healthy housing, and both of which could be violations of the housing code. In addition, DOEE has funding to abate lead paint, for weatherization (which can be helpful for certain remediation), roof repair, and some federal funding that can be used to bridge other cases. In the past, DCRA rarely made connections to DOEE's (and previously DHCD's) lead abatement program. But, DOB can and should be a leader in connecting tenants and landlords to the program as inspectors are on the front lines of seeing peeling paint and other lead hazards.

(9) DOB should be Central Data Repository for All Healthy Housing Data, Necessary for Strategic Enforcement

Additionally, the agencies all need to share data so that DOB can be the central hub of healthy housing data for the city. DOB needs to ensure that it is adequately staffed and funded its data capabilities. Currently, Children's Law Center is working with Children's National Hospital to map healthy housing in DC with funding from Fannie Mae, but this is not a long term sustainable solution, and DC Government

should possess the necessary data to do this important work. The Department of Buildings should be the coordinating agency for healthy housing data in the city.

(10) Fines Collected Should go to Nuisance Abatement Fund

With respect to enforcement, the Council has an opportunity to ensure that the new agency has sufficient funds for abatement in instances where landlords fail to remediate. We recommend that the Council create a mechanism for some or all of the fines collected to be directed back to the agency, with a portion of those fines going to the Nuisance Abatement Fund. This is necessary because when landlords fail to remediate, it is important that tenants not be forced to live in unhealthy housing while enforcement action is pursued, which could take years in court. Instead, the agency should remediate and then place a lien on the property.

In conclusion, we have a real opportunity to make sure that this new agency is effective and can make sure that DC residents live in safe and healthy housing. We can make sure this new agency coordinates the work and the data of all the agencies doing healthy housing work in DC.

ⁱ Department of Consumer and Regulatory Affairs Transition Plan: Version 1.0 December 2021, Initial Timeline, Organizational Plan, and Organizational Charts Only, p23.

ⁱⁱ Id at page 30.

ⁱⁱⁱ Department of Buildings Transition Plan: Communications and Strategic Human Capital Plan Only, February 2022, page 11, states: “About the District of Columbia Department of Buildings The mission of the District of Columbia Department of Buildings is to protect the safety of residents, businesses, and visitors and advance development of the built environment through permitting, inspections, and code enforcement.” In contrast, DCRA’s mission is: “The Department of Consumer and Regulatory Affairs

(DCRA) protects the health, safety, economic interests and quality of life of residents, businesses and visitors in the District of Columbia by ensuring code compliance and regulating business” *available at*: <https://dcra.dc.gov/page/about-dcra-new#:~:text=Our%20Mission,code%20compliance%20and%20regulating%20business>. (visited 2/15/22).

^{iv} Eggers, Frederick and Moumen, Fouad, American Housing Survey: Housing Adequacy and Quality as Measured by the AHS (March 1, 2013). Available at

SSRN: <https://ssrn.com/abstract=2284174> or <http://dx.doi.org/10.2139/ssrn.2284174>

^v With respect to tenant-initiated cases in DC Superior Court, at a minimum, the reports created by the DOB housing code inspector in DC Superior Court should be tracked for data purposes. It is our understanding these are not tracked, and when we looked up cases that Children’s Law Center has in Housing Conditions Calendar in DC Superior Court where the DCRA Inspector has conducted inspections, these inspections were not listed in the Landlord Violations tool on DCRA’s website even though violations were cited in the reports.