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**Testimony of Eleni P. Christidis
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**Before the Committee of the Whole
Council of the District of Columbia**

**Public Oversight Hearing Regarding:
“The District’s Housing Code Inspection Process: Broken and In Need of Repair”**

January 18, 2024

Legal Aid DC¹ submits the following testimony regarding the findings and recommendations of the Committee of the Whole on the Department of Buildings’ (DOB) current housing code inspection process.

Legal Aid supports – and hopes that DOB will fully implement – all of the Committee’s recommendations. We applaud the Committee’s work to do a deep dive into the problems with DOB’s current inspection and housing code enforcement process through the use of data, comparative examples, focus groups, and direct observation. We are equally appreciative of DOB’s willingness to engage with the Committee and provide the

¹ Legal Aid DC was formed in 1932 to “provide legal aid and counsel to indigent persons in civil law matters and to encourage measures by which the law may better protect and serve their needs.” Legal Aid is the oldest and largest general civil legal services program in the District of Columbia. Over the last 92 years, Legal Aid staff and volunteers have been making justice real – in individual and systemic ways – for tens of thousands of persons living in poverty in the District. The largest part of our work is comprised of individual representation in housing, domestic violence/family, public benefits, and consumer law. We also work on immigration law matters and help individuals with the collateral consequences of their involvement with the criminal justice system. From the experiences of our clients, we identify opportunities for court and law reform, public policy advocacy, and systemic litigation. More information about Legal Aid can be obtained from our website, www.LegalAidDC.org.

Committee access to its enforcement data, internal policy documents, and personnel. We view the Committee's report and DOB's cooperation as positive steps in improving the agency's performance; breaking away from the problems that plagued the former Department of Consumer and Regulatory Affairs (DCRA); and achieving a safer, healthier living environment for all DC residents.

Our testimony seeks to amplify and add to the Committee's recommendations regarding training, scheduling of inspections, promotion of deferred enforcement, and in-person confirmation of abatement. We also wish to address the need to systematically involve tenants as core stakeholders and experts in their own living situations at every stage of the inspection and enforcement process.

Legal Aid Supports the Committee's Recommendations on Training, Scheduling Inspections, Promoting Voluntary Compliance, and Confirming Abatement with In-Person Re-Inspections

While Legal Aid supports all of the Committee's recommendations, we wish to spotlight and comment on a few of particular relevance to our client community.

Inspectors May Benefit from In-Person Shadowing, Auditing, and Direct Customer Feedback

Legal Aid supports the Committee's recommendation that inspectors receive more in-person and interactive training, instead of exclusively online or virtual training. Additionally, given the extremely hands-on and intimate nature of conducting a housing inspection, we think DOB should require new inspectors to shadow experienced inspectors with a track record of great customer service, periodically audit inspectors, and solicit direct tenant feedback on inspectors (if such policies and practices do not already exist).

It is unclear from the Committee's report whether new inspectors undergo a period of "shadowing" more experienced inspectors after completing the onboarding and training process. Housing code inspections are inherently personal and potentially highly sensitive experiences. A tenant is allowing a person they have never met before to access the most intimate areas of their home, which will likely include the bathroom, bedroom, or even a child's bedroom. Asking a tenant questions about how long they have been experiencing a housing code violation – such as no heat, severe plumbing issues, or infestations of rodents or cockroaches – may elicit feelings of shame, anger, frustration, and desperation, particularly if not handled tactfully or respectfully. Knowing how to navigate these situations respectfully and professionally while still performing a thorough and accurate inspection is a complex task requiring an inspector to balance multiple objectives at the same time. The complexity of this task may only be heightened where

the tenant is non- or limited-English proficient (and effective communication requires the assistance of a telephonic interpreter), or if there are minor children or pets present.

Because of the complex and “soft” skills required to be an effective inspector, we hope that, in addition to the standard training modules, DOB requires new inspectors to shadow experienced and demonstrably effective inspectors.

We also hope, if it is not already DOB’s current practice, that inspectors are periodically audited or observed to ensure that they are meeting performance expectations when in the field, and that tenant customers have the opportunity to give direct feedback about a specific inspector, whether positive or negative. While Legal Aid attorneys have had the pleasure of working and interacting with some highly skilled and professional DOB inspectors, we occasionally hear feedback from tenants about a lack of professionalism from some DOB inspectors. This can range from last-minute communications about scheduling or re-scheduling an inspection, to rude or disrespectful behavior. We are not aware whether DOB has a current practice of eliciting direct feedback from tenants about a particular inspection experience or inspector. If DOB does not currently have a mechanism for doing so, we hope that DOB will use direct tenant feedback to identify both low- and high-performing inspectors and to promote, remunerate, and recognize high-performing inspectors to serve as “expert” mentors for new trainees.

DOB Should Not Require Tenants to Resubmit a Request for an Inspection Outside the Fifteen-Day Window

Legal Aid is heartened that the Committee identified the current practice of requiring a tenant to resubmit a request for inspection if the tenant was not available for an inspection within a 15-day window as unproductive and potentially highly discouraging for the tenant. We agree with the Committee’s recommendation that DOB revise its system and service-level agreement to not require the complaining tenant to submit a new request if they request to schedule (or reschedule) an inspection outside the 15-day window.

As a tenant identified in the report experienced, many of our clients’ family, health, and work circumstances may make it necessary to reschedule an appointment or defer an appointment to a more convenient time. Not requiring someone to resubmit an identical request when they cannot fit the 15-day window, and when they are already dealing with unsafe or unhealthy housing conditions, is basic customer service and a better use of the agency’s time.

Prominent Information About Deferred Enforcement Should Also Include Guidance About Abating the Most Common (and Most Commonly Incorrectly Abated) Violations

We agree with the Committee that the goal of the DOB inspection process should be to get landlords to voluntarily and timely abate housing code violations, such that filing a Notice of Infraction (NOI) with the Office of Administrative Hearings (OAH) becomes unnecessary. To that end, we support the Committee’s recommendation that DOB more prominently notify landlords of the option of “deferred enforcement,” i.e., that they have the option to abate a violation within the time proscribed by the NOI and avoid an OAH proceeding.

We suggest that it would be helpful for this information to be supplied as a prominent, stand-alone flyer or insert that gets served along with the NOI. But, DOB could improve its notice practices even further. To best accomplish the ultimate goal of enforcement – i.e., a workmanlike repair that lasts and does not result in the violative condition recurring again in the short-term – we recommend that any notice of the deferred enforcement program also include guidance on the proper methods of abatement for the most common violations and for the violations where landlords often perform unworkmanlike repairs, resulting in the condition recurring again in the near future. For example, many landlords often attempt to seal rodent access points with spray foam or steel wool. Legal Aid attorneys have worked with DOB inspectors who have had to explain to landlords that this is not a workmanlike repair, as rodents can chew through spray foam or steel wool. Instead, landlords must seal rodent access points with hard, durable material – a point of clarification that could easily be included on a flyer promoting deferred enforcement.

Similarly, leaks are a common issue that landlords “abate” with “patchwork” – simply patching up the water-damaged area without addressing the underlying cause of the leak. A landlord can easily take a photo showing the patched-up area and claim the condition was abated, but if the cause of the leak was not corrected, the tenant will see a new area of water intrusion and damage in just a few weeks’ time.

If the goal of the deferred enforcement program is truly effective and lasting abatement, then including guidance on a flyer promoting deferred enforcement about what DOB considers to be a workmanlike repair of the most common issues gives the agency an opportunity to tell landlords *exactly* what they need to do to comply. The same guidance should be included in any “nudge” communication sent to the landlord, as also recommended by the Committee’s report.

Legal Aid Strongly Supports In-Person Verification of Abatement

Legal Aid echoes the Committee's concerns that landlord-submitted proof of abatement is rife for falsification and abuse and is simply too unreliable as the primary means that DOB uses to confirm abatement. In-person re-inspection must be the standard.

Legal Aid attorneys must often litigate the question of whether a repair has been completed in court, so we are familiar with the ways that photographs and other documents can obscure or tell a critically incomplete story about the current state of a repair or violation. For example, where multiple sites or points need to be repaired, such as in the case of a rodent infestation, a landlord may submit one or even multiple photos of sealed holes, but that is no guarantee that all other access points have been sealed. Another common example, already highlighted above, is taking a photo of a formerly water-damaged area that has been patched, without further verification that the source of the leak has been addressed. The same can be said about mold-affected areas, such as the frames and ledges around windows, which landlords often paint over without addressing the underlying cause of the mold growth (such as a gap in a window frame that leaks when it rains).

Another way that photos can mislead is when they are taken from too far away to show the affected area in sufficient detail – it is harder to see chipping or flaking paint, or a large crack in a wall, if a photo is taken from several feet back. Photos may also be strategically framed so as to crop out the damaged or affected area.

Other photos are insufficient to prove that an appliance (such as a refrigerator, dishwasher, oven/stove, or garbage disposal) is functioning properly. Even a light that illuminates but flickers when first switched on may be a sign that the underlying water damage was not repaired. The number of possible examples is endless, but they all underscore the point – if a violation is not being verified abated in person, it is not being verified abated. We therefore strongly support and appreciate the Committee's unequivocal recommendation of in-person verification of violation abatement.

Of course, an added benefit of in-person verification is that the inspector has direct access to the tenant's account of what the landlord did or did not do to "abate" the violation, as well as the tenant's lived experience of what the condition has been like lately, as opposed to the inspector's snapshot evaluation of the condition, which is limited to the moment of re-inspection. This speaks to Legal Aid's second big takeaway from the Committee's report – the need to institute ways to involve tenants in the enforcement process.

DOB Must Find a Way to Involve Tenants at Every Step of the Enforcement Process

While the Committee's report sheds light on DOB practices and thoughtfully recommends research-backed solutions, to a tenant advocate, the report begs the question – where are tenants in all of this? It is not apparent that DOB has policies or practices in place to consistently and timely involve tenants at key steps in the enforcement process.

Tenants are the people most directly and personally affected by a landlord's lack of compliance with the housing code. However, once they have submitted a complaint and participated in an inspection, they appear to become an afterthought in the enforcement process.

Much of the frustration that Legal Aid hears from tenants with respect to DOB (and previously with DCRA) has to do with tenants not seeing any change in their living conditions, and not *hearing* about any subsequent enforcement action or resolution once DOB has inspected their unit and found violations. While the Committee's report suggests that much fault lies at the step of DOB's timely and accurate service of NOIs on landlords, fixing that problem alone will still fall short of achieving a sense among tenants that landlords are facing meaningful consequences or other incentives to make repairs when tenants report violations. DOB will never get to that point without creating processes and systems for direct tenant notification and communication about the status of DOB's enforcement.

Tenants are also important and useful stakeholders in the enforcement process. They have real-time, first-hand knowledge of the conditions that DOB is concerned about. In some instances, they may even have better or more current contact information for their landlord than what DOB has.

Here are some ways that DOB should add or enhance tenant involvement and notification at various points in the inspection and enforcement process:

- **Complaint Intake/Inspection Scheduling** – The Committee report recommends redesigning DOB's online property maintenance request form to better elicit information from the complaining tenant.² The report also describes how after DOB receives a complaint, a “program support

² Council of the District of Columbia, Committee of the Whole, Report on the District's Housing Code Inspection Process: Broken and in Need of Repair (January 18, 2023), at 17.

specialist works with the complainant to schedule an inspection through the Dispatch application”³ The point at which the program support specialist schedules the inspection would seem to be a good juncture for the program support specialist to ask follow-up questions about items on the request form that were unclear (i.e., “What type of infestation are you experiencing?”) or that suggested an imminent life-safety concern (i.e., “You mentioned Ceiling/Roof Collapse – is that a *current* issue you are experiencing?”).

- **After the Inspection** – Some tenants report not receiving an inspection report or a copy of the NOI after the inspection. Providing the tenant with a copy of the inspection report or NOI, either by mail or email, should be a standard practice. The time after an inspection would also be a good point at which to solicit feedback about the tenant’s satisfaction with the inspector’s performance and professionalism, as explained above.
- **After NOI Issuance** – Tenants should be specifically alerted if the inspection resulted in the issuance of an NOI. This helps tenants understand what violations were found and within what amount of time the landlord is supposed to make repairs.
- **At Deferred Enforcement** – If a landlord elects deferred enforcement, DOB should notify the tenant that the landlord has elected to voluntarily abate the violations within the proscribed amount of time, and the specific deadline by which the landlord will be expected to do so. This prepares tenants to expect that their landlord will be scheduling maintenance workers or contractors to enter their units. If the deadline passes and a landlord has not completed the repairs, this is the perfect time to reach out to the tenant (perhaps with an automated survey that auto-populates the violations included in the NOI) to ask, violation-by-violation, whether the landlord has abated each violation.
- **At OAH Filing** – DOB should notify tenants if/when a case has been filed at OAH. This lets the tenant know that despite not seeing repairs made, DOB is moving forward and escalating its enforcement action.
- **At Alternative Resolution or OAH Hearing Stage** – Similar to the deferred enforcement process, a tenant should know if a landlord is electing to engage in the Alternative Resolution Team (ART) process. Again, this lets a

³ *Id.* at 19.

tenant know to expect repairs to be scheduled and that DOB is involved in monitoring the landlord's compliance. This is another juncture at which DOB could send the tenant a survey (or call them) and ask, violation by violation, whether each violation has been abated, and if not abated, whether the item was simply not repaired at all or whether the repair was unsatisfactory.

Including and automatically notifying tenants at each point above can provide DOB with useful information that enhances its enforcement efforts. Moreover, there are likely ways to automate these notifications, particularly to the extent tenants are already providing DOB with their email address (or a mobile phone number) when they submit a property maintenance request (i.e., tenants can elect to opt in to notifications about the status of their complaint). Finally, including tenants in the enforcement process communicates to the tenant that they are a key stakeholder and participant in that process and in DOB's overall mission.

Conclusion

Legal Aid appreciates and applauds the Committee's work in preparing this report and convening this hearing, as well as DOB's willingness to give the Committee access to its data, policies, and personnel. We hope DOB will fully implement the Committee's recommendations, and we look forward to seeing changes implemented that translate to a safer, healthier living environment for all DC residents. We also look forward to continuing to work with DOB and this Committee on further oversight hearings focused on other aspects of the violation abatement and enforcement process (such as DOB abatement of emergency violations and inter-agency coordination around the imposition and collection of fines).