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Testimony Before the District of Columbia Council  
Committee of the Whole  
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Public Hearing:

B23-394 – Tenant and Homeowner Accountability and Protection  
Amendment Act of 2019

B23-456 – Abatement and Condemnation of Nuisance Properties  
Amendment Act of 2019

B23-499 – Housing Provider Repeated Violation Enhancement  
Amendment Act of 2019

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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 Children's Law Center.<sup>i</sup> 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. Through our medical-legal partnerships with Children's National Hospital, Mary's Center and Unity Health Care, families are referred to us when there are health harming legal needs identified by the pediatricians. We have repeatedly testified about our client's experiences and the health impacts of mold, lead, infestations, and poor housing conditions can have on children and their families. We thank you for the opportunity to testify on three important Acts, which reviewed alongside much of the work the Council has undertaken this session, is another step towards ensuring that all District children and families have a right to live in a safe and healthy home.

## **The Tenant and Homeowner Accountability and Protection Amendment Act of 2019**

The Tenant and Homeowner Accountability and Protection Amendment Act (the Tenant and Homeowner Act) of 2019 has many important components that could help reform the current Department of Consumer and Regulatory Affairs (DCRA). However, it is our experience that our clients cannot rely on DCRA to address their concerns in any meaningful way, and that has not changed in over a decade. We would like to reiterate that Children's Law Center fully supports the creation of a new Department of Buildings. As we have testified to

numerous times before this Committee, our clients have been dealing with the consequences of DCRA's failings for years with no real improvement for tenants and no concern for tenant's health and safety. Many of the parts of the Tenant and Homeowner Protection Act are key pieces of a strategy to ensure a functioning and effective agency with a strong tenant protection focus. Children's Law Center has supported the inclusion of many of these propositions into the structure for a new Department of buildings including: the creation of a Strategic Health Housing Official, mandated inspector ratios, cross-trained inspectors, and others.

#### Business License Needed in Order to Evict or Raise Rent

Children's Law Center supports the proposition that each landlord shall provide a documentation of a Basic Business License (BBL) at the time of filing an action for possession and notifying tenants of a rent increase. Unfortunately for our clients and other low-income tenants, some landlords may choose to forgo obtaining a business license to avoid registering their residential property through the DCRA. This means that DCRA has no record of the property as a rental unit, and therefore may not inspect the property proactively.<sup>ii</sup> Obtaining a basic business license is not an onerous task for landlords to undertake. It is a simple form that can even be completed online and requires that a landlord has established a certificate of occupancy for the property<sup>iii</sup>, obtain business tax information, and can provide a point of contact for the property to facilitate issues of service.<sup>iv</sup> We support requiring that landlords be required to provide documentation of their BBL at the time they initiate a tenancy, file an action for possession or choose to raise a tenants rent.

#### All Housing Code Inspectors Can Inspect for Mold, Lead and Asbestos

Children's Law Center has testified on multiple occasions about how difficult it is to for tenants to have lead inspectors to come out to inspect a tenant's property and how DCRA inspections ignore findings of mold in tenants homes. Also, although DOEE provides tenants with moisture readings through Healthy Homes and the tenant is provided with a report detailing findings, our experience shows that the report rarely translates to actual remediation on the part of the landlord.<sup>v</sup> Similarly, to schedule a lead inspector takes a phone call to another phone number to schedule yet another inspection on a different day. This fragmentation of inspection services causes frustration and delays for tenants as well as lengthens a tenant's potential exposure to health harming lead, mold, and asbestos.

We know that poor housing conditions like mold can signal much more serious structural issues like water intrusion, roof leaks, structural issues, and plumbing issues. These water leaks causing moisture and mold can lead to peeling paint and increased risk for lead poisoning of children and families living in these properties. During an inspection, mold should be treated as a visual sign that there are likely other serious structural issues within the home, rather than just being ignored as it is currently. Inspectors that are cross-trained to come out to a property and assess for housing code violations, lead, mold, and asbestos would likely ensure that these inspections are thoroughly completed, hazards are documented, and notice of violations are issued. We strongly support that DCRA ensure that all inspectors performing inspections be cross-trained, certified, and licensed to perform inspections for housing and property maintenance code violations, lead inspectors, mold and asbestos.

### Establishment of Rental Housing Inspections Division

The Tenant and Homeowner Protection Act also creates the Rental Housing Inspections Division within DCRA. Although Children's Law Center advocates for the creation of a new Department of Buildings rather than reorganizing the current DCRA, in the alternative a rental housing inspections division as envisioned by the Act would benefit our clients. The Act specifies that Notices of Violation (NOVs) shall be issued and served within 24 hours of a rental housing inspection finding one or more violations and a 24 hour turn-around of these notices to tenants as well. This provision would allow tenants to quickly be notified of all outstanding conditions within the home that need repairs and creates a strong record to enforce repairs and remediation within the proscribed timeline. Although currently tenants are supposed to receive copies of notices, it is our experience that our clients often do not receive copies of the DCRA reports and often do not know what happens after the inspection in terms of whether any enforcement is going forward.

Our clients experience has shown us that landlords who are truly acting in bad faith will avoid making repairs at all costs. For some of these landlords, failing to make repairs in the hope that tenants will vacate the building is part of their business model.<sup>vi</sup> The Act proposes a modified notice and abatement timeline that will hopefully bring landlords into compliance with housing code standards and get tenants the repairs they need in a timely fashion. We support the requirement that reinspection occur two days after the abatement deadline for an emergency violation and seven days of the abatement deadline for other violations. We also recommend that the Act goes further and proscribe that if any health and safety violations still remain after the reinspection, that the inspector should send the Notice of Violation (NOV)

along with supporting documentation about whether the inspector should abate the violation at the expense of the homeowner along to a Code Enforcement Unit and the Office of Administrative Hearings.

### Mandated Inspector Ratios

DCRA does not have the capacity to conduct housing inspections and handle housing code enforcement and abatement. Although the Council has attempted to address this issue by providing DCRA with additional funding to hire more investigators, we have seen that each year DCRA seems to perform fewer and fewer housing code inspections per year.<sup>vii</sup> Even with the additional investments the Council has made and the Director's new Resident Inspector program, the number of housing inspections in FY 2019 was fewer than FY 2018.<sup>viii</sup>

We know that DCRA is understaffed significantly as compared to other cities.<sup>ix</sup> By way of comparison, in 2018 Baltimore employed approximately 95 residential housing inspectors for their approximately 130,000 occupied rental units—around one inspector for every 1,400 units.<sup>x</sup> Attachment 1 features a helpful graphic contrasting DC's 2018 ratio with ratios in other BUILD Health cities. Children's Law Center supports the mandated inspector ratio of one residential housing inspector for every 2,000 occupied residential housing units as this will not only increase DCRA's capacity to provide quality inspections.

However, simply increasing the number of housing code investigators will not lead to high quality inspections and better outcomes for tenants. One of the key issues highlighted by the 2019 Alvarez & Marsal report on the Kennedy street fire was the lack of training and professionalization that inspectors had received.<sup>xi</sup> Although Children's Law Center supports a mandated inspector ratio and that all housing code inspectors be cross trained to provide

inspections for mold, lead and asbestos, we remain concerned that the level of training these inspectors will receive may be akin to what is being rolled out for the Resident Inspector Program. We have testified at previous hearings about our concerns about the level of training Resident Inspectors are provided with. We also have concerns about whether these inspections will even be enforceable since they are not required to appear in court as part of the program, and their inspections will not be admissible in court unless they do appear. We recommend that the number of inspectors mandated in the Tenant and Homeowner Protection Act specifically refer to professional inspectors, those who are full time, fully cross-trained employees of DCRA, and that the ratio in this Act not include number of Resident Inspectors hired.

#### Strategic Housing and Health Official

Children's Law Center supports the creation of a Strategic Housing and Health Official as we know it would have a positive effect on the health and safety of tenants District wide. We know, for instance, that children living in Wards 7 and 8 are twenty times more likely to go to the hospital for asthma than children living in Ward 3. Our work has generated data which confirms that housing conditions are a major trigger for these children – and we have found that resolving these housing conditions for families decrease emergency room visits and hospitalizations.<sup>xiii</sup> We fully support the Strategic Housing Health Officials role in collecting and utilizing data about environmental health hazards and community violence to help DCRA shape its enforcement priorities. Community partners like DC Appleseed and Children's National are already capturing great data on health harming conditions and partnering with them could help the District make real gains in reducing the number of children harmed by their housing conditions each year. By using a public health lens on DCRA's enforcement

mechanism, the agency should be able to strengthen its proactive inspections program to target hot spots of poor housing conditions rather than our current practice of waiting for children to become poisoned by lead, mold or asbestos.

### **Housing Provider Repeated Violation Enhancement Amendment Act of 2019**

Children's Law Center has referred some of our worst housing conditions cases that occur in the same complexes to the Office of the Attorney General (OAG) for consideration as receivership cases because there is only so much we can do in representing individual tenants against a bad actor landlord who refuses to maintain the entire property. OAG is much better positioned to file an action to take control of the property under the receivership statute. But, having filed a few of those cases now, it is evident that process could be improved.

The current receivership law only allows for a receiver to be appointed if the rental housing has been cited by the Department of Consumer and Regulatory Affairs (DCRA) for a violation of the housing code which poses a serious threat to the health safety or security of the tenants. Many tenants struggle to get DCRA to come out and do a visual inspection of their property and find it almost impossible to get a citation from DCRA for a specific violation of the housing code required to trigger the appointment of the receivership.

The worst landlords know that DCRA may not come out to inspect a residential unit, and that even if they do show up to inspect that it is unlikely, they will return to confirm that repairs have been made. This Act allows for a receiver to be appointed if it can be shown that the landlord has egregiously violated the housing code three times in an 18-month period.

Children's Law Center supports this modification of the DC Code because we believe that it



will make it more likely that our clients living in deplorable housing conditions will be able to utilize this provision to trigger a receivership, therefore facilitating the needed repairs that their landlord refused to comply with.

### **Abatement and Condemnation of a Nuisance Properties Omnibus Amendment Act of 2000**

The Abatement and Condemnation of Nuisance Properties Amendment Act of 2019 (The Abatement and Condemnation Act) modifies the Receivership Act further allowing the OAG to ensure that tenants are protected when their homes are placed under receivership. Through reordering of the statute, the Abatement and Condemnation Act expands the types of violations that constitute a pattern of neglect to include two common safety concerns our clients face: broken locks on doors and windows and inoperative fire suppression and warning equipment.

Another key piece of the Abatement and Condemnation Act is the expansion of the OAG office pre-suit Authority. Receivership cases often take many months to resolve as they work their way through the court system and allowing the OAG to obtain pre-suit authority to gather discovery in advance of the receivership proceedings can provide a more complete financial picture of the repairs needed at the property as well as the owner's ability to make those repairs. By allowing OAG to have this investigative authority, much of the critical discovery that sometimes can hold up a case will likely have been completed early on and it is likely cases will be able to move towards resolution faster.

Receivership cases like Sanford Capital have shown that bad actors who own multiple properties are likely allowing their other properties to suffer from the same unhealthy housing conditions. Unfortunately, receivership cases are currently handled one property at a time even

though the same landlord may be running another one of their rental properties just as poorly. Therefore, Children's Law Center supports this Act's proposition to include as part of any order granting a receivership or ending receivership that the Court can enjoin or the respondents from continuing their pattern or practice of neglect at their other rental housing properties. This promotes judicial efficiency and will get better outcomes for tenants throughout the city, especially in light of the new LLC transparency provisions recently passed by the DC Council.

Many tenants living in properties under receivership have been subjected to substandard housing conditions for months and even years. Requiring the Court to order that respondents and /or owners contribute funds in excess of rent collected will allow the OAG's office to facilitate not just the abatement of housing code violations, but to make immediately attempt to make tenants whole by having the funds necessary to relocate them, standardize the refund rates for prior rent paid, and satisfying the upfront costs of receivership and abatement. Children's Law Center fully agrees with authorizing the Court to compel these payments at the creation of the receivership order and broadening the categories under which those funds can be spent so that tenants living conditions can be addressed by the receiver quickly and effectively.

## **Conclusion**

The three bills considered here today can improve housing conditions for all DC residents. We commend Councilmember Nadeau for introducing the Tenant and Homeowner Protection Act which incorporates so many of the best practices that Children's Law Center and other advocates have championed as solutions to our healthy housing crisis. We also commend

the OAG's office for their work on the receivership cases handled and their commitment to protecting tenants from bad faith landlords. We thank you for the opportunity to testify on these important pieces of legislation and are available to answer any questions you may have.

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<sup>i</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 advocate 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>ii</sup> We have testified at several other hearings about DCRA's lack of proactive inspections. Although Director Chrappah testified on November 18, 2019 that the agency was is working on a new algorithm with Georgetown University to create a proactive inspection program. However, we remain concerned that the basic data being utilized to feed that algorithm is bad. We contend that if DCRA does not have a full list of which properties are rental housing units, then how can the algorithm include the right properties to inspect? We know that many landlords are not obtaining their Basic Business License, as evidenced by the Chairman's spreadsheet of property addresses that were not in the DCRA database. See Rachel Chason. *Georgetown University works with D.C. agency to improve rental inspection policies*. Washington Post. January 17, 2020. Retrieved from [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>iii</sup> The certificate of occupancy application is a mere two pages long. See DCRA. *Certificate of Occupancy (C of O) Application*. Retrieved from <https://eservices.dcrad.gov/DocumentManagementSystem/Home/retrieve?id=Certificate%20of%20Occupancy%20Application.pdf>.

<sup>iv</sup> A sample DCRA Basic Business License Application was retrieved from: [https://eservices.dcrad.gov/DocumentManagementSystem/Home/retrieve?id=BBL%20Application%20\(Fillable\).pdf](https://eservices.dcrad.gov/DocumentManagementSystem/Home/retrieve?id=BBL%20Application%20(Fillable).pdf).

<sup>v</sup> See testimony before DC Council from our client, Neta Vaught. Neta Vaught. *Committee of the Whole & the Committee on Transportation & the Environment Public Hearing on Bill 23-132, Indoor Mold Remediation Enforcement Amendment Act of 2019*. December 8, 2019. Retrieved from <https://www.childrenslawcenter.org/sites/default/files/attachments/testimonies/Testimony%20of%20CLC%20Client%20Neta%20Vaught.pdf>.

<sup>vi</sup> Richard Florida. *How Poor Americans Get Exploited by their Landlords*. City Lab. March 21, 2019. Retrieved from <https://www.citylab.com/equity/2019/03/housing-rent-landlords-poverty-desmond-inequality-research/585265/>.

<sup>vii</sup> Number of inspections completed in FY 2018 and FY 2019 calculated from data provided in the DCRA Inspections Chart located on the Agency Dashboard. Retrieved from <https://eservices.dcrad.gov/DCRAAgencyDashboard/index>.

<sup>viii</sup> *Id.*

<sup>ix</sup> See <https://www.childrenslawcenter.org/resource/docitieshaveenoughhousinginspectors>.

<sup>x</sup> It is our understanding there were 1219 inspectors based on 2018 oversight data. We estimate DC's occupied rental units in 2018 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 nonowner occupied

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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.)

<sup>xi</sup> See Alvarez and Marsal. *Review and Investigation of Code Enforcement Policies, Procedures, and Inter-Agency Communications Between DCRA, FEMS, and MPD*. October 25, 2019. Retrieved from <https://oca.dc.gov/sites/default/files/dc/sites/oca/publication/attachments/Review-Investigation-Code-Enforcement-Policies-Procedures-Inter-Agency-Communications.pdf> at 46.

<sup>xii</sup> Joanne Lawton. *Mold in the walls could be triggering your child's asthma attack. Here's what a new D.C. partnership is doing about it*. Washington Business Journal. August 28, 2019. Retrieved from <https://www.bizjournals.com/washington/news/2019/08/28/mold-in-the-wallscould-be-triggering-your-child-s.html>.