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Testimony Before the District of Columbia Council
Committee of the Whole
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Public Oversight Roundtable
DCRA: What Issues Should the Committee Pursue?

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Thank you, Chairperson Mendelson and members of the Committee of the Whole for this opportunity to contribute to the development of Committee priorities regarding DCRA. 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 nearly 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.²

Introduction

Poor conditions in rental housing have a much broader impact than a family's discomfort. DC contains around 180,000³ occupied rental units. Consequently, poor rental conditions are also an expensive public health concern. Exposure to environmental allergens, such as mold and vermin, can cause both acute medical crises as well as the development of chronic, lifelong ailments. Lead exposure can permanently damage a child's development. Poor conditions in rental housing can make it hard to sleep, eat, and thrive, thus impacting a child's performance in school or a mother's ability to go to work. Failure to prevent and remediate poor conditions also contributes to the accelerated deterioration and waste of our city's precious affordable

housing stock. The costly human and fiscal consequences of unsafe and unsanitary housing are why we hope you will continue to prioritize improving DC's enforcement of the residential housing code—currently a DCRA responsibility.

This is the seventh time in 20 months that we have testified before this Committee regarding DCRA. In past testimonies, we provided extensive anecdotal and data-supported evidence of DCRA's persistent failure to adequately fulfill its housing code enforcement functions.⁴ Many of the concerns we have raised were confirmed in a report published by the D.C. Auditor this past September.⁵ We will use our time today to outline the legislative solutions we hope you will prioritize in the Fiscal Year 2020 Budget and the new legislative session:

1. **Pass and Fund an Amended Version of the Department of Buildings Establishment Act of 2018.**⁶

Thank you for demonstrating your commitment to DCRA reform by reintroducing the Department of Buildings (DOB) Establishment Act. As you know, we strongly support this legislation's proposal to break DCRA into smaller pieces. DCRA's size, the extremely broad scope of its mission, and its lack of a strong consumer protection culture have rendered DCRA ineffective in enforcing DC's residential housing code. Furthermore, given the persistence of DCRA's problems over many years, and across many administrations, we are certain that nothing short of a major overhaul will bring meaningful reform to the agency and to housing code enforcement

in the District. We continue to ask that you take your DOB proposal one step further by either establishing a third agency, or a separate division within DOB, with a dedicated mission of protecting tenants and rental housing. We testified at length regarding specifics surrounding this proposal during the bill's April 2018 hearing. Please see Attachments 2 and 3 for our depictions of both the bill's currently envisioned DOB organizational structure, and advocates' proposal for a tenant/rental protection agency or division within DOB.

We hope this Committee will amend the bill in markup to also include the other legislative solutions we highlight below.

2. **Fund and Oversee Implementation of the DCRA Omnibus Amendment Act of 2018.**

We hope to work with you, Chairperson Mendelson, and your colleagues, Councilmembers Silverman, Bonds, Allen, and Robert White, to ensure the DCRA Omnibus Amendment Act of 2018 is fully funded and implemented in Fiscal Year 2020. While we enthusiastically support this legislation in its entirety, we are particularly eager for implementation of the corporate transparency component of this bill. Such transparency will meaningfully improve our government's ability to hold slumlords accountable.

3. **Bring Strategic Planning and a Public Health Focus to DC Residential Housing Code Enforcement by: Establishing a Public Health Division; Mandating Robust Data Collection and Transparency; and Training Agency Inspectors to Cite for Mold, Lead, and Asbestos.**

Children's Law Center, informed by our own work and our work with medical and public health partners, believes the work of residential enforcement must be approached strategically and from a public health perspective. At the hearing for the DOB Establishment Act, we strongly suggested creating a Public Health Division. Given the direct link between population health and built environment, we feel infusing public health expertise into agency leadership would improve both strategic enforcement and individual outcomes.

The new agency should also have some or all inspectors licensed in multiple areas, including housing code enforcement, lead inspection, mold inspection, asbestos inspection, and extermination.⁷ This is important not only to ensure that the agency understands the scope of DC's public health issues, but also so landlords and tenants can more readily access these services. Currently, these functions are overseen across multiple agencies and the private market. We also believe streamlining these inspection processes into just one agency will reduce overall costs.

Additionally, this Public Health Division would oversee collection and analysis of robust data which would not only inform the agency's proactive and strategic enforcement, but could also be used by sister agencies and public health practitioners. As part of BUILD Health DC⁸, a unique grant that funds collaboration between Children's Law Center, Children's National Health System and DC Health to address

housing conditions issues for children with asthma on an individual and systemic level, it has become clear to us that DC is behind other cities in our ability to use inspection data to target public interventions.⁹ This type of mapping—using reliable underlying data—is important to be able to do public health and legal interventions in properties with particular conditions. To this end, we believe the agency should legislatively be required to collect detailed housing code enforcement data and make that data available in real time via a regularly updated, publicly accessible database.¹⁰

4. **Create a Permanent Position for the Housing Conditions Court Inspector, and Add an Inspector at Landlord/Tenant Court**

In addition to the additional inspectors within the agency, we also request funding for inspectors specifically detailed to the Housing Conditions Calendar and Landlord-Tenant Calendar.¹¹

5. **Fund and Legislatively Require Adequate Staffing and Technology for Residential Inspections and Enforcement**

DCRA lacks the resources to do quality inspections, enforcement, and abatement, but has declined year after year to request those resources. On a basic staffing level, DCRA employs approximately 20-25 housing code inspectors to handle the inspection needs of DC's approximately 180,000 occupied rental units. This works out to approximately one inspector for every 7,200-9,000 units.¹² By way of comparison, Baltimore employs approximately 95 residential housing inspectors for their approximately 130,000 occupied rental units—around one inspector for every 1,400

units.^{13,14} Attachment 1 features a helpful graphic contrasting DC’s 2018 ratio with ratios in other BUILD Health cities.¹⁵

These statistics regarding insufficient inspectors are compelling. However, today we want to impress upon the Committee that a separate team at DCRA is responsible for carrying out enforcement against landlords who do not comply with inspectors’ Notices of Violation (NOVs). Although we have less information about this team—due partly to DCRA opaqueness around its organizational structure—we are confident it is similarly understaffed. Following up on unanswered NOVs is as critical a component of the enforcement process as inspections, so we hope you will similarly prioritize expanded staffing and training for that team.

DCRA also uses outdated technology to do its inspections and acknowledges that archaic technology has contributed to its lack of transparency.¹⁶ Indeed, DCRA’s Interim Director spoke just yesterday about DCRA’s need for a “digital transformation.”¹⁷ Until very recently, if not currently, DCRA’s housing inspectors created inspection reports using pencil and paper.¹⁸

Inspectors should be able to document and issue citations in real time as seamlessly as DPW’s issues parking tickets.¹⁹ When a citation is issued, each of the violations should be recorded in a database that alerts inspectors and enforcement personnel when important deadlines are approaching, for example for re-inspection or issuance of fines. Because DCRA collects very little data from inspections, and what

little data it does collect is unreliable, real enforcement depends entirely on the self-driven organizational skills of individual inspectors who are currently expected to perform 1,000 housing inspections annually. It is no surprise that it is virtually impossible for DCRA personnel to meaningfully enforce our residential housing code.

We would also note here that DCRA could be revenue-generating in this area if it collected fines and placed liens on properties, as it is authorized to do when landlords fail to make repairs. Revenue from fines could finance some of the important investments for which we are advocating.²⁰

Given years of failure across numerous administrations, we hope you will legislatively mandate many of the proposals we are suggesting today, including by defining minimum ratios of inspectors and enforcement personnel to residential housing units. Of course, legislatively mandating staffing levels must be coupled with sufficient funding to support that staffing.

6. **Support the Lead Hazard Prevention and Elimination Amendment Act of 2018.**²¹

Councilmember Allen's landmark legislation is geared toward the Department of Energy and Environment, the agency currently responsible for enforcement of DC's lead laws. As we have stated previously, we feel these lead-related enforcement functions should be streamlined with enforcement surrounding housing conditions, asbestos, and mold, into one tenant/rental protection agency. Nevertheless, this

groundbreaking legislation proposes critical reforms for DC's approach to preventing childhood lead exposure via lead-based paint hazards in residential housing. The solutions proposed in the legislation target similar problems to what we have seen at DCRA, including inadequate enforcement and poor data collection and reporting, which have resulted in a hazy understanding of the scope of our lead exposure problems in DC. The bill also establishes a fund to fill in the void left by DHCD's loss this past year of a \$4.1M HUD-sponsored Lead-Based Paint Hazard Reduction Program Grant²², intended to provide lead remediation grants for landlords renting to low-income tenants.²³

Conclusion

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

Attachment 1: BUILD Health Infographic



PHILADELPHIA

270,000

Rental Properties

1 INSPECTOR
FOR EVERY

4.5K

PROPERTIES



TRENTON

9,119 Rental Properties

1 INSPECTOR
FOR EVERY

911

PROPERTIES



WASHINGTON

D.C. 187,000
Rental Properties

1 INSPECTOR
FOR EVERY

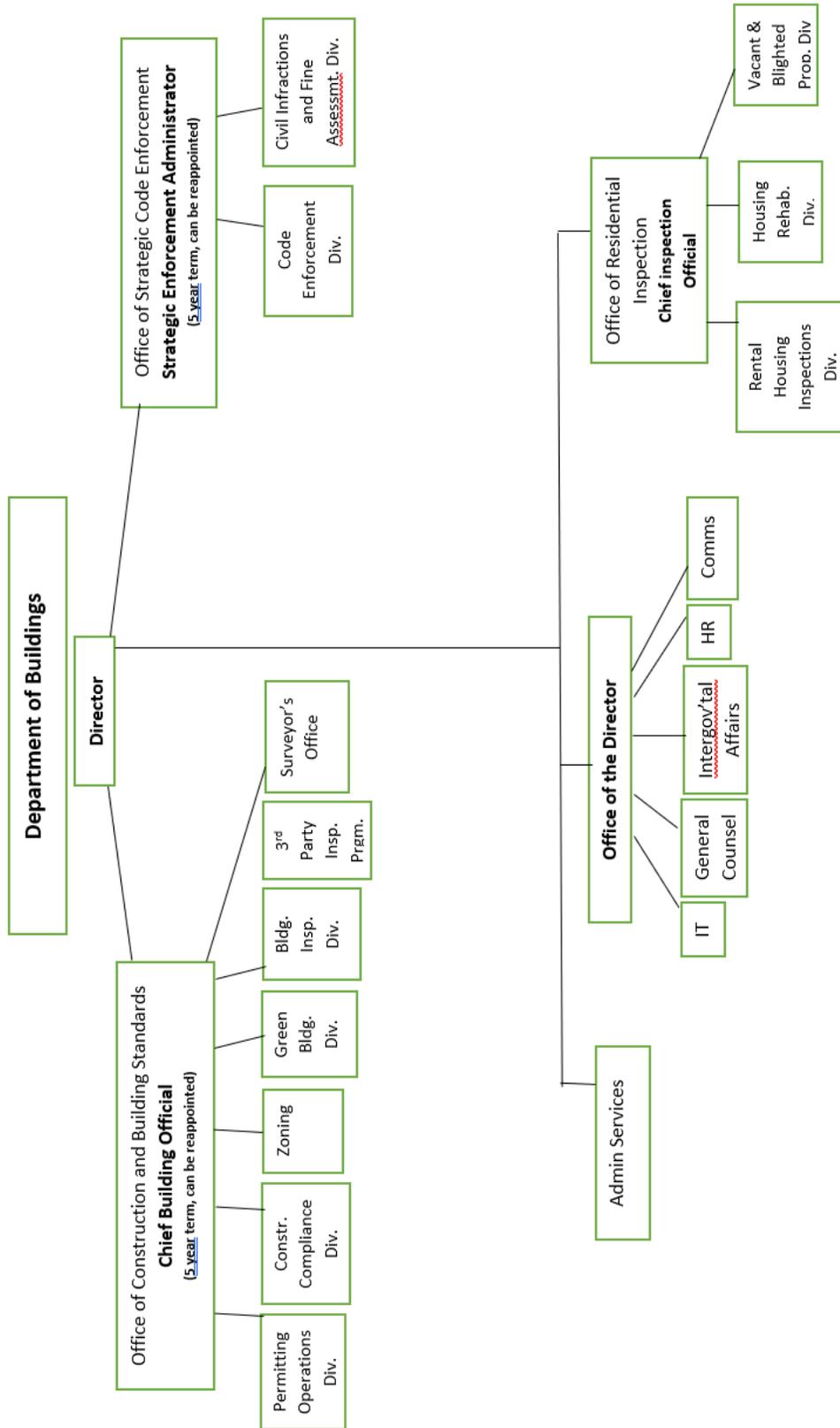
12.5K

PROPERTIES

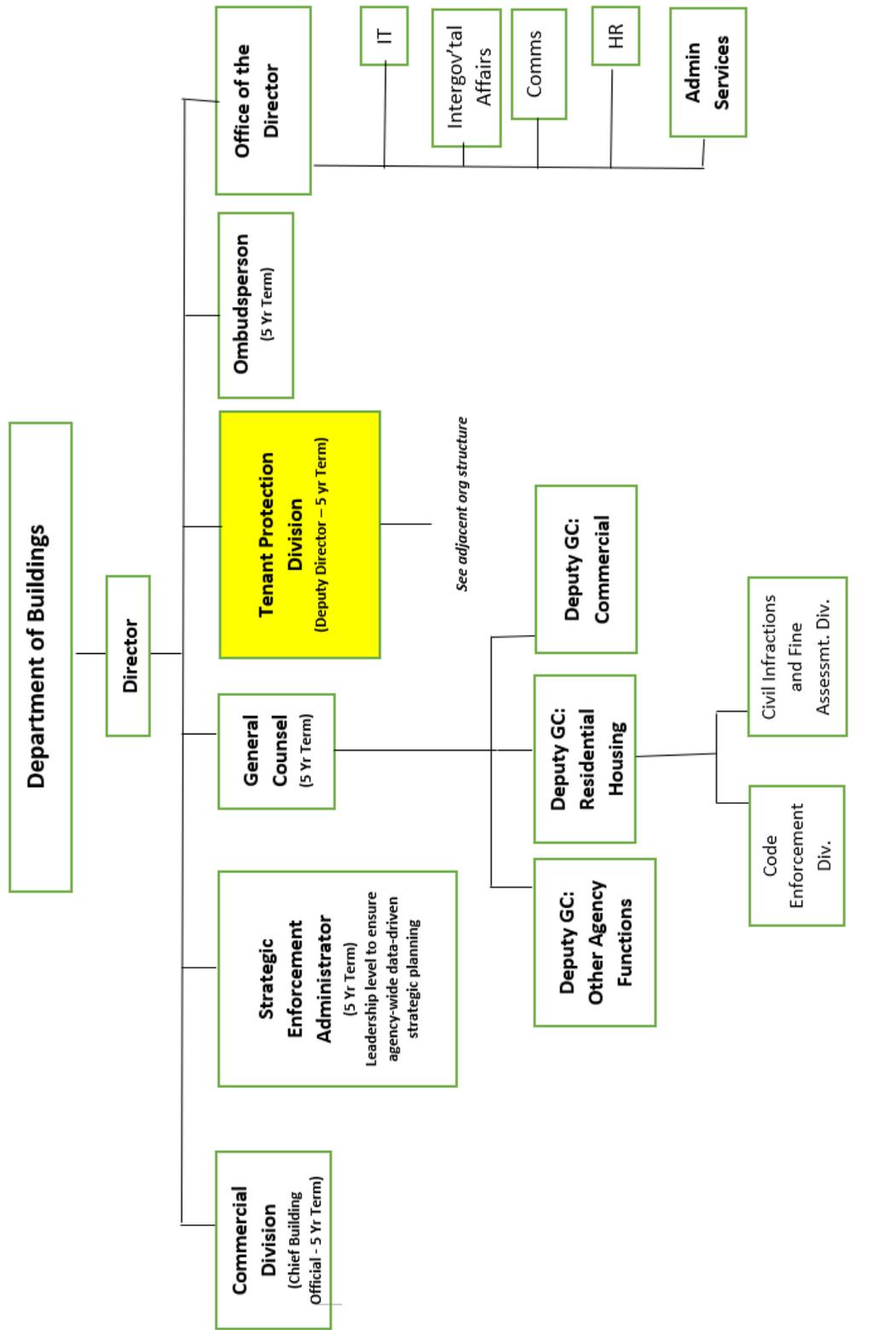


The BUILD Health Challenge strengthens partnerships between community-based organizations, hospitals and health systems, local health departments, and others, to cultivate a shared commitment to moving resources, attention, and action upstream to drive sustainable improvements in community health. Since 2015, the BUILD Health Challenge has mobilized nearly 40 community-based partnerships to help address health problems using a bold, upstream approach.

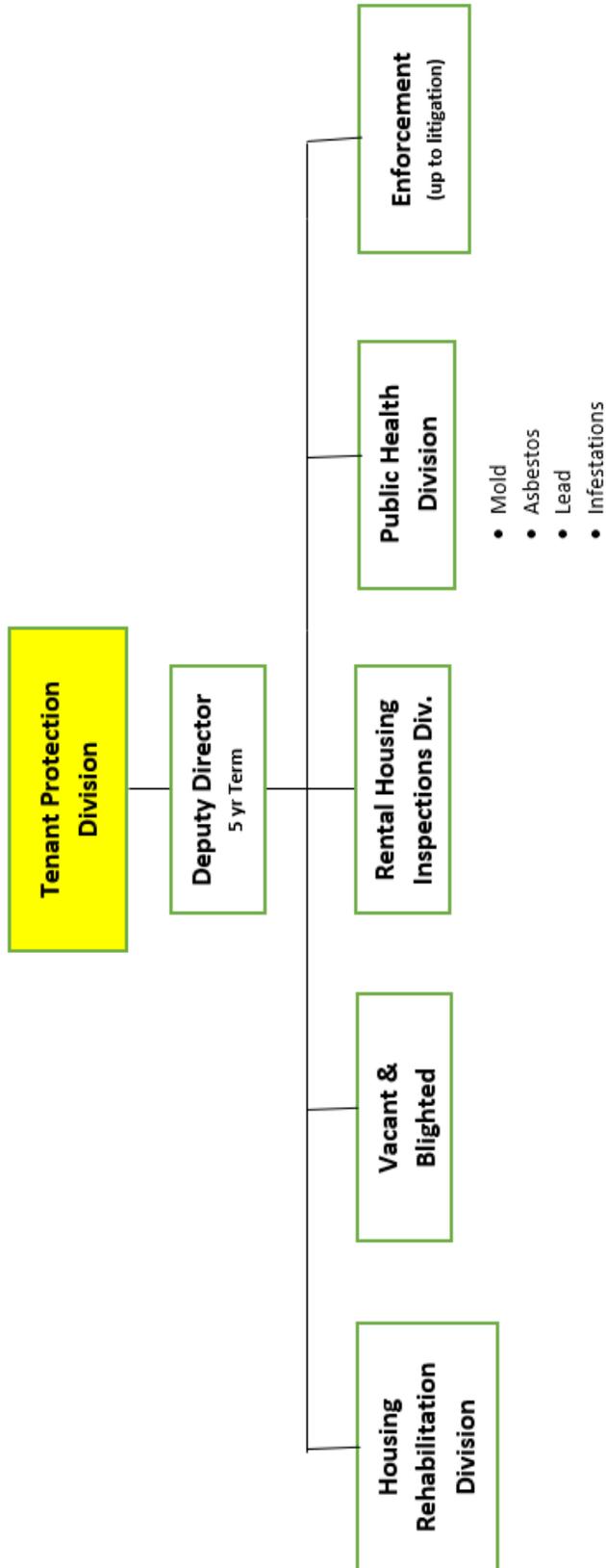
Attachment 2: DOB Organizational Structure as Currently Envisioned by B23-19



Attachment 3: Advocates' Alternative Proposal for DOB Organizational Structure



Attachment 3: Cont'd



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 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 nine 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.

³ We estimate DC’s occupied rental units to be in the 175,000-185,000 range based on 2010 population and rental housing data extrapolated to today, as well as on 2016 data showing the number of non-owner occupied housing units to be approximately 186,000. This, however, does not take in to account the number of unoccupied units. The number of unoccupied rental units in 2010 was 13,000 and demand for DC rental housing has increased since that time. (Use <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml> and input “Washington DC,” and <https://www.census.gov/quickfacts/fact/table/DC/PST045217> 2016 data.)

⁴ Children’s Law Center has testified at seven hearings related to DCRA over the past 1.5 years. Those testimonies are available on our website: Oct. 2018 Public Hearing re. DC Auditor’s Report *at* <https://www.childrenslawcenter.org/testimony/testimony-district-columbia-auditor-s-report-housing-code-enforcement-case-study>; July 2018 Public Hearing for DCRA Omnibus Act *at* <https://www.childrenslawcenter.org/testimony/testimony-slumlord-deterrence-amendment-act-2017-housing-rehabilitation-incentives>. Apr. 2018 Public Hearing for the Department of Buildings Establishment Act of 2018 *at* <https://www.childrenslawcenter.org/testimony/testimony-department-buildings-establishment-act>; Mar. 2018 DCRA Performance Oversight Testimony *at* <http://www.childrenslawcenter.org/testimony/testimony-performance-oversight-dcra>; Oct. 2017 Roundtable Testimony, *at* <http://www.childrenslawcenter.org/testimony/testimony-dcra-inspection-and-enforcement-tenant-housing>; and July 2017 testimony, *at* <http://www.childrenslawcenter.org/testimony/testimony-dcra-inspection-and-enforcement-housing-code-violations>.

⁵ Office of the District of Columbia Auditor, *Housing Code Enforcement: A Case Study of Dahlgreen Courts*. Sept. 24, 2018. Available at <http://dcauditor.org/report/housing-code-enforcement-a-case-study-of-dahlgreen-courts/>.

⁶ B22-0669 – Department of Buildings Establishment Act of 2018, *introduced* Jan. 23, 2018. Available at <http://lims.dccouncil.us/Download/39619/B22-0669-Introduction.pdf>.

⁷ To this end, we support the newly introduced Indoor Mold Remediation Enforcement Amendment Act of 2019, which requires DRCA to issue NOV’s to landlords whose properties contain ten or more square feet of mold.

⁸ See <http://buildhealthchallenge.org/communities/2-healthy-together-medical-legal-partnership/>.

⁹ Many other cities and counties have the capacity to map their housing code data, including Baltimore (http://www.baltimorehousing.org/code_enforcement), Cincinnati (<http://cagismaps.hamilton->

co.org/cagisportal/online/cincinnati), Boston (<https://data.boston.gov/>, <https://data.boston.gov/dataset/code-enforcement-building-and-property-violations>), Prince George's County (<https://data.princegeorgescountymd.gov/Urban-Planning/Prince-George-s-County-Housing-Code-Violations-Map/i9iw-juus/data>).

¹⁰ This would also be useful for agency oversight.

¹¹ The DCRA inspector detailed to DC Superior Court's Housing Conditions Calendar is really the backbone of that court. Advocates believe that a similarly staffed inspector to Landlord-Tenant would aid in resolving serious housing code violations in that court as well.

¹² In FY18, DCRA employed 15 inspectors. Our understanding is that additional inspectors were funded for the FY19 budget but we are uncertain exactly how many were hired. We would note that in 2005 when DC had fewer rental housing units, DCRA employed 40 residential housing inspectors. Lydia Depillis, *Meet the New Boss: DCRA's Nicholas Majett*, 1/18/2011, available at <https://www.washingtoncitypaper.com/news/housing-complex/blog/13121520/meet-the-new-boss-dcras-nicholas-majett>.

¹³ See also David Whitehead. *DC Has a Slumlord Problem and Not Enough Inspectors to Solve it*. May 25, 2017. Available at <https://ggwash.org/view/63547/dc-has-a-slumlord-problem-and-not-enough-inspectors-to-solve-it>.

¹⁴ Former DCRA Director, Melinda Bolling, previously testified that DCRA housing inspectors perform an average of 1,000 inspections per year. Assuming zero vacation days, this means inspectors do four inspections daily in addition to their other job functions, such as manually creating inspection reports and NOV's for each of those inspections in addition to any follow-up work and other duties.

¹⁵ Attachment 1 available at <https://buildhealthchallenge.org/blog/cities-right-number-housing-inspectors/>.

¹⁶ With respect to transparency, DCRA states in its FY17 Oversight Responses that it will "Improve Transparency of Housing Inspection Enforcement" by "automat(ing) the inspection, re-inspection, and the Notice of Violation and Notice of Infraction workflows" through implementation of the inspection software Accela. By our understanding, Accela is a software that will automate the creation of inspection reports and subsequent enforcement documents, processes which inspectors currently complete manually. This shift should theoretically improve DCRA's efficiency, but DCRA provides no explanation of how the software will improve transparency. Furthermore, we have serious doubts about DCRA's ability to implement complicated software. See DCRA FY17 Oversight Responses at 62-63.

¹⁷ See <https://twitter.com/mhbaskin/status/1092909945455034368>.

¹⁸ See *Sanford Capital Faces \$539,500*, stating, "Violations are recorded using pen and paper, which must then be entered into the agency's computer. DCRA officials say they are upgrading to a digitized system this year."

¹⁹ These processes should also prioritize transparency with consumers, such as making key documents readily available online.

²⁰ Currently, any fines collected by DCRA go to the general fund. We would ask that fines collected by the new agency be dedicated to an abatement fund within the new agency.

²¹ B22-956. Available at <http://lims.dccouncil.us/Download/40934/B22-0956-Introduction.pdf>.

²² FR-6200-N-12TC Lead-Based Paint Hazard Reduction Program, US Department of Housing and Urban Development. See <https://www.grants.gov/web/grants/view-opportunity.html?oppId=308148>.

²³ We would happy to provide further information about the tragic loss of this grant for DC, which we discovered while researching local resources for lead remediation.