



501 3rd Street, NW - 8th Floor
Washington, DC 20001
T 202.467.4900 - F 202.467.4949
childrenslawcenter.org

Written Testimony Submitted to the District of Columbia Council
Committee of the Whole
July 26, 2017

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

Anne Cunningham
Senior Staff Attorney
Children's Law Center

Thank you Chairman Mendelson and members of the Committee of the Whole for holding the Roundtable on DCRA Inspection and Enforcement of Housing Code Violations. Please accept this written testimony 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 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 as part of that representation we sometimes work with the Department of Consumer and Regulatory Affairs (DCRA) for inspections and enforcement related to landlords' violations of the DC housing code.

As a member of Children's Law Center's Medical-Legal Partnership, I work in conjunction with healthcare providers to make sure children are growing up healthy, safe, and with the services they need. We frequently represent families whose homes' poor conditions are so severe that there is an adverse effect on the children's health. 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 since their inception and have used those meetings as an opportunity to provide DCRA feedback about our concerns over the years. Unfortunately, the practices we see have remained largely the same since we started doing this work almost a decade ago.

During the oral testimony given at the roundtable on July 12, 2017, community members and advocates shared a detailed accounting of the deplorable conditions rampant in housing rented by low-income individuals in our city—conditions which Children’s Law Center attorneys and investigators see every day. The code violations in our clients’ homes run the gambit from peeling paint to infestations to intrusion of leaking sewage from neighboring apartments, to name just a few. While there are many wonderful landlords who follow DC’s laws regarding remediation of illegal conditions, there are also many landlords who do not. This is where DCRA should come in—to hold those bad actors accountable via housing conditions inspections and enforcement. Indeed, during her testimony on July 12th, DCRA’s Director, Melinda Bolling, said DCRA is committed to ensuring DC tenants have code-compliant rental units. However, Children’s Law Center’s experience is that DCRA is not fulfilling that commitment, nor does it seem to use its abatement funds to remedy homes which contain the most egregious housing conditions violations.

Our primary concerns with DCRA's inspection practices include non-thoroughness and inconsistency. DCRA inspectors take varied approaches to making their inspection reports, and it is unclear to advocates whether there is any well-defined policy in place to guide their inspection and reporting processes. Some inspectors have told us they will not cite more than three violations during an inspection. Others will say they only cite code violations specifically identified by the tenant. In our cases, we

routinely see between five and twenty housing code violations in a single apartment. Clients who come to us with concerns about one serious issue—leaking sewage, for example—will either not be aware of, or will simply be less concerned by other significant code violations within their home. As laypeople, most tenants do not know the ins and outs of the housing code, which is why it is critical that inspectors identify and cite all evident violations. This is important from both a public health perspective as well as from an efficiency perspective—it is inefficient and costly for DCRA to make multiple trips to the same home simply because they did not cite all violations during their first inspection.

As a Spanish-speaker, I represent many non-English speaking immigrants. DCRA inspectors consistently fail to use interpretation, as required by the Language Access Act. Instead of simply calling Language Line for its readily available services, DCRA relies on children or even adverse landlords to translate during inspections. Written inspection reports are also rarely translated, if ever. Failure to translate greatly denies our non-English speaking clients the right to self-advocate and participate in the process.

We greatly appreciated Chairman Mendelson's interest and concern in DCRA's apparent failure to maintain critical records related to enforcement of notices of violation issued by DCRA. During her in-person testimony on July 12, 2017, Ms. Bolling made several concerning revelations along these lines, including DCRA's failure

to collect and maintain the following critical data: the number of landlords referred to OAG for enforcement of a notice of violation, the cure rate for notices of infraction issued by DCRA, the timeliness of landlord compliance with DCRA orders, and the quantity and value of fines which were collected from infractions cited last fiscal year. On the final point, Ms. Bolling told Mr. Mendelson she was unable to say what percent of fines levied during a given fiscal year were actually paid, because it would be too complicated to track and separate fines levied in one fiscal year but paid in another. These revelations came as little surprise to our organization, which frequently experiences DCRA's failure to adhere to timelines, failure to follow-through with prosecution of recalcitrant landlords, and consequent failure to accomplish an improvement of conditions in our clients' homes.

Ms. Bolling additionally testified that she suspects many landlords who do not comply with DCRA's orders to remediate do so because they lack the capital to make the mandated repairs. Though this may be true in limited cases, it is seldom our experience that landlords lack the capital to make the repairs being asked of them. More commonly, we see landlords not complying with DCRA's notices of violation simply because DCRA often does not enforce its orders for landlords to make repairs. Many landlords are well aware of this fact, and so ignore violations notices and knowingly allow their properties to fall into a state disrepair. Additionally, many violations of the housing code are not particularly costly to repair. The following are

some examples we see of problematic code violations which are relatively simple to repair: missing or broken smoke detectors, missing screens, mouse holes in need of patching, expired fire extinguishers, broken locks on the main entrance to an apartment building, peeling paint, and more. Landlords may take months to make these types of smaller repairs without rebuke from DCRA despite the fact that financing these inexpensive repairs is typically not an issue.

In fairness, there are also cases where larger and more costly renovations may be needed. For example, a multi-unit apartment complex with a persistently leaking roof which has resulted in substantial deterioration from water damage and massive amounts of mold. This example is not an uncommon occurrence. If DCRA comprehensively inspected and enforced the need for immediate repairs at the time they initially become aware of a roof leak, the simpler problem of repairing that roof would not exacerbate to the point of requiring a substantial, building-wide rehabilitation.

DCRA's lack of enforcement has led us to bypass DCRA and use other tools to get our clients' housing conditions remedied. We also explicitly discourage the pro bono attorneys whom we mentor from using DCRA as a tool in their advocacy.

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 letter demanding 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.

One area in which we would like to commend DCRA is for their inspector who is appointed to Housing Conditions Court. Inspections by DCRA's court inspector are only available once a tenant has filed a housing conditions complaint, and the judge presiding over the Court orders a DCRA inspection. The Court inspector's entire caseload is limited to cases stemming from the Court, and no other DCRA inspectors complete inspections for the Court. Throughout the history of the Housing Conditions Court, the court inspectors have always been very thorough, timely, and knowledgeable of housing conditions law. They develop comprehensive inspection reports in a timely fashion, and they identify all visible housing code violations in their reports—not just the major violations or those violations reported by the tenant. They also consistently have used a neutral interpretation service during inspections for tenants whose first language is not English. The judges who preside over the Housing Conditions Court rely heavily on the Court inspector's experience and expertise. We ask that DCRA train the rest of their inspection team to work with the same professionalism and efficiency of their Court inspectors.

At this time, we also ask that DCRA place a heavy emphasis on improving their track record for untimely, inconsistent, and incomplete inspection and enforcement of housing conditions violations in the District. To that end, we ask that DCRA be required to collect and report on the critical data needed to track its effectiveness and compliance with DC law as well as its own policies. That data should include the number of landlords referred to OAG for enforcement of notices of violation, the cure rate for notices of violation issued by DCRA, the timeliness of landlord compliance with DCRA orders, and the quantity and value of fines which have been collected on infractions cited. We ask that inspectors be required to note in their inspection reports whether they used Language Line during an inspection. We also ask that DCRA modernize its system by making notices of violation available online to the relevant tenant(s) and landlord(s), as well as any subsequent reports generated by DCRA for a given case.

Thank you for the opportunity to provide this written testimony.