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Testimony Before the District of Columbia Council  
Committee of the Whole  
October 18, 2023

Public Hearing:

Director of the Department of Buildings Brian J. Hanlon Confirmation Resolution of 2023 (PR 25-289) and Department of Buildings Strategic Enforcement Administrator Keith Parsons Confirmation Resolution of 2023 (PR 25-471)

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## **Introduction**

Good afternoon, Chairperson Mendelson, and members of the Committee. My name is Makenna Osborn. I am a Policy Attorney at Children’s Law Center and a resident of the District. Children’s Law Center believes every child should grow up with a strong foundation of family, health and education and live in a world free from poverty, trauma, racism and other forms of oppression. Our more than 100 staff – together with DC children and families, community partners and pro bono attorneys – use the law to solve children’s urgent problems today and improve the systems that will affect their lives tomorrow. Since our founding in 1996, we have reached more than 50,000 children and families directly and multiplied our impact by advocating for city-wide solutions that benefit hundreds of thousands more.

Thank you for the opportunity to testify today regarding the nominations for key leadership positions within the Department of Buildings (“DOB”). Children’s Law Center has spent years advocating for more effective, tenant-focused housing code enforcement in the District.<sup>1</sup> To this end, I am providing testimony today to highlight what Children’s Law Center believes is needed from DOB’s leadership team, especially the Director and Strategic Enforcement Administrator,<sup>2</sup> for the agency to fulfill its mission to meaningfully protect the health and safety of residents in the District.

Poor housing conditions pose serious risks to a child’s health.<sup>3</sup> Each year, Children’s Law Center works with hundreds of families whose pediatric medical provider has identified a non-medical barrier to a child’s health and well-being, including health-harming housing conditions.<sup>4</sup> The most serious cases we see often involve a landlord’s failure to ensure a tenant’s home is safe from mold problems, pest infestations and water intrusion – as required by DC’s housing code

and other laws<sup>5</sup> – exacerbating a child’s asthma and putting them at risk of lead exposure. Unfortunately, health problems tied to poor housing conditions are more prevalent in underinvested, predominantly Black neighborhoods in DC. Children with asthma living in Wards 7 and 8 are twenty times more likely to end up in the ER for asthma than children growing up in wealthier Ward 3.<sup>6</sup>

As the agency responsible for enforcing DC’s housing code, DOB plays a critical role in protecting children and families across the District from these health hazards. The Council dissolved DOB’s predecessor, the Department of Consumer and Regulatory Affairs (“DCRA”) because, among other concerns, DCRA was “not adequately focused on protecting tenants” from negligent landlords and consistently failed to effectively enforce the District’s housing code.<sup>7</sup> As such, when the Council established DOB, it expressly charged the new agency with “[e]nsur[ing] that the habitability and sanitary condition of all rental housing units in the District of Columbia meet all applicable regulations and codes” as part of its core mission to “promot[e] the health, safety, and quality of life of residents and visitors in the District of Columbia.”<sup>8</sup> Children’s Law Center believes that fulfilling this mission requires a leadership team that fully embraces the change from DCRA to DOB and is committed to building a transparent, strategic, and tenant-focused agency.

### **DOB Needs Fresh Leadership to Implement a Cultural Shift Away from DCRA’s Ineffective Approach to Housing Code Enforcement**

As the District transitioned housing code enforcement from DCRA to DOB, Children’s Law Center repeatedly highlighted the need for a cultural shift in how the agency’s leaders viewed its role and priorities to ensure that DOB would be more successful in protecting the

health and safety of District.<sup>9</sup> Based on the initial experiences of our clients and attorneys with DOB under the leadership of its prior Director, Children’s Law Center worried that DOB was approaching rental housing inspections and code enforcement in much the same way as DCRA – not following through after inspections to secure timely remediation of health harming housing code violations, not collecting fines from landlords to incentivize voluntary compliance, and not keeping tenants reliably informed after they made a complaint.<sup>10</sup> Therefore, we appreciate that Acting Director Hanlon could bring a fresh leadership philosophy and perspective to DOB. We hope that if the nominated leadership team is officially appointed, they will work with this Committee, experienced advocates, and tenants to continue changing entrenched mindsets and ineffective practices inherited from DCRA.

**DOB Leaders Should Continue Fostering Transparency and Stakeholder Engagement to Improve Agency Performance**

One area where Children’s Law Center has observed a recent notable change between DCRA and DOB is the agency’s responsiveness to our questions and willingness to engage openly with stakeholders. We greatly appreciate the agency’s increased transparency, especially from the Office of Strategic Code Enforcement (“OSCE”) with whom we regularly communicate. Children’s Law Center was happy to see DOB launch a new Public Dashboard (“Dashboard”) in February.<sup>11</sup> The Dashboard allows the public to see important metrics for assessing DOB’s enforcement efficacy including the amount of fines DOB has assessed to landlords through Notices of Infraction (“NOIs”) and the amount of those fines that have been collected. The new Dashboard’s data is also downloadable, making it a more useful tool for systemic research into rental housing conditions across the District. Children’s Law Center appreciates that after

launching the Dashboard DOB has added additional information and made design updates to improve its functionality. We hope the new leadership team will continue taking feedback from users, including tenants, and working to improve DOB's publicly accessible data.

Additionally, earlier this year OSCE created a Built Environment Working Group to hear the perspective of a variety of stakeholders, including Children's Law Center, on DOB's Strategic Enforcement Plan and OSCE's policies.<sup>12</sup> We hope that the Strategic Enforcement Administrator will expand opportunities for tenant advocates and public health experts to participate in the Working Group and provide OSCE with meaningful input and feedback on its plans and policies before they are implemented. It will be critical to DOB's success that the Director and other agency leaders continue to support and foster this spirit of transparency and collaboration with advocates and community members.

### **DOB Leaders Need to Develop and Implement Strategic Housing Code Inspection and Enforcement Practices**

Children's Law Center wants to see DOB succeed as an agency that achieves the *outcomes* needed by our clients and other tenants across the District: habitable and healthy, code-compliant rental housing. We believe this will require rigorous complaint-based and proactive housing code inspection regimes, consistent follow-through after inspections to secure timely remediation of violations that threaten the health and safety of tenants, and firm enforcement designed to increase landlords' voluntary compliance with the housing code. All of this work should be informed by detailed data about landlords' past behavior and public health, especially data regarding housing conditions highly correlated to health problems like exacerbated asthma and elevated blood lead levels. DOB's new leadership team must think strategically about their

mission and policies to target limited enforcement resources and prioritize the health and safety of District residents.

### **DOB Leaders Need to Prioritize Improving Communication with Tenants to Keep Effective Tenant Protection at the Core of the Agency's Work**

As part of developing DOB into a housing code enforcement agency that effectively protects the health and safety of tenants, Children's Law Center believes the agency must focus on and significantly improve its communication with tenants. For example, DOB does not have a consistent practice of affirmatively sharing inspection results and enforcement process updates with tenants, even after a complaint-based inspection requested by the tenant.<sup>13</sup> Without easy access to this information, it is very difficult for tenants to advocate for themselves and hold DOB and their landlord accountable. Additionally, DOB allows landlords to self-certify abatement of housing code violations by submitting "proof of abatement" to DOB online.<sup>14</sup> However, the agency does not check with tenants about the accuracy of their landlords' submission to verify whether a landlord indeed completed a workmanlike correction of the violation. Improved communication with tenants could increase the number of timely and satisfactory abatements that result from DOB housing code inspections – a key goal for the agency.

Tenants should be able to trust and rely upon DOB as the agency responsible for ensuring their landlords comply with the District's housing code. Regular and open communication with tenants will help build this trust and make sure that DOB remains adequately focused on tenant protection as central to its mission. DOB's leadership team should prioritize updating the agency's practices to include 1) automatic, affirmative communication with tenants throughout

the inspection and enforcement process and 2) broader community outreach to educate and receive input from tenants.

## **Conclusion**

Children’s Law Center hopes the Committee will take the opportunity during today’s hearing to ask the nominees for Director and Strategic Enforcement Administrator about their vision for DOB’s housing code enforcement. To be successful DOB’s leaders must embrace tenant health and safety as a top priority for the agency. They should also be thoroughly committed to agency transparency, strategic code enforcement, and good communication with tenants. Children’s Law Center looks forward to continuing to partner with this Committee and DOB’s leadership team to build upon and further strengthen DOB’s ability to promote affordable, safe and healthy housing for all children and families in the District. Thank you for the opportunity to testify.

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<sup>1</sup> See, e.g., Anne Cunningham, Testimony Before the District of Columbia Council, Committee of the Whole (October 2, 2017), available at: <https://childrenslawcenter.org/wp-content/uploads/2021/07/CLC-Testimony-DCRA-Inspection-and-Enforcement-of-Tenant-Housing.pdf>; Anne Cunningham and Kathy Zeisel, Testimony Before the District of Columbia Council, Committee of the Whole (April 19, 2018), available at: <https://childrenslawcenter.org/wp-content/uploads/2021/07/DOB-Establishment-Act-of-2018-Hearing-Testimony-Childrens-Law-Cente.pdf>; Kathy Zeisel, Testimony Before the District of Columbia Council, Committee of the Whole (December 10, 2019), available at: <https://childrenslawcenter.org/wp-content/uploads/2021/07/Zeisel-OIG-DOB-Testimony-Before-the-District-of-Columbia-Council-12.10.19-final.pdf> [hereinafter Zeisel 2019 Testimony]; Christina M. Simpson, Testimony Before the District of Columbia Council, Committee of the Whole (September 21, 2022), available at: [https://childrenslawcenter.org/wp-content/uploads/2022/09/Simpson\\_9\\_21\\_22\\_DOB\\_Roundtable\\_Testimony\\_Final.pdf](https://childrenslawcenter.org/wp-content/uploads/2022/09/Simpson_9_21_22_DOB_Roundtable_Testimony_Final.pdf) [hereinafter Simpson 2022 Testimony].

<sup>2</sup> As the lead administrator of the Office of Strategic Code Enforcement, the Strategic Enforcement Administrator is charged with developing and implementing enforcement strategies and procedures, monitoring violations, tracking, and enforcing collection of fines, and other duties. Therefore, the Strategic Enforcement Administrator’s leadership is critical to realizing the mission of enforcing healthy, safe, and quality housing throughout DC. See DC Code § 10–561.05. Establishment of the Department of

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Buildings. Strategic Enforcement Administrator. DC Code § 10–561.07(a)(5). Establishment of the Department of Buildings. Department organization.

<sup>3</sup> See, e.g., Veronica Gaitán, *How Housing Affects Children’s Outcomes*, *Housing Matters*, (January 2, 2019), available at: <https://housingmatters.urban.org/articles/how-housing-affects-childrens-outcomes>.

<sup>4</sup> Our innovative medical legal partnership, Healthy Together, places Children’s Law Center attorneys at primary care pediatric clinics throughout the city with Children’s National, Unity Health Care, and Mary’s Center.

<sup>5</sup> See D.C. Code § 8-241.01 *et seq.* (DC mold law), D.C. Mun. Regs. tit 14. § 801 (1900) *et. seq.* (DC Housing Code provisions on pest infestations), D.C. Code § 8–231.02(a) (DC lead law).

<sup>6</sup> *Asthma Surveillance in DC Emergency Departments and Hospitals*, Children’s National, p. 13, (December 14, 2017), available at:

<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwj2z6bfnj9AhUPFVkFHRBuBFyQFnoECCIQAQ&url=https%3A%2F%2Fchildrensnational.org%2F-%2Fmedia%2Fcnhs-site%2Ffiles%2Fdepartments%2Fimpactdc%2F asthma-surveillance-in-dc.pdf%3Fla%3Den&usg=AOvVaw1N9LoXcqbr5So7YPwivkh>; see also Morgan Baskin, *Doctors Blame D.C.’s High Asthma Rates in Part on Poor Housing*, *Washington City Paper*, (May 22, 2019), available at: <https://washingtoncitypaper.com/article/180182/doctors-blame-dcs-high-asthma-rates-in-part-on-poor-housing/>.

<sup>7</sup> As this Committee noted when it passed the legislation establishing DOB, “DCRA’s enforcement of the housing code has been a contentious issue for decades, with residents consistently faulting the agency for being unresponsive and lax in its response to serious code violations.” Council of the District of Columbia, Committee of the Whole, *Committee Report on Bill 23-91*, pp. 4-6 (December 1, 2020), available at: [https://lims.dccouncil.gov/downloads/LIMS/41724/Committee\\_Report/B23-0091-Committee\\_Report2.pdf?Id=115311](https://lims.dccouncil.gov/downloads/LIMS/41724/Committee_Report/B23-0091-Committee_Report2.pdf?Id=115311).

<sup>8</sup> DC Code § 10–561.02. Establishment of the Department of Buildings. Establishment of the Department of Buildings.

<sup>9</sup> Zeisel 2019 Testimony, *supra* note 1, at 3; Simpson 2022 Testimony, *supra* note 1, at 2-3; Kathy Zeisel, Testimony Before the District of Columbia Council, Committee of the Whole and Committee on Facilities and Family Services, p. 3 (February 23, 2023), available at: <https://childrenslawcenter.org/wp-content/uploads/2023/02/Childrens-Law-Center-Testimony-DOB-2023-Oversight-final.pdf> [hereinafter Zeisel 2023 Performance Oversight Testimony].

<sup>10</sup> During DOB’s February 2023 Performance Oversight hearing, Children’s Law Center testified:

Unfortunately, our work with, and observations of DOB over the past five months have made clear that the agency is not setting itself up to come closer to being an agency that meaningfully ensures that DC residents live in safe and healthy housing. Instead, it appears to be the same personnel moved over from DCRA, utilizing the same philosophy and same techniques.

Zeisel 2023 Performance Oversight Testimony, *id.*, at 3, 8.

<sup>11</sup> DOB, DOB Public Dashboard,

<https://dataviz1.dc.gov/t/OCTO/views/DOBPUBLICDashboard/Introduction>. See also Department of Buildings, *FY23 Performance Oversight Questions*, Response to Question 23, p. 47 (February 23, 2023), available at: <https://dccouncil.gov/wp-content/uploads/2023/06/DOB-FY-22-and-FY23-YTD-Pre-Hearing-Question-Responses-Final-with-Attachments.pdf>.

<sup>12</sup> See Department of Buildings, *Strategic Enforcement Plan FY23 – FY25*, Strategy 10, p. 13 (March 13, 2023), available at: <https://lims.dccouncil.gov/downloads/LIMS/52491/Introduction/RC25-0026-Introduction.pdf?Id=157566>.

As DOB’s Strategic Enforcement Administrator, Keith Parsons and his team have been convening quarterly meetings of the Built Environment Working Group since March of 2023.



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The Working Group is made up of a variety of stakeholders including representatives from DOB's sister agencies, developers, commercial and residential landlord groups, and tenant advocates. Thus far Children's Law Center and Legal Aid have been the only tenant advocates present at the meetings.

<sup>13</sup> Instead, DOB instructs tenants to refer to its Public Dashboard or SCOUT (the online consolidated database of information from the Department of Buildings and Department of Licensing and Consumer Protection including business licenses and construction and housing code inspections), which requires an email address to sign up for access, to track housing code inspection findings and the enforcement process. See Department of Buildings, *How Compliance is Enforced*, <https://dob.dc.gov/sites/default/files/dc/sites/dob/DOB%20Enforcement%20Graphic%201.9.23.pdf>.

However, both of those sites can be difficult for the average tenant to navigate and neither provides access to the actual inspection report or NOI. As a result, our clients and other tenants often do not know whether DOB found code violations that their landlords is required to abate by a particular date, if their landlord self-certified abatement with DOB, or if DOB is pursuing enforcement for violations in their unit with the Office of Administrative Hearings ("OAH"). It would be more straightforward to collect tenant contact information and preferences when a tenant submits a complaint or an inspection is conducted. DOB could then establish a standard practice of directly providing tenants with a copy of the inspection report and/or NOI and any updates about enforcement, including OAH hearing dates, via email, text or mail in the tenants' native language.

<sup>14</sup> See Department of Buildings, online submission form for Proof of Abatement, <https://info.dob.dc.gov/contact/abatement-tracking-BJbZLthgw>. It is Children's Law Center's understanding that the proof of abatement submitted for self-certifications largely consists of photographs, which DOB then reviews to "verify" the abatement. In our experience representing clients in Housing Conditions Calendar cases, it is nearly impossible to verify repairs solely by photographs and there are frequently disputes about whether repairs shown in photographs are indeed complete. Therefore, when a landlord self-certifies abatement, DOB should establish the practice of contacting the tenant, explaining to the tenant what a workmanlike repair of the violation should entail, and asking if the tenant confirms that the condition has been appropriately abated.