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Written Testimony Submitted to the District of Columbia Council
Committee of the Whole
October 2, 2017

Public Oversight Roundtable:
DCRA Inspection and Enforcement of Housing Code Violations

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Thank you Chairman Mendelson and members of the Committee of the Whole for holding this Roundtable on DCRA's Inspection and Enforcement of Housing Code Violations. My name is Anne Cunningham, and I am a Senior Policy Attorney with Children's Law Center¹ and a resident of the District. Children's Law Center fights so every DC child can grow up with a loving family, good health and a quality education. With 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 represent many children and families who live in rented homes in the District, and one component of our practice is representing tenant-families whose landlords are not complying with DC's housing code.

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. In addition to our direct services work, we have attended the DCRA advocate meetings for over eight years, and have used those meetings as an opportunity to provide DCRA feedback about our concerns over that time. Unfortunately, the practices we see have remained largely unchanged since we started doing this work almost a decade ago.

DCRA's poor inspections² and lack of enforcement have led us to bypass DCRA and use other tools to remedy our clients' illegal housing conditions. Requesting a

DCRA inspection only tends to accomplish unnecessary prolongation of the advocacy process. Instead, we turn to laypeople like our in-house investigators to inspect our clients' homes and identify housing code violations. Once we have that information, we either write a demand letter requesting the landlord make repairs or, in more egregious cases, file a complaint in DC's Housing Conditions Court. If DCRA reliably provided quality inspections and enforcement, as it is mandated to do, such costly and time-consuming litigation would largely be unnecessary.

A considerable portion of my written testimony for the July 12, 2017 Roundtable recounted the many ways in which DCRA falls short in its duty to ensure that landlords provide tenants with code-compliant homes. Some highlights of my earlier testimony included: DCRA's lack of transparency; DCRA's failure to use interpretation as needed during inspections; DCRA's consistent failure to conduct thorough and timely inspections and re-inspections; and DCRA's lackluster and, at times, non-existent follow-through on uncured Notices of Violation. Because of DCRA's long-standing failure to improve their inspections and enforcement practices, we ask that this Committee and the Council consider exploring options for removing housing inspections and enforcement from DCRA. While we are presently uncertain of what this change might look like, we hope for the opportunity to work with this Committee and other stakeholders in investigating the logistics and feasibility of housing DCRA within another Agency or Office.

Regardless of who oversees inspections and enforcement of the housing code, we hope to see improvement in current practices. Increased transparency of the inspections and enforcement process is needed. One component which would help, but not cure, these transparency issues would be to digitize inspection-related reports and updates for easier access by affected parties. Currently, simply obtaining an inspection report, even with the help of an attorney, can be an arduous process for tenants. DCRA sometimes flatly refuses to provide these documents, and has even instructed tenants' representatives to subpoena or FOIA a report if they would like to see its contents. Second, DCRA should be conducting housing code inspections of *all* rental units in Washington, DC, as they are mandated to do. This includes subsidized properties overseen by other agencies. While this may superficially appear duplicative, in actuality, DCRA is the only entity in the District charged with enforcing DC's housing code. This means inspections conducted by the District of Columbia Housing Authority (DCHA)³, for example, cannot be used by tenants in DC's Housing Conditions Court. Finally, we hope drastic steps will be taken to improve the efficiency and efficacy of the enforcement process. The current track record of untimely, inconsistent, and incomplete enforcement enables landlords to ignore illegal conditions rather than remedy them.

Similarly, we hope DCRA will provide answers to the questions it could not answer during the July 12th Roundtable. Specifically, we shared Chairman

Mendelson's concern that the Agency could not readily answer questions about data critical to enforcement, including but not limited to: cure rates for Notices of Violation,⁴ percentage of fines collected on uncured Notices of Violation,⁵ and the number of housing conditions cases referred by DCRA to the Office of the Attorney General.⁶ DCRA also told Chairman Mendelson they would investigate the potentially unnecessary and costly policy of having DCRA inspectors call upon the Department of Energy and Environment to make a second trip to a property to collect paint chips for lead analysis, rather than collecting those chips during the DCRA inspection and providing them to DOEE or a lab. We request the Committee make public any answers it receives which are not publicly answered by the Agency today.

We also look forward today to hearing about the progress DCRA has made toward implementing a "risk-based algorithm" for flagging recidivist landlords in their system. In her July 12th testimony, Director Bolling stated that this algorithm will enable DCRA to accurately target problem-properties for more frequent proactive inspection, and that it would be going online in late September or early October of this year.⁷ We support DCRA's use of technology in this instance, and we believe DCRA could dramatically expand and its use of technology to make its enforcement system more efficient and useful. That being said, we hope the targeting of "high risk" properties does not further delay or diminish the Agency's attention to housing code violations reported in properties as of yet unflagged by their system.

Finally, we support a robust and efficient proactive inspection practice, and we hope DCRA adheres to its schedule of biennially inspecting all non-exempt rental properties in the District.⁸

Thank you for this opportunity to testify. I would be happy to answer any questions.

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 As noted in the written testimony I submitted for the July 12, 2017 hearing, we commend DCRA for the quality of work completed by their inspector who is appointed to the Housing Conditions Court in DC Superior Court. Inspections by DCRA’s court inspector are only available once a tenant has filed a housing conditions complaint, and the presiding judge orders an inspection. This inspector’s caseload is limited to inspections and reinspections ordered by the Court, and no other DCRA inspectors complete inspections for the Court. Throughout the history of the Court, the court inspectors have always been very thorough, timely, and knowledgeable of housing conditions law. We asked that DCRA train the rest of their inspection team to work with the same professionalism and efficiency of their Court inspectors.

³ DCHA, for example, conducts inspections which adhere to HUD’s Housing Quality Standards.

⁴ See DCRA Testimony at 2:31:45 and 3:02:20.

⁵ See DCRA Testimony at 2:26:50.

⁶ See DCRA Testimony at 2:11:30 and 2:26:50.

⁷ See DCRA’s video-recorded testimony (hereinafter DCRA Testimony) http://video.oct.dc.gov/VOD/DCC/2017_07/07_12_17_COW.html at 2:36:45.

⁸ See <https://dcra.dc.gov/service/dcra-proactive-inspections>.