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

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## **Introduction**

Good morning, Chairman Mendelson and members of the Committee of the Whole. My name is Elizabeth Oquendo. I am a Policy Attorney at the Children's Law Center. I am testifying today on behalf of 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.<sup>1</sup> Many of the children and families that we represent each year live in terrible housing conditions and receive no meaningful assistance from the Department of Consumer and Regulatory Affairs (DCRA) to ensure their ability to access safe and healthy housing.<sup>2</sup>

## **There has been no meaningful agency culture change over the last year**

This is the twelfth time in two years that Children's Law Center has testified before this committee about the ways in which DCRA fails to serve tenants living in unsafe and unhealthy housing in the district.<sup>3</sup> We appreciate yet another opportunity to testify before the Council about our serious and continued concerns about this agency's ability to carry out its responsibilities to DC's tenants. As you have heard from other legal services advocates and even tenants themselves, DCRA's failure to inspect properties and hold landlords accountable for violations of the housing code keeps our

tenants in unhealthy housing conditions. Although the agency has been under Director Chrappah for well over a year now, the culture change needed to create a tenant focused agency has yet to happen for the tenants we represent.

Although we represent many families in housing conditions cases, two of our clients have agreed to let us share their stories today. One of our clients and her young asthmatic daughter have been living in a home with serious housing code violations including a pest infestation, no heat in the middle of winter, and mold that has spread throughout the basement from ongoing water intrusion. The mold has grown so quickly that it rendered half of the house uninhabitable. After requesting inspections from DCRA, our client has finally obtained one, but that inspection has not translated into any repairs made to her unit or any subsequent inspections from DCRA. Our tenant continues to live in deplorable housing conditions with and DCRA has not done any abatement nor to ensure that the landlord is complying with the housing code. This family is left with the difficult choice to either continue to expose their asthmatic child to mold that their landlord will not remediate or potentially become homeless.

Some of the worst housing conditions cases we see are in properties where tenants are using the Rapid Rehousing subsidy. Another Children's Law Center client came to us for help in the fall of 2019 after she had contacted DCRA multiple times about the serious mice infestation in her home, which was triggering asthma exacerbations for her child. Although DCRA came out to inspect several times, to date,

no abatement or enforcement has taken place. Again, the landlords know DCRA will not hold them accountable and may not even come out to inspect or reinspect. In fact, in FY19, DCRA conducted fewer housing code inspections than in FY18.<sup>4</sup> For many of these landlords, keeping these properties in extreme disrepair is part of their business model.<sup>5</sup> DCRA's role in protecting the quality of available affordable housing stock is completely lost on the agency, and we keep seeing rapid rehousing landlords collect rent paid for by the city, leasing up properties with infestations, mold, water damage, and structural issues. These two recent cases serve to illustrate just how DCRA's broken agency culture has not been improved and how the agency is not measuring the right Key Performance Indicators of Success for tenants. Obtaining a housing code inspection in a timely manner is simply not translating to remediation, repairs, or enforcement for our tenant clients.

### **DCRA is Not Measuring the Right Indicators of Success**

We applaud DCRA's success cutting the number of days it takes to schedule a hearing with the Office of Administrative Hearings from 133 days to 66 days and their efforts to increase the number of NOIs issued in 2020 to date.<sup>6</sup> However, we note that although DCRA has done a better job of meeting its Key Performance Indicators (KPI) during FY19 and 20 to date, the KPI's related to housing code inspections only measure the timeliness of inspections.<sup>7</sup> Timeliness of inspection is not an accurate measure of the

effectiveness of DCRA's housing code compliance program. For example, although they report inspections were completed in a timely manner, overall there were fewer housing code inspections completed in FY19 as compared to FY18.<sup>8</sup> Tenants also report that inspections may not contain all of the issues that they are concerned about, and often we see that the DCRA reports from prior to filing in Housing Conditions Calendar do not contain all of the issues in the unit. Additionally, we understand that with the new triage system, some number of inspections are being diverted from actual inspections to a system where landlords, and possibly tenants, certify that repairs are made. Therefore, we suggest a KPI which assesses whether inspection reports assess all issues reported by tenants in their initial call and which also evaluates the effectiveness of the triage system. This new KPI could encompass customer service and accuracy metrics around reporting and tracking of complaints and data.

We also know from DCRA's dashboard and our clients experience that just because an inspection is completed and an NOI is issued does not mean that repairs are made. In FY18, housing code violations identified during a housing code inspection were repaired only 50% of the time.<sup>9</sup> In FY19, the number of housing code violations repaired dropped to 34%.<sup>10</sup> Further, DCRA's dashboard does show us an increase in the total amount of fines assessed, but in 2019 there was a marked decrease in the amount of fines DCRA collected.<sup>11</sup> In practical terms, this means we have no idea if repairs are actually being made for tenants or if landlords prefer to pay the fines rather than make

costly and extensive repairs to their rental properties or if at this point, landlords are just gambling that they will never have to pay.

We urge the Council to consider requesting that DCRA include KPI's that would show an improvement in the rate at which inspections uncovering housing code violations are translating into repairs made for tenants and improvements in the rate at which housing code violations that do not translate into repairs move into court proceedings. We also recommend that DCRA add new data points to their dashboard to include how many housing code violations resulted in a fine, how many housing code violation fines were collected, and the amount of housing code fines outstanding. We would also like to see the dashboard display the amount of remediation dollars expended by the agency to improve housing conditions per quarter.

### **DCRA continues to react to problems and does not implement forward thinking solutions**

We are concerned that DCRA continues to implement programs to react to issues rather than implementing forward thinking solutions. We were pleased to hear that the agency has partnered with Georgetown University to create an algorithm to help them create a proactive inspection program.<sup>12</sup> However, we were highly concerned to read that the algorithm relies solely on the data that DCRA is collecting. In a city with a wealth of public health data and other relevant available data, relying on a database

populated by DCRA's own flawed information is a lost opportunity to create real meaningful change for the agency.<sup>13</sup> We know that DCRA's data systems have been flawed for years, and that their own internal practices show that up until this November, data was not being entered into their CRM system with fidelity.<sup>14</sup>

Apart from basic flaws in DCRA's data collection system feeding into this algorithm, we are concerned that the agency is missing a key opportunity to integrate other types of valuable data. The Council and the city have spent money to create systems to capture a wealth of valuable data that could be used to target hotspots of unhealthy housing like the blood lead level registry and the Healthy Housing program through the Department of Energy and the Environment (DOEE).<sup>15</sup> Some types of data not collected by DCRA that should be used to inform a proactive inspection regime are: properties in which children have been identified as having elevated blood lead levels, properties in which mold and asbestos has been located, DOEE healthy housing data, DC Housing Authority data from units where Housing Assistance Payments contracts are being pulled when landlords violate housing conditions, properties where the landlord is behind on their property taxes, properties with disproportionately high numbers of low-income individuals, individuals with disabilities, or individuals who do not speak English as their first language.

The importance of a functioning proactive inspection program cannot be overstated. By targeting the properties that are most likely to fall into disrepair, DCRA

has a real opportunity to preserve the affordable housing stock left in the District.

However, a functioning proactive inspection program that utilizes public health data and other data from various city sources should be considered in concert with other agency reforms such as a move towards creating an effective compliance program.

**A DCRA compliance program should be effective enough to get the majority of landlords into compliance leaving DCRA and OAG to deal with the worst offenders**

Children's Law Center along with other advocates in the city have been working to understand how a truly effective housing code compliance program within DCRA should work. For too long DCRA's broken culture has given landlords a pass, and they know they can ignore NOI's or make substandard repairs like drywalling over structural defects in order to continue to exploit tenants for financial gain. A good housing code compliance program needs three things: a voluntary compliance program that brings the majority of landlords into compliance through education, including an understanding of the consequences of failure to comply, a strong administrative process that turns NOI's into meaningful remediation and not just fines, and coordination with judicial processes for the minority of bad actors that do not voluntarily comply. For example, we do not park next to a stop sign because we know it's against the law, we know that we will get a ticket, and we know that the fine accompanying the ticket will be so great that it gets us to drive around the block and find another spot. Similarly,



DCRA needs to invest in clearly informing landlords of what their obligations are under the housing code, landlords need to know that their properties will be inspected and that these violations will be uncovered, and landlords also need to know that their NOI's will lead to fines and penalties that are serious enough to deter them from neglecting these units.

### **Healthy Housing requires a system wide solution**

As we move forward, we urge the Council to remember that making DC a city that prioritizes healthy housing for its tenants requires a systemic approach. We support the efforts by individual Councilmembers who have proposed legislation during this Council period that moves us towards a system of healthy housing. Just a few of the key ideas from these bills that we support are: cross trained and cross-licensed inspectors who can inspect for mold, asbestos, and lead, landlords must obtain a basic business license to evict or raise rent, mandated inspector ratios to increase the number of inspectors, the creation of a strategic health housing official, create stronger protections for tenants to ensure insect infestation remediation, and data sharing between District agencies. Separately, these pieces of legislation piece together important fixes to our current system. Together, these pieces of legislation create powerful systemic reform that ensures safe and healthy housing for all tenants. We urge the Council to move forward these important pieces of healthy housing legislation

including: *the Tenant and Homeowner Protection Accountability and Protection Act, the Bedbug Control Act of 2019, the Lead Hazard Prevention Act of 2019 and Elimination Act, the Indoor Mold Remediation Enforcement Amendment Act of 2019*, with the recommendations of advocates included and commit to funding each.

### **Children and families need healthy housing now**

While we wait for DCRA to implement new technology platforms and novel initiatives, the agency still fails to master this most basic charge: conduct quality housing code inspections, enforce the housing code, and create a culture of compliance that ensures tenants live in safe and healthy housing. We have given Director Chrappah time to implement his new reforms. DC residents have given DCRA over a decade to make changes to their agency culture and structure. Meanwhile real children and real families are suffering and they cannot wait for change any longer. While we wait for DCRA's leadership to turn this agency around children continue to be admitted to the emergency room for asthma exacerbations due to mold growing in their homes. Children continue to ingest lead paint particles creating long term neurologic damage. Children continue to be bitten by bedbugs while they sleep. Children continue to live in dangerous conditions much like those at 708 Kennedy street NW. Since we testified at the last DCRA oversight hearing in 2019, for our clients nothing has meaningfully changed.

Our city is in a unique position to create a system that ensures that tenants have the right to live in safe and healthy housing. We can no longer wait for DCRA to decide how it will implement common sense reforms, an effective compliance and enforcement program, and proactive inspections program. We need the Council to act by passing the Department of Buildings Establishment Act of 2019 to create a separate, tenant focused agency. Further, by passing the group of bills we refer to above as healthy housing legislation that has been introduced by the Council this period, we have a real chance to create the systemic change that we need which will foster interagency collaboration and data sharing, a public health lens on housing conditions issues, and an agency culture that works to protect tenants health and safety while preserving our precious affordable housing stock.

I thank you for the opportunity to testify and I welcome any questions you may have.

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<sup>1</sup> 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 almost 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.

<sup>2</sup> 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.

<sup>3</sup> Including today, Children’s Law Center has testified 12 times in the last two years about our concerns regarding DCRA and its inability to keep tenants safe in their own homes. Jan. 2020 Tenant and Homeowner Accountability and Protection Amendment Act of 2019 *at*

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<https://www.childrenslawcenter.org/testimony/testimony-tenant-and-homeowner-accountability-and-protection-amendment-act-2019>. Dec. 2019 Bedbug Control Act of 2019 *at* <https://www.childrenslawcenter.org/testimony/testimony-bedbug-control-act-2019>. Dec. 2019 Office of the Inspector General Report on the Department of Buildings Establishment Act of 2019 *at* <https://www.childrenslawcenter.org/testimony/testimony-office-inspector-general-report-department-buildings-establishment-act-2019>; Nov 2019 Lead Hazard Prevention and Elimination Act of 2019 *at* <https://www.childrenslawcenter.org/testimony/testimony-lead-hazard-prevention-and-elimination-amendment-act-2019>; Nov. 2019 Agency Responses to Code Violations and the Subsequent Fire at 708 Kennedy Street N.W. *at* <https://www.childrenslawcenter.org/testimony/testimony-agency-responses-code-violations-and-subsequent-fire-708-kennedy-street-nw>; Mar. 2019 DCRA Budget Testimony *at* <https://www.childrenslawcenter.org/testimony/budget-testimony-dcra>; Feb. 2019 Public Oversight Roundtable DCRA: What Issues Should the Committee Pursue? *at* <https://www.childrenslawcenter.org/testimony/testimony-public-oversight-roundtable-dcra-what-issues-should-committee-pursue>, Oct. 2018 Public Hearing on the 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>;

<sup>4</sup> DCRA conducted 390 fewer housing code inspections in FY19 as compared to FY18. *See* DCRA Dashboard. DCRA Inspections. Available *at* <https://eservices.dcra.dc.gov/DCRAAgencyDashboard/index>.

<sup>5</sup> *See* Richard Florida. *How Poor Americans Get Exploited by Their Landlords*. Mar. 21, 2019. *City Lab*. Available *at* <https://www.citylab.com/equity/2019/03/housing-rent-landlords-poverty-desmond-inequality-research/585265/>.

<sup>6</sup> *See* FY19 DCRA Oversight Responses at Q39.

<sup>7</sup> *Id.* at 111.

<sup>8</sup> 1,683 housing code NOI’s were issued in FY19 as compared to only 280 issued in FY18. *See* DCRA Dashboard. # of Notice of Infractions Issued by DCRA. Available *at* <https://eservices.dcra.dc.gov/DCRAAgencyDashboard/index>.

<sup>9</sup> In FY19, there were 7,527 housing code inspections with violations. Only 3,811 of those housing violations were repaired. *See* DCRA Inspections FY19 data. Available *at*: <https://eservices.dcra.dc.gov/DCRAAgencyDashboard/index>.

<sup>10</sup> *Id.*

<sup>11</sup> The DCRA Dashboard data does not break out what percentage of those fines assessed and collected were due to housing code enforcement. This would be a helpful data point to collect. *See* DCRA Dashboard, # of Notice of Infractions Issued by DCRA. Available *at* <https://eservices.dcra.dc.gov/DCRAAgencyDashboard/index>.

<sup>12</sup> Rachel Chason. *Georgetown University works with D.C. agency to improve rental inspection policies*. Washington Post. Jan. 17, 2020. Available *at* [https://www.washingtonpost.com/local/dc-politics/georgetown-university-works-with-dc-agency-to-improve-rental-inspection-policies/2020/01/17/7756a568-3945-11ea-bb7b-265f4554af6d\\_story.html](https://www.washingtonpost.com/local/dc-politics/georgetown-university-works-with-dc-agency-to-improve-rental-inspection-policies/2020/01/17/7756a568-3945-11ea-bb7b-265f4554af6d_story.html)

<sup>13</sup> The Georgetown students used “various data sets from the agency and started sorting and analyzing them to see if they could find any useful patterns”. *See* Martin Austermuhle. *How Georgetown Grad*

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*Students Are Helping D.C. Conduct Better Housing Inspections*. Wamu.org. Available at <https://wamu.org/story/20/01/22/how-georgetown-grad-students-are-helping-d-c-conduct-better-housing-inspections/>.

<sup>14</sup> The 2019 Alvarez and Marsal Kennedy St Fire report detailed some of the DCRA's bad documentation practices. DCRA employees failed to adequately document investigations activities and findings and that the nine DCRA employees who worked on the Kennedy St case did not enter any information into the Pilot CRM. See Alvarez and Marsal. *Review and Investigation of Code Enforcement Policies, Procedures, and Inter-agency Communication Between DCRA, FEMS, and MPD*. Oct. 25, 2019. Available at <https://oca.dc.gov/sites/default/files/dc/sites/oca/publication/attachments/Review-Investigation-Code-Enforcement-Policies-Procedures-Inter-Agency-Communications.pdf>.

<sup>15</sup> Although the blood lead level registry is currently unavailable as a data source, we understand from Appleseed and the company that is building out the module that the plan will be to eventually make the data available for public health purposes. We urge the Council to look into why this publicly funded registry was not created to initially serve as a point of reference or tool for interagency collaboration.