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Testimony Before the District of Columbia Council  
Committee of the Whole  
May 27, 2020

Public Hearing:  
Budget Oversight Hearing  
Department of Consumer and Regulatory Affairs

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Good morning Chairman Mendelson and members of the Committee of the Whole. My name is Kathy Zeisel. I am a Senior Supervising Attorney at Children's Law Center<sup>1</sup> and a resident of the District. 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 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. Children's Law Center appreciates the opportunity to provide testimony during this budget oversight hearing for the Department of Consumer and Regulatory Affairs (DCRA).

As we have testified numerous times, many of the children and families that we represent each year live in terrible housing conditions and receive little from the Department of Consumer and Regulatory Affairs (DCRA) to ensure their ability to access safe and healthy housing, nor do we see DCRA protecting our clients on a systemic level by identifying problem landlords or properties and conducting effective enforcement actions against them.<sup>2</sup> As you know, many of the clients that we represent in housing conditions cases are referred to us by pediatricians who note that a child's housing may be triggering health harming effects. Some of those triggering health harming housing conditions have included walls covered with mold, serious water intrusion bringing ceilings down, peeling lead paint, and pest infestations, just to name a few. And, the city is paying for residents to live in some of these properties as many

of the worst housing conditions cases we see are where tenants are using the Rapid Rehousing subsidy.

During this unprecedented pandemic we are concerned about the tenants in terrible housing conditions who are feeling the brunt of shelter in place orders even more acutely. For families whose landlord has failed to remediate mold and has only been spray painting over water damage, what was once eight hours in a triggering environment has now turned into non-stop to allergens. Children who once spent the majority of their days in a school building and outdoors, are now forced to learn and live 24 hours a day in a home that is making them more sick by the minute. DCRA is available to conduct some inspections virtually. But for those families whose rental units have suffered years of neglect, have seen no proactive inspection, and whose landlord refuses to make repairs – those virtual inspections are not likely to make much of a difference at this time, especially when families are afraid to let people into their unit and increase their exposure to COVID-19. These are precisely the families who should have been able to rely on the Department of Consumer and Regulatory Affairs (DCRA) to create a culture of compliance over the years to ensure their ability to access safe and healthy housing. Instead, many of them are now likely stuck quarantining inside properties in deplorable conditions because our city continues lacks a strong tenant focused agency that holds landlords accountable and enforces the housing code,

which could have prevented some of these properties from declining into the state we find them in now.

It is not only in complaint-based inspections that DCRA continues to be problematic, but DCRA also continues to fail to do effective enforcement. This is not only failing to collect monies which the District desperately needs right now, but it creates a culture in which landlords do not respect the inspection process, rendering it ineffective even when inspections do happen.

As the District faces a recession and with over 100,000 applications for unemployment compensation filed since March 18<sup>th</sup>, preserving our affordable housing for tenants will be more important than ever.<sup>3</sup> We ask that the Council considers amending, passing, and funding the *Department of Buildings Establishment Act of 2019* and in the immediate term take any additional funding increases granted to DCRA and use them towards the cost of funding a new *Department of Buildings*. However, we understand that during this unprecedented pandemic, the Council needs more than just suggestions for increased expenditures. That's why we have also provided a section on potential revenue opportunities to consider as we look for opportunities to fund various priorities in our FY21 budget.

## **Amend, Pass and Fund Department of Buildings**

We have testified numerous times about the serious issues our clients have experienced with DCRA and the serious concerns we have about DCRA's culture and about the lack of enforcement by DCRA. We support the increase to DCRA's budget if this is to hire additional staff inspectors for either the complaint based or proactive inspection program, but we do not support the expansion of the residential inspector program.<sup>4</sup> It is our position that we should be moving to professionalize DCRA given the importance of housing code enforcement to ensuring safe, healthy, and affordable housing—something that has always been important, and is of growing importance in light of the public health emergency we currently face.<sup>5</sup> Given this, it is our recommendation that this \$250,000 be used to fund the *Department of Buildings Establishment Act of 2019*.<sup>6</sup>

The Mayor's FY21 proposed budget also allocates an additional \$200,000 investment in a DCRA customer relationship management system (CRM) in response to the Kennedy Street fire recommendations.<sup>7</sup> However, the initial inspection report found that although the system existed in its pilot form, one of the key issues was that nine DCRA employees failed to enter information into the CRM.<sup>8</sup> We are concerned that this increased expenditure in the CRM system will not be enough to fix the broken agency culture that led to employees failing to use the CRM system in the first place. It is our position that putting money into a computer system is futile without ensuring that good

data is put into it and that the data is subsequently used. More than a system upgrade, DCRA needs a culture upgrade so that its employees are trained on how to follow protocols and procedures with fidelity. We recommend that the \$200,000 investment in DCRA's CRM be appropriated to funding a new *Department of Buildings*.

**A DCRA compliance program should be effective enough generate fines through NOI's.**

An agency operating a truly effective housing code compliance program will not only benefit tenants, but will also collect the fines in order to ensure that landlords are compliant and with the benefit of generating revenue to assist in covering costs of the program.<sup>9</sup> For too long DCRA's broken culture has given landlords a pass, and they know they can ignore NOIs or make substandard repairs like drywalling over structural defects in order to continue to exploit tenants for financial gain. A good compliance program will smartly use fines as a necessary part of the enforcement regime. Now more than ever, agencies need to be leveraging any revenue generating capabilities.

DCRA's own dashboard shows that they have not collected fines for many of the NOI's that were issued in 2019.<sup>10</sup> A quick glance at the DCRA dashboard<sup>11</sup> shows that there are many NOI's which are marked as awaiting payment. These are valuable dollars to that would go into the District's general fund. We recommend that the

Council ask detailed questions about DCRA's ability to collect on these outstanding NOI's and what the agency's rate of payment has been on NOI's in the last fiscal year.

Further, we are concerned that the proposed FY21 budget shows a decreased commitment to residential housing code enforcement. Without enforcement, the system is weakened because it signals that there are no consequences for failing to provide safe and healthy housing. The \$158,000 cut to the Scheduling and Enforcement Unit and loss of two full time employees in that division concerns us given the ongoing problems the agency has with lack of enforcement.<sup>12</sup> It also raises questions about the need for increased enforcement software if there are cuts to personnel to actually do the enforcement actions. The modest increase in the budget for residential housing code inspections paired with the loss of two full time employees and a cut to the Scheduling and Enforcement unit does not signal to us that the agency is committed to turning around its culture and ramping up efforts to provide the tenant-focused service needed to create a fully functional residential housing code enforcement regime. That's why we believe the time is right to amend, pass and fund the *Department of Buildings Establishment Act of 2019*.

## **Revenue Opportunities**

As the District plans to recover from this recession we recognize that the Council needs solutions and not just demands for more funding. The Mayor's proposed FY21

budget used some smart tactics to bridge our revenue gaps and we support the Mayor's proposed solutions to increase revenue. However, we need to do more to ensure an equitable recovery for all DC residents, and we also support proposals that include repealing tax cuts that benefited our highest earners and look to other opportunities to raise revenue. We urge the Council to consider incorporating the revenue opportunities presented next to ensure we are able to provide children and families with the resources they will need to succeed during and after the pandemic.

#### *Eliminate Ineffective Tax Expenditures*

Eliminating ineffective tax expenditures is an efficient way to address the District's budget shortfall for FY21 and will avoid the short- and long-term harm to the city of cutting program budgets. The District currently offers a number of tax incentive programs that are purportedly designed to encourage business development in DC. These programs cost the District tens of millions of dollars every year but have not yielded any demonstrable economic benefits to the city.<sup>13</sup> In particular, the Council should consider eliminating both the Qualified High Technology Company (QHTC) tax expenditure program and the Qualified Supermarket tax expenditure program.

The QHTC tax expenditure program cost the District over \$45 million in FY2017. During its most recent statutorily-required review of DC's tax expenditures, the Office of Revenue Analysis (part of the Office of the Chief Financial Officer) concluded that



gains in DC's high tech sector cannot be attributed to the QHTC tax expenditure program, even though the program will continue to cost at least \$40 million per year in foregone revenue.<sup>14</sup> The report also found that a small number of large companies are "taking disproportionately large amounts of QHTC credits without evidence of commensurate economic benefit to the District" and noted that "it is not clear whether they engaged in any new economic activities because of the incentives."<sup>15</sup> For almost the entire lifetime of this program, more QHTC credits have been claimed by companies headquartered in Virginia than companies headquartered in D.C.<sup>16</sup>

The Qualified Supermarket tax expenditure program cost the District over \$5 million in FY2017. The laudable goal of this program is to incentivize the opening of new grocery stores in low-income parts of the city that suffer from limited access to affordable and nutritious food. Despite costing nearly \$30 million dollars in foregone revenue between 2010 and 2017, the Office of Revenue Analysis report concluded that the program "cannot be shown to have affected supermarkets' location decisions, generally, or produced economic or other benefits that would not have happened but for the incentives."<sup>17</sup>

These tax expenditure programs are costing the District tens of millions of dollars in foregone revenue every year and providing nothing in return.<sup>18</sup> There are many difficult decisions to be made during this budget cycle – but this is not one of

them. The Council should redirect these funds to support essential services to families suffering through the pandemic crisis.

### *Repurpose "Special Purpose" Funds*

The Council should also carefully examine opportunities for repurposing special purpose funds rather than cutting much-needed housing and public health services.

There are more than 250 active special purpose funds, which are funds established by statute to fund a particular government program using fees and assessments imposed on licensees and users of government services.<sup>19</sup> The total revenue in all these funds made up 5% (about \$800 million) of DC's total gross budget revenues in the previously approved FY20 budget.<sup>20</sup>

Many special purpose funds spend less than the revenues they raise in any given year and carry large and increasing fund balances. In 2017, for example, the total revenue collected by all DC special purpose funds exceeded their total expenditures by \$52 million.<sup>21</sup> The DC Auditor found that 37% of special purpose funds spent less than 50% of their total FY2013 through FY2017 revenues.<sup>22</sup> For "non-lapsing" special purpose funds,<sup>23</sup> this unspent money remains in the fund and is carried over to the next fiscal year. On a number of occasions in the past, the Council has transferred unspent special purpose funds to the General Fund so that the funds can be repurposed for other programs.<sup>24</sup>

Now, more than ever, is the time for the Council to repurpose any available special purpose funds to help plug budget gaps created by the economic fallout from the COVID-19 pandemic. This certainly includes transferring unspent funds in non-lapsing funds to the General Fund unless the funds are contractually committed to expenditures in future fiscal years or otherwise restricted or earmarked for vital government programs. It should also include a review of agency current fiscal year expenditures of special purpose funds to determine whether any savings or efficiencies can be identified to free up funds that could be transferred to the General Fund. Repurposing special purpose funds wherever possible would help promote a more just and equitable budget.

## **Conclusion**

We have an opportunity to create a budget that allows DC's children and families to remain safely in their homes this unprecedented public health emergency. As the Council considers the Mayor's proposed FY21 budget, we ask that you remember the children and families who are so affected by the substandard housing conditions they are sheltering in. Our city is long overdue for a tenant focused agency that ensures our affordable housing stock is livable and safe. We ask that the Council prioritize investments in amending, passing, and funding the *Department of Buildings*

*Establishment Act of 2019*. We appreciate the opportunity to testify today and we welcome any questions the Committee 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 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 nearly 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> See @DOESDC, (May 20, 2020), District of Columbia Daily Unemployment Compensation As of May 19, 2020 100,588 New Claims Have Been Filed, [Tweet], Available at [https://twitter.com/DOES\\_DC/status/1262739175406788609/photo/1](https://twitter.com/DOES_DC/status/1262739175406788609/photo/1).

<sup>4</sup> In years prior, money given to DCRA to increase the number of its professional inspectors was reprogrammed. We would hope that this is not the plan for this year’s money.

<sup>5</sup> We support the amendment, passage, and funding of the *Indoor Mold Remediation Enforcement Amendment Act of 2019*, which would allow DCRA inspectors to be cross-trained to inspect for Mold. See Children’s Law Center. *Testimony Before the District of Columbia Council Committee of the Whole and Committee on Transportation and the Environment. Public Hearing: Bill 23-132: Indoor Mold Remediation Enforcement Amendment Act of 2019*, (Dec. 9, 2019), Available at <https://www.childrenslawcenter.org/sites/default/files/attachments/testimonies/CLC%20Testimony%20for%20Dec.%209%20Hearing%20on%20Indoor%20Mold%20Bill%20B23-132.pdf>.

<sup>6</sup> There was a modest increase in the budget for residential housing inspectors of \$250,000.00. DCRA Proposed Budget FY21, Line 3080, p. 4.

<sup>7</sup> Mayor’s Office of Community Relations and Services, *Mayor Bowser Presents #DCHOPE Budget Proposal*, (Mar. 18, 2020), Available at <https://mocrs.dc.gov/release/mayor-bowser-presents-dchope-budget-proposal>.

<sup>8</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>9</sup> We do not want DCRA to issue NOIs and collect fines without merit, nor to do so without discretion. However, collecting fines that are justified is an important enforcement tool to ensure compliance with the system, and DCRA should not have the majority of their NOIs in a status indicating that they are unpaid for a variety of reasons as they appear to now per their online dashboard.

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<sup>10</sup> DCRA’s Dashboard displays each NOI and what status the NOI is in. You can see many are awaiting payment. See DCRA. *Infraction Balance with DCRA*, (Retrieved on May 26, 2020), Available at <https://eservices.dcradg.gov/DCRAAgencyDashboard/index>.

<sup>11</sup> *Id.*

<sup>12</sup> DCRA Proposed Budget FY21, Line 3020, p. 3.

<sup>13</sup> DC Office of Revenue Analysis, *Review of Economic Development Tax Expenditures*, November 2018, p. 8 - 18, (“Overall, the District’s economic development tax incentives support the District’s broad economic development goals as designed, however various issues with each of the incentives prevent an assessment of their effectiveness in meeting the respective incentive goals.”).

<sup>14</sup> *Id.* at p. 11-12.

<sup>15</sup> *Id.* at p. 12.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 14.

<sup>18</sup> *Id.* at 18. (“This report found that QHTC and Supermarket tax incentives are not well targeted, meaning many companies may be receiving benefits—sometimes very large sums, in the case of several large QHTCs—to do what they may have done without the incentive.”).

<sup>19</sup> For example, the Department of Consumer and Regulatory Affairs administers the “Basic Business License Fund,” which collects millions of dollars each year from business license fees; these funds are intended to defray the cost of operating DCRA’s basic business licensing system. See DC Office of Revenue Analysis, *DC Special Purpose Revenue Funds Report*, February 2015, p. 55 (OFA Report). Available at: <https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/Special-Purpose%20Report%202015.pdf>.

<sup>20</sup> Office of the Budget Director. *Budget 201*, January 2020. Available at: <https://static1.squarespace.com/static/5bbd09f3d74562c7f0e4bb10/t/5e1f336250c19021ca91c618/1579103075310/DC+Budget+201+FINAL+-+1.10.20.pdf>; Government of the District of Columbia, *FY2020 Approved Budget and Financial Plan*, July 2019, p. 1-8. Available at: [https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/DC\\_OCFO\\_Budget\\_Vol\\_1\\_0.pdf](https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/DC_OCFO_Budget_Vol_1_0.pdf). See also <https://districtmeasured.com/2020/02/>.

<sup>21</sup> Office of the DC Auditor. *Elected Officials Create Special Funds But ‘Sweep’ Dollars for Other Purposes*, April 2019, p. 2 (2019 DC Auditor Report). Available at <http://dcauditor.org/report/elected-officials-create-special-funds-but-sweep-dollars-for-other-purposes/>.

<sup>22</sup> *Id.* at 10.

<sup>23</sup> A non-lapsing fund’s unspent revenue is continuously available for use in subsequent fiscal years for the particular program in question. In contrast, any unspent revenue in a lapsing fund is automatically transferred to the General Fund at the end of the fiscal year.

<sup>24</sup> The DC Auditor found 72 instances of such repurposing, amounting to more than \$142 million in FY2013 through FY2017. *Id.* at 12. Although the DC Auditor’s report criticized this practice, transferring and repurposing unused or underutilized special purpose funds nonetheless offers an essential tool in the current budget emergency.

**Testimony of Beth Mellen Harrison  
Supervising Attorney, Housing Law Unit  
Legal Aid Society of the District of Columbia**

**Before the Committee on the Whole  
Council of the District of Columbia**

**Budget Oversight Hearing Regarding  
the Department of Consumer & Regulatory Affairs**

**May 27, 2020**

The coronavirus pandemic has drawn public attention to long-standing, systemic inequalities in the District. While African-Americans currently total only 46 percent of DC residents, they account for 76 percent of the deaths to date from coronavirus.<sup>1</sup> The roots of these disparate health outcomes run deep. As Mayor Muriel Bowser commented this past Sunday on ABC News' *This Week*, housing is one of several social determinants of health:

We have to look at the building blocks of health. Having safe housing, having access to clean water, having access to good food and quality education and good-paying jobs. Those are all of the things that lead to a healthy community.<sup>2</sup>

The administration describes the District's response to the pandemic as "a once-in-a-generation opportunity to thoughtfully build toward a more equitable, resilient, and vibrant city."<sup>3</sup> A critical component to realizing that goal is ensuring that all District residents can live in safe, healthy, and habitable housing.

The Legal Aid Society of the District of Columbia<sup>4</sup> welcomes this opportunity to share our thoughts about the performance of the Department of Consumer & Regulatory Affairs (DCRA)

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<sup>1</sup> Executive Office of the Mayor, *Coronavirus Data – Total Deaths by Race*, available at <https://coronavirus.dc.gov/page/coronavirus-data>.

<sup>2</sup> ABC News, *This Week*, "A Nation Divided: Racial Disparities in the Pandemic" (May 24, 2020), available at <https://abcnews.go.com/ThisWeek/video/largely-african-americans-essential-work-dc-mayor-bowser-70858599>.

<sup>3</sup> Executive Office of the Mayor, *ReOpen DC Overview*, available at <https://coronavirus.dc.gov/reopencdc>.

<sup>4</sup> The Legal Aid Society of the District of Columbia 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." Over the last 87 years, tens of thousands of the District's neediest residents have been served by Legal Aid staff and volunteers. Legal Aid currently works in the areas of housing, family law, public benefits, immigration, and consumer protection. We also 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

and the administration's proposed FY2021 budget for the agency. Legal Aid provides advice, brief services, and representation to hundreds of tenants in the District every year. Many of these tenants are living in substandard conditions, with serious housing code violations that threaten the health and safety of their families. Lack of code compliance by landlords and under-enforcement by the District government both contribute to this public health challenge.

As this Committee is aware, Legal Aid continues to believe that because of DCRA's chronic failure to protect tenants living in unsafe and unhealthy housing, the Council needs to take a comprehensive approach to reforming the agency.<sup>5</sup> This comprehensive approach should include removing housing code enforcement and inspections from DCRA's responsibilities and establishing an independent rental housing agency to address housing code violations. Bill 23-0091, the Department of Buildings Establishment Act, provides the foundation for this fundamental transformation and should be a top priority for funding in this year's budget.

As long as rental housing inspections remain within DCRA, Legal Aid recommends that any new investments in the FY21 DCRA budget be targeted specifically to housing code compliance and enforcement, with sufficient transparency and accountability for this Committee to continue its oversight role.

### **Despite DCRA's Longstanding Failures, the Mayor's Budget and the Budget Support Act Fail to Prioritize Housing Code Enforcement & Compliance**

The Mayor's budget increases overall funding for DCRA by nearly \$6 million, including an additional \$250,000 allocated to Residential Inspections (3080) and an increase of \$781,000 for Rehabilitation (3050).<sup>6</sup> But there are some important caveats. The additional money in Residential Inspections, which amounts to a gain of one full-time equivalent employee (FTE), is offset by a cut of \$158,000 to Scheduling & Enforcement (3020), with a loss of two FTEs. These units work closely together to ensure that housing code inspections are scheduled and conducted and that violations are enforced. As to Rehabilitation, the proposed increase still does not bring funding for this unit to the level it was in FY18, before large cuts in FY19 and FY20. This unit helps to pay for DCRA to abate housing code violations when landlords refuse to do so.

Overall, the proposed budget reflects little new investment in housing code enforcement and compliance. In the face of several years of oversight hearings and roundtables by the Committee that have revealed serious challenges within DCRA and a systematic failure to invest in protection of tenant health and safety, this is disappointing. To cite one example, Legal Aid and other organizations have testified about the need to hire more residential inspectors to bring the

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Legal Aid can be obtained from our website, [www.LegalAidDC.org](http://www.LegalAidDC.org), and our blog, [www.MakingJusticeReal.org](http://www.MakingJusticeReal.org).

<sup>5</sup> Written Testimony of Beth Mellen Harrison, Public Oversight Hearing on the Department of Consumer & Regulatory Affairs (March 3, 2020), available at <https://www.legalaiddc.org/wp-content/uploads/2020/03/DCRA-Oversight-FINAL-3.5.20.pdf>.

<sup>6</sup> FY 2021 Proposed Budget and Financial Plan, Vol. 4 Agency Budget Chapters – Part 3, F-9 – F12 (May 18, 2020), available at <https://app.box.com/s/4f3epemwcd2073r910mcchqdkb47gmze>.

District’s ratio of inspectors to residential housing units in line with other jurisdictions.<sup>7</sup> The budget does not propose this type of needed increase.

Also concerning, the Budget Support Act would amend the statutory provisions establishing the Nuisance Abatement Fund to allow it to become a general-purpose fund to be spent as DCRA sees fit. The Mayor made a similar proposal last year, and the Council rejected it. Under current law, the Nuisance Abatement Fund is restricted to a single purpose – for the District government to abate housing code violations when landlords refuse to do so.<sup>8</sup> The Mayor now proposes to expand the use of the Nuisance Abatement Fund to pay for inspections and any other expenses to “improv[e] the operations of the Department of Consumer & Regulatory Affairs.”<sup>9</sup> Legal Aid strongly opposes this change, which would divert millions of dollars each year away from abating serious housing code violations and protecting tenant health and safety.<sup>10</sup> We urge the Committee to strike this language from the Budget Support Act. Unfortunately, this proposal is one more indication that housing code enforcement and compliance will not be prioritized by DCRA without fundamental agency reform.

Because of DCRA’s longstanding failure to exercise its discretion to protect tenant health and safety, investments in the agency’s budget should be targeted toward specific directives that will improve housing code enforcement and compliance. Legal Aid believes the following should be top priorities for the Committee in this regard as it reviews the Mayor’s proposed budget.

**To Move Forward with Fundamental Agency Change, the Council Should Enact and Fund the Department of Buildings Establishment Act**

In past testimony, Legal Aid has shared problems that we continue to observe in DCRA’s rental housing inspections program, all of which result in under-enforcement of the housing code. The vast majority of tenants that Legal Aid meets with each year are living with poor housing conditions. Our legal assistants conduct hundreds of home visits and inspections each year. Their reports back confirm conditions such as lack of heat, lack of utilities, defective appliances, infestation, leaks and water damage, mold, defective wiring, holes in walls and ceilings, defective door locks, and windows and doors that do not keep out the elements. Recent enforcement actions by the Office of Attorney General have confirmed numerous code violations

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<sup>7</sup> Written Testimony of Beth Mellen Harrison, Public Oversight Hearing on the Department of Consumer & Regulatory Affairs (March 3, 2020), *available at* <https://www.legalaiddc.org/wp-content/uploads/2020/03/DCRA-Oversight-FINAL-3.5.20.pdf>.

<sup>8</sup> D.C. Code § 42-3131.01.

<sup>9</sup> Fiscal Year 2021 Budget Support Act of 2020, B23-0760, § 6011.

<sup>10</sup> Funding in FY19 totaled \$6,058,705 and paid for 64 full-time equivalent positions. DCRA Performance Oversight Responses pg.13-14 (Feb. 18, 2020), *available at* <https://dccouncil.us/wp-content/uploads/2020/02/DCRA-FY19-to-FY20-Performance-Oversight-Pre-Hearing-Questions-and-Answers.pdf>.



at slum properties.<sup>11</sup> Many of the concerns about DCRA raised by tenants and advocates over the years have been confirmed by a string of recent government reports.<sup>12</sup>

In our oversight testimony this year, Legal Aid shared our own experience with continued problems working with DCRA.<sup>13</sup> Even with new leadership in place for over a year, DCRA continues to struggle with the same long-standing problems, including poor communication and failure to support the private enforcement efforts of Legal Aid and other tenant advocates. Legal services attorneys and tenant organizers have tried to reinstate regular meetings with the agency director and senior staff – meetings which took place quarterly under the prior director – to no avail.

We also are concerned that DCRA’s inspections and enforcement data are trending in the wrong direction. First, the number of housing inspections conducted is trending down, from 7,955 in FY17 to 7,588 in FY19 and only 1,169 inspections conducted in the first quarter of FY 2020, the lowest of the last 13 quarters.<sup>14</sup> Legal Aid is concerned that this trend may be the result of up-front triaging that DCRA is conducting when tenants call requesting an inspection, rather than actual repairs and abatement.

Second, the percentage of inspections where housing code violations are cited and subsequently repaired is trending down not up, with a much lower percentage of cited violations being

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<sup>11</sup> *District of Columbia v. Terrace Manor, LLC*, 2016 CA 007767 (23rd Street & Savannah Street, SE); *District of Columbia v. Bennington Corporation*, 2018 CA 007253 B (4559 – 4569 Benning Rd SE; 4480 C Street SE); *District of Columbia v. Astor Limited Partnership*, 2019 CA 001845 B (5058 Astor Pl SE); *District of Columbia v. Vista Ridge Limited Partnership*, 2018 CA 007285 B (Forest Ridge and the Vistas).

<sup>12</sup> In September 2018, the D.C. Auditor issued a report that focused on enforcement lapses at a property known as Dahlgreen Courts as a case study of agency failures at DCRA. Office of the District of Columbia Auditor, *Housing Code Enforcement: A Case Study of Dahlgreen Courts* (Sept. 24, 2018). In May 2019, the Office of Inspector General issued a report that focused on one step in the enforcement process – the collection of fines once DCRA has cited violations and issued civil infractions – and detailed how fine collection breaks down. District of Columbia Office of the Inspector General, *Department of Consumer and Regulatory Affairs: Civil Infractions Program Lacked a Strong Internal Control Environment* (May 2019). Most recently, in October 2019, a District-commissioned investigative report by Alvarez & Marsal found that systemic breakdowns caused DCRA to fail to respond to reports of housing violations before a fire destroyed the property at 708 Kennedy Street, N.W. and killed two tenants. Alvarez & Marsal Disputes & Investigations, LLC, *Review and Investigation of Code Enforcement Policies, Procedures, and Inter-Agency Communications Between DCRA, FEMS, and MPD* (Oct. 25, 2019).

<sup>13</sup> Written Testimony of Beth Mellen Harrison, Public Oversight Hearing on the Department of Consumer & Regulatory Affairs (March 3, 2020), available at <https://www.legalaiddc.org/wp-content/uploads/2020/03/DCRA-Oversight-FINAL-3.5.20.pdf>.

<sup>14</sup> DCRA Agency Dashboard, *Inspections & Compliance*, available at <https://eservices.dkra.dc.gov/DCRAAgencyDashboard/index>.

repaired. DCRA’s data show that 50 percent of violations were repaired in FY17 and FY18, compared to only 30 percent for FY19.<sup>15</sup> This also suggests that DCRA’s overall strategy of eliminating notices of violation and relying solely on notices of infraction is not having the intended effect of bringing more landlords into compliance with the housing code.

Ultimately, Legal Aid continues to believe that a comprehensive approach to reforming housing code enforcement in the District is needed to fully address the problems identified at this and past hearings, including establishment of an independent rental housing inspections agency. Legal Aid supports moving rental housing inspections out of DCRA altogether, as envisioned by B23-0091, the Department of Buildings Establishment Act, and we believe the Act should go even further.<sup>16</sup> We support the creation of an independent agency focused exclusively on residential housing inspections, led by a term-appointed Director removable only for cause, with high-level officials focused on public health and strategic enforcement, and with a deputy general counsel focused on rental housing enforcement and compliance.

We understand that enactment of the Department of Buildings Act will involve a significant cost to stand up a new government agency, and we appreciate that the Council faces difficult choices this fiscal year in an austere budget environment. Legal Aid nonetheless maintains that breaking up DCRA and creating a new agency focused on residential housing inspections is a critical step to realizing the Mayor’s goal of building a more equitable, resilient, and vibrant city, and more specifically to ensuring that all District residents live in safe, healthy, and habitable housing.

### **Other Changes in District Law to Protect Tenants and Ensure Housing Code Compliance and Enforcement Should Be Prioritized for Enactment and Funding**

Wherever housing code enforcement activities are housed, other changes are needed to ensure that tenant health and safety are protected and that landlords actually comply with the law. Legal Aid has testified about these proposals in greater detail at prior hearings. Many of our recommendations can be found in bills currently pending before this Committee.

#### The Committee Should Require DCRA to Employ Sufficient Inspectors and to Deploy Them in Court

As noted above, DCRA simply does not employ enough inspectors to allow for vigorous enforcement of the housing code. In explaining their failure to respond to communications about the Kennedy Street property where a fire last August killed two tenants, DCRA employees cited a “high volume of emails” received, “overwhelming” workloads, and being “too busy with

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<sup>15</sup> *Id.*

<sup>16</sup> Legal Aid previously has testified about ways in which we would strengthen and improve the bill. See Written Testimony of Beth Mellen Harrison, “Bill 23-91, Department of Buildings Establishment Act of 2019 Office of Inspector General Prospective Evaluation of Bill 23-91 and Evaluation of DCRA Business Processes” (Dec. 10, 2019), available at <https://www.legalaiddc.org/wp-content/uploads/2019/12/Legal-Aid-Testimony-re-B23-0091-FINAL.pdf>.

administrative duties”.<sup>17</sup> Bill 23-0394 mandates that the agency employ one residential housing inspector for every 2,000 residential housing units, and Legal Aid supports this ratio. Increasing the number of inspectors also is in line with provisions in Bill 23-0394 that would require all inspections to be performed by DCRA employees. Legal Aid also supports provisions in Bill 23-0394 requiring DCRA to attach inspectors to both the Housing Conditions Calendar (where tenants sue landlords for repairs) and the Landlord and Tenant Branch (where landlords sue tenants for eviction and tenants defend based on conditions) in D.C. Superior Court.

The Committee Should Require DCRA Inspectors to Inspect and Cite for Violations of the District’s Mold and Lead Laws

Legal Aid supports Bill 23-0132, the Indoor Mold Remediation Enforcement Amendment Act of 2019, which squarely addresses gaps in current law by requiring DCRA to certify its inspectors in mold assessment and to issue notices of violation and impose penalties when landlords fail to comply with the mold law. Enacting this bill will allow tenants to request a single inspection from one agency that will cover both housing code violations and mold. For the same reason, Legal Aid supports amending the bill to require DCRA inspectors to be certified to inspect for and identify violations of DC’s lead hazard law. Tenants living with different types of housing conditions problems should not have to contact and coordinate with multiple agencies to obtain relief. Instead, DCRA inspectors should be qualified and authorized to inspect, cite, and enforce violations of the housing code, the mold law, and the lead hazard law.<sup>18</sup>

The Committee Should Enact Legislation to Strengthen the Basic Business License Process as a Tool to Ensure Code Compliance

Bill 23-0394 would clarify current law to require that landlords filing an eviction suit for possession or seeking to increase a tenant’s rent must have and show proof of a valid basic business license. We recommend strengthening the bill further by adding a provision that a landlord may not collect rent if the landlord does not hold a valid basic business license. Adding these penalties will create a more effective and complete enforcement structure to ensure that landlords comply with the law – not only by obtaining a license in the first place, but also by avoiding misconduct that would cause the landlord to lose the license. This change in the law must be coupled with efforts by DCRA to ensure that landlords that are repeatedly cited for code violations, do not abate code violations, and otherwise fail to comply with licensing requirements face a real threat of revocation or non-renewal of their license until these issues are addressed.

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<sup>17</sup> Alvarez & Marsal Report at 33, 46, 54, 66.

<sup>18</sup> Legal Aid also supports Bill 23-0407, the Lead Hazard Prevention and Elimination Amendment Act of 2019, which lowers acceptable levels for lead exposure, extends the law’s protections to all tenants, creates a fund to help landlords bring properties occupied by low-income tenants into compliance, and provides tenants with a private right of action if their landlord does not comply.

## The Committee Should Engage in a Comprehensive Review to Remove Discretion, Shorten Timelines, and Increase Penalties

Finally, the Committee should engage in a comprehensive review of current law, enacted but unfunded legislation, and pending bills to tighten timelines, increase penalties, and ultimately to remove discretion in the enforcement process. To incentivize voluntary compliance with the housing code, the District's enforcement system must ensure that violators face timely and strong penalties. The Department of Consumer & Regulatory Affairs Omnibus Amendment Act of 2018 (Act 22-0317) contains many provisions strengthening District law to better ensure enforcement of and compliance with the housing code. When fully implemented, these changes should mitigate many of the longstanding concerns that Legal Aid and other tenant advocates have about DCRA's performance. However, the Act was not funded by the Council last budget season.<sup>19</sup> These provisions also should be compared to similar provisions in Bill 23-0394 that would create tight, automatic enforcement timelines and would increase penalties for landlords that violate the housing code, particularly repeat violators.

### **Conclusion**

Thank you for this opportunity to testify about our ongoing concerns about DCRA's lapses in enforcement. Legal Aid continues to support moving rental housing inspections out of DCRA altogether, and we are supportive of the Council's efforts to break up and restructure the agency, with B23-0091, the Department of Buildings Establishment Act, serving as the primary vehicle. We hope that the Council will pass restructuring legislation this year, along with any necessary initial funding, so that by this time next year, the Mayor and the Committee will be discussing funding a newly-established agency with a more focused mission.

Until then, Legal Aid supports the targeted investments in DCRA's Fiscal Year 2021 budget recommended above to ensure the agency has sufficient resources to prioritize housing code enforcement and compliance and begin the process of correcting for years of neglect of tenant health and safety. We look forward to working with the Council, DCRA, and other stakeholders to realize a more effective system of housing code inspections and enforcement.

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<sup>19</sup> The Fiscal Year 2020 Budget Support Clarification Amendment Act of 2019, Bill 23-0504, amended and enacted the provisions of the Act related to disclosure of ownership interests in corporate entities – Section 3 of the original Act - and clarified that these provisions have no fiscal impact, so those provisions of the Act have been able to go into effect.



**PENNSYLVANIA AVENUE EAST COMMUNITY COALITION  
FY 21 BUDGET HEARING TESTIMONY  
Committee of the Whole – Council Chair Phil Mendelson  
Office of Planning, Director Andrew Trueblood**

Wednesday, May 27, 2020 – Public Witnesses 9:00 am – 12:00 pm and Government Witnesses 12:00 pm – 3:00 pm – 2 minutes

**Testimony Submitted by:**

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**Title:** President, Fairlawn Citizens Association  
**Address:** 1331 Ridge Place SE  
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**Phone #:** H: 202-678-0291, M: 202-549-7730

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Good Morning Council Chair Mendelson,

My Name is Graylin Presbury.

I am submitting this testimony on behalf of the Fairlawn Citizens Association and the Pennsylvania Avenue East Community Coalition of which Fairlawn is a member. When I moved into this community in the mid-‘80s it was in Ward 6, then after one of the Censuses it was divided between Wards 7 and 8, and after a subsequent Census it is now mostly Ward 8, except for a small sliver of Pennsylvania Ave. But I am not here to talk about the Census and Ward changes.

My testimony is in support of the FY21 Budget submitted by the Office of Planning. We are requesting \$150,000 dollars to update the Pennsylvania Avenue SE Small Area Plan dated January 2008, which is relevant to Pennsylvania Avenue East of the Anacostia River, which is referred to as Penn Ave East in my Testimony. The plan is now 12 years old and needs updating.

Numerous recommendations for revitalization were made for Penn Ave East in this plan, but; unfortunately, there has been little or no implementation.

We are requesting these funds because:

1. Pennsylvania Avenue is one of America’s “Great Streets,” yet when you cross the Sousa Bridge and Anacostia River going east, it has not kept pace with, nor experienced the revitalization that has occurred on the West Side or with other city neighborhoods.
2. The area is under-served by retail amenities, grocery stores, and restaurants.
3. Stakeholders are disproportionately vulnerable to the health and economic dangers of COVID-19 and need help now.
4. The area is a vital commuter corridor that serves over 25,000 DC residents within a one-mile radius, but has no Metro access.

So, in brief, we’re requesting \$150,000 dollars to update the 2008 Penn Ave SE Small Area Plan.

Thank you for this opportunity to speak on this important community issue.



**PENNSYLVANIA AVENUE EAST COMMUNITY COALITION**

**FY 21 BUDGET HEARING TESTIMONY**

**Committee of the Whole – Council Chair Phil Mendelson**

**Office of Planning, Director Andrew Trueblood**

**Wednesday, May 27, 2020 – Public Witnesses 9:00 am – 12:00 pm and Government Witnesses 12:00 pm – 3:00 pm – 2 minutes**

**Testimony Submitted by:**

**Name:** Kyle Murphy

**Address:** 3615 Carpenter Street SE  
Washington, DC

**Phone #:** (202) 905-6704

**Title:** Vice-President, Penn Branch Citizens Civic Association and Member Pennsylvania Avenue East Community Coalition

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Good Morning Council Chair Mendelson,

My Name is Kyle Murphy.

I submit this Testimony as a Ward 7 resident for the last several years, as the current Vice President of the Penn Branch Citizens Civic Association, and as a member of the Pennsylvania Avenue East Community Coalition.

This Testimony supports the FY21 Budget submitted by the Office of Planning. We are requesting \$150,000 dollars to update the Pennsylvania Avenue SE Small Area Plan dated January 2008, relevant to Pennsylvania Avenue East of the River, which will be referred to as Penn Ave East in my Testimony. The plan is now 12 years old and needs updating.

Numerous recommendations for revitalization were made for Penn Ave East in this plan, but; unfortunately, there has been little or no implementation to date.

We are requesting these funds because:

1. Pennsylvania Avenue is one of America's "Great Streets," but it does not look like one on the East Side of the Sousa Bridge.
2. Obsolete, deteriorated, and vacant buildings along the corridor are eyesores and contribute to juvenile delinquency, littering, poverty, and crime.
3. Area business owners, ANC Reps, residents, and other stakeholders are highly receptive to revitalization. A recent community survey found that 91% of 146 respondents support revitalization and a Change.org petition garnered 1,137 signatures of support.
4. DC Income and Property Taxpaying residents, like me, who live along the Penn Ave East Corridor, are entitled to the same or similar amenities enjoyed by DC residents in other areas of the city.

In conclusion, we request \$150,000 dollars to update the 2008 Penn Ave SE Small Area Plan.

**Written Testimony of Quiet Clean DC,  
Delivered to the D.C. Council's Committee of the Whole**

**Oversight and Fiscal Year 2021 Budget Hearings:  
May 27, 2020**

**Department of Consumer and Regulatory Affairs**

Thank you, Chairman Mendelson and Members of the Committee of the Whole, for giving us this opportunity to present our written testimony at your hearing on oversight and the Fiscal Year 2021 budget for the Department of Consumer and Regulatory Affairs.

We're Quiet Clean DC, QCDC for short. QCDC is an organization of concerned D.C. residents that formed five years ago. You may recall we energetically supported the Leaf Blower Regulation Amendment Act of 2017. That Act was adopted by the Council unanimously in December of 2018 and became law in February of last year.

The Act prohibits the sale or operation in the District of gas-powered leaf blowers, other than on federally-owned property, starting in 2022. Among the principal factors motivating the Council to enact the law was its promise to make our city a cleaner, safer, and healthier place where residents and visitors can work, play, live, and enjoy the many benefits D.C. has to offer.

The legislative record compiled in the course of the Council's consideration of the Act established the sometimes-under-appreciated harms caused by gas-powered leaf blowers. These antiquated fossil-fuel-burning, pollution-spewing, ear-shattering machines do enormous harm to our environment and to our physiological and mental health. And they visit disproportionate harm on laborers whose jobs require use of this equipment all the time, those who are commonly among the least resourced in our economy and society.

QCDC applauds the Council for its foresight in adopting the Act. By virtue of that legislation, D.C. became a leader among major U.S. metropolitan areas in balancing 21<sup>st</sup>-century management of tree and yard debris with sound policies to protect the health of the public. It's especially important to look out for the most vulnerable among us: the very young; the elderly; those with compromised respiratory or cardiovascular systems;

and the workers operating leaf-blowing equipment for hours each day, five or six days a week, eight months a year or more.

At the time the Council passed the Act, the accompanying Fiscal Impact Statement identified a funding deficiency of \$291,000 needed to implement the Act's provisions. The funding will be needed by DCRA in FY 2022 to acquire additional personnel, to cover fleet costs, and for information-technology upgrades and equipment.<sup>1</sup>

The District's FY 2020 budget addressed the funding deficiency identified in the FIS and resolved it favorably to implementation of the Act.

The Council is now confronted with the multi-faceted challenges resulting from the current coronavirus pandemic. Those challenges come as a massive public-health emergency and a widespread and deeply-felt economic crisis. You will have to make difficult decisions in crafting our city's FY 2021 budget.

QCDC wants to make sure that in your budget deliberations, the Council is aware of a connection between the COVID-19 disease and the disfavored, obsolescent gas-powered leaf blower.

Last month the T. H. Chan School of Public Health at Harvard University published a study that found a statistically-significant correlation between microscopically small particulates (known as PM 2.5s) of the kind emitted by the two-stroke engines in gas-burning leaf blowers and increased mortality caused by COVID-19 pathogens.<sup>2</sup> Specifically, the study found that long-term exposure to as little as a one microgram increase in the concentration of PM 2.5s is associated with an eight percent increase in the risk of death from COVID-19.

The significance of this study in the context of the current pandemic can hardly be overstated. Given the fact that the typical two-stroke gas-powered leaf blower spews out millions of micrograms of ultrafine

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<sup>1</sup> The FIS is available at: <https://lms.dccouncil.us/downloads/LIMS/37820/Other/B22-0234-Fiscal-Impact-Statement1.pdf>

<sup>2</sup> The Harvard study is available at: [https://projects.iq.harvard.edu/files/covid-pm/files/pm\\_and\\_covid\\_mortality\\_med.pdf](https://projects.iq.harvard.edu/files/covid-pm/files/pm_and_covid_mortality_med.pdf)



particulates each hour,<sup>3</sup> the connection between lethality from the coronavirus pandemic and the use of gas-burning leaf blowers is something the Council must not lose sight of.

The Council demonstrated laudable stewardship by putting the Act on the books. A safer, cleaner, and healthier city is on the horizon for 2022 as a result of your legislation adopted over a year ago. What must not be overlooked in your upcoming and difficult budget determinations is that for a comparatively small investment – under \$300,000 -- the District can erect an important safeguard against future risks of higher rates of death among all who live and work in our shared space.

QCDC urges the Council to preserve the funding needed to implement the Act. Please keep our city safe and its inhabitants healthy.

Thank you for hearing our concerns.

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May 20, 2020

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<sup>3</sup> “National Emissions from Lawn and Garden Equipment,” (Jamie L. Banks and Robert McConnell), presented at the International Emissions Inventory Conference, San Diego, California April 13-16, 2015, available at: <https://www.epa.gov/sites/production/files/2015-09/documents/banks.pdf>; “Exhaust Emission Factors for Nonroad Engine Modeling – Spark Ignition, Report No. NR-010f” (U.S. Environmental Protection Agency), July 2010, EPA-420-R-10-019, available at: <https://nepis.epa.gov/Exe/ZyNET.exe/P10081YF.txt?ZyActionD=ZyDocument&Client=EPA&Index=2006%20Thru%202010&Docs=&Query=&Time=&EndTime=&SearchMethod=1&TocRestrict=n&Toc=&TocEntry=&QField=&QFieldYear=&QFieldMonth=&QFieldDay=&UseQField=&IntQFieldOp=0&ExtQFieldOp=0&XmlQuery=&File=D%3A%5CZYFILES%5CINDEX%20DATA%5C06THRU10%5CTXT%5C00000019%5CP10081YF.txt&User=ANONYMOUS&Password=anonymous&SortMethod=h%7C-&MaximumDocuments=1&FuzzyDegree=0&ImageQuality=r75g8/r75g8/x150y150g16/i425&Display=hpfr&DefSeekPage=x&SearchBack=ZyActionL&Back=ZyActionS&BackDesc=Results%20page&MaximumPages=1&ZyEntry=2>

# The Committee of 100

on the Federal City



May 15, 2020

**Re: Return the Draft Comprehensive Plan to the Office of Planning**

Dear Chairman Mendelson and Councilmembers,

The Council and the administration are understandably consumed right now addressing the impact of the COVID-19 pandemic and the horrific social, economic, and fiscal consequences it has brought to the District, some of which are clearly outlined in the CFO's Revised April Revenue Estimates<sup>1</sup>.

The Office of Planning submitted the draft Comprehensive Plan for your consideration on April 23<sup>rd</sup>.

The Committee of 100 on the Federal City urges you to return the draft Comprehensive Plan to the Office of Planning for the following reasons:

- The COVID-19 impact on the budget, current and fiscal year 2021, demands the Council's undivided attention right now.
- The draft Comprehensive Plan is fundamentally based on the assumption that the District will experience "a greater pace of growth" and fails to take into proper consideration for planning for the impact of the pandemic including its likely impacts on population growth, employment, and revenue. More importantly, for now it *cannot* do so. It may well be many months before the city can fully gauge the nature and extent of this crisis's effect, which could fundamentally change how we experience education, retail, employment, and recreation. The Framework Element and the amendments must outline a city plan that reflects our **real** challenges. It would be foolish to expend time and effort on a new plan of which critical components may well be obsolete upon adoption.
- The current version of the Comprehensive Plan is in force and will serve us well as residents, businesses and the government absorb and analyze the assumptions embedded in the amendments against the realities exposed by and resulting from the COVID-19 pandemic.

Thank you for your consideration of and attention to this letter.

A handwritten signature in purple ink that reads "Kirby Vining".

Committee of 100 on the Federal City, Kirby Vining, Chair

**Founded 1923**

**Chair**

Kirby Vining

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<sup>1</sup><https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/April%20Revenue%20Estimate%20Letter%20042420.pdf>



# Advisory Neighborhood Commission 5E

[www.anc5edc.org](http://www.anc5edc.org)

## ANC 5E RESOLUTION No. 2020-004

### IN SUPPORT OF “THE BLOOMINGDALE HISTORIC DISTRICT TARGETED HISTORIC PRESERVATION ASSISTANCE AMENDMENT ACT OF 2020” (Bill # B23-0670)

**WHEREAS**, in 1978, the DC Council enacted DC’s first comprehensive historic preservation ordinance, *Historic Landmark and Historic District Protection Act of 1978*, thereby codifying local processes, mechanisms and criteria for supporting, designating, and regulating the preservation and protection of those DC sites, buildings and neighborhoods of historic significance due their distinguishing architectural style, artistry, archeological knowledge and understanding of historical events or cultures, and/or association with significant persons, history and/or events; and

**WHEREAS**, in 2007, the DC Council amended that Act and authorized the establishment of the DC Historic Preservation Targeted Homeowners Grant Program; and

**WHEREAS**, in 2018, Ward 5 Councilman Kenyan McDuffie and Council Chairman Phil Mendelson introduced a Bill to the DC City Council to amend the 1978 Act to “...provide that grants available to assist homeowners with the rehabilitation of historic property under the *Targeted Homeowner Grant Program* may be used to rehabilitate a structure that contributes to the character of the Bloomingdale Historic District...”

**WHEREAS**, the Homeowner Grant Program provides grants of up to \$25,000 to reduce the burden on certain property owners of designated historic properties of additional material, fabrication, installation costs that may be associated with exterior repairs that are consistent with historic district design guidelines, with such costs most frequently associated with the repair or replacement of windows and doors, but may involve other types of “important and prominently visible” exterior repairs and replacements (e.g., exterior painting of wood siding and/or trim; repair/replacement of front porch or stairs; roof repair/replacement, etc.); and

**WHEREAS**, major eligibility criteria for the Homeowner Grant are that the homeowner must: (1) reside in a Historic District where he/she occupies a house that is noted as “contributing” to that District’s character; (2) be a current recipient of a Homestead Deduction on the house’s property tax; (3) have a gross household income that does not exceed 120% of the Area Median Income (AMI) – for example, in 2019, not to exceed \$101,892 for a household of 1, or \$145,560 for a household of 4; and

**WHEREAS**, the Homeowner Grant involves 3 categories of required personal homeowner contribution (‘match’) to the total cost of the repair/renovation effort:

- 0% match for homeowners with gross 2019 household incomes of, for example. less than \$50,946 for a household of 1, or less than \$72,780 for a household of 4;
- 25% match for homeowners with gross 2019 household incomes of, for example, between \$50,947 and \$78,419 for a household of 1, or between \$72,781 and \$109,170 for a family of 4;

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# Advisory Neighborhood Commission 5E

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- 50% match for homeowners with a 2019 gross household income, for example, between \$76,420 and \$101,892 for a household of 1, or between \$109,171 and \$145,560 for a household of 4; and

**WHEREAS**, in 2019, there were approximately 35 designated Historic Districts in DC, with approximately 15 of these having requested and secured City Council approval for inclusion in the Targeted Homeowners Grant Program; and

**WHEREAS**, in July 2018, after approximately 3 years of neighborhood discussion on historic district designation, the DC Historic Preservation Review Board (HPRB) unanimously approved Bloomingdale’s designation as a Historic District with all but 8 of its 1704 buildings viewed as “contributing historic resources”, with the addresses of each of these resources listed on the National Register of Historic Places in November 2018, resulting in Bloomingdale becoming the largest neighborhood stock of historic structures in the City with a greater concentration of historic residences than 99% of all U.S. neighborhoods.

**NOW THEREFORE, BE IT RESOLVED**, that Advisory Neighborhood Commission 5E strongly supports the DC Council’s approval of Bill B23-0670, The Bloomingdale Historic District Targeted Historic Preservation Assistance Amendment Act of 2020, which authorizes inclusion of the Bloomingdale Historic District as an eligible participant in the Homeowners Grant Program, thereby enabling Bloomingdale homeowners of lower-, moderate-, and middle-income status to apply for grants to repair or renovate the exterior of their homes, and thus to significantly contribute to the preservation, enhancement and improvement of DC’s historic resources; and

**BE IT FURTHER RESOLVED**, that Advisory Neighborhood Commission 5E additionally supports Bill 23-0670 as an affirmative response to some Bloomingdale residents’ concern that historic district designation would result in exterior repair/replacement costs that would be burdensome for Bloomingdale’s lower income and elderly residents, and thereby contribute to their displacement. Enactment of Bill 23-0670 will reduce such displacement and promote neighborhood diversity and stability in the rapidly growing and gentrifying Bloomingdale neighborhood; and

**BE IT FURTHER RESOLVED**, that Advisory Neighborhood Commission 5E, in consideration of Bloomingdale’s exceptionally large number of “contributing resources” (buildings) that highlight the unique historic and architectural character of that neighborhood, urges the DC City Council to strongly consider increased funding for the *DC Historic Preservation Targeted Homeowners Grant Program* in FY 21 and FY22.

**THIS RESOLUTION** came before ANC 5E at a duly noticed and called (virtual) public meeting of the Commission on April 21, 2020. ANC 5E consist of 10 Commissioners, of which the presence of six (6) constitutes a quorum. With 10 Commissioners present, by a vote of 10 in favor, 0 opposed, and 0 abstentions, ANC 5E voted to adopt this Resolution.

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# Advisory Neighborhood Commission 5E

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Respectfully Submitted,

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**PENNSYLVANIA AVENUE EAST COMMUNITY COALITION  
FY 21 BUDGET HEARING TESTIMONY**

**Committee of the Whole – Council Chair Phil Mendelson**

**Office of Planning, Director Andrew Trueblood**

**Wednesday, May 27, 2020 – Public Witnesses 9:00 am – 12:00 pm and Government Witnesses 12:00 pm – 3:00 pm**

My Name is M. Viveca Miller.

I submit this Testimony as a Member of the Pennsylvania Avenue Economic Development Committee (PAEEDC). I am a Ward 7 resident of 17 years and a member of the Pennsylvania Avenue East Community Coalition (PAECC).

This Testimony supports the Fiscal Year 2021 Budget submitted by the **Office of Planning** under the leadership of Director, Andrew Trueblood. We are requesting \$150,000 to update the section of the Pennsylvania Avenue SE Corridor Land Development Plan (Small Area Plan) dated January 2008, relevant to Pennsylvania Avenue East of the River.

Why are we requesting these funds? Because Pennsylvania Avenue has a designation as one of America’s “Great Streets,” yet when you cross the Sousa Bridge to Pennsylvania Avenue East of the River, it has not kept pace with nor experienced the revitalization that has occurred on Pennsylvania Avenue West of the River or other city neighborhoods.

The Office of Planning completed a “Pennsylvania Avenue SE Corridor Land Development Plan (Small Area Plan)” in January 2008. This plan was the product of an 18-month public planning process initiated in September 2006 by the Office of Planning, in collaboration with residents, community stakeholders, and District government agencies. Numerous recommendations for revitalization were made for Pennsylvania Avenue East of the River; unfortunately, there has been little or no implementation to date. The plan is now 12 years old and needs updating. Our community is ready to build off the previous recommendations and create the groundwork for future revitalization. We want to make sure that prior processes are capitalized on to the fullest and result in a tangible investment.

Pennsylvania Avenue East of the River is under-served by retail amenities, grocery stores, and restaurants. We have seen the successes of the Office of Planning’s Small Area Planning efforts in other parts of the city and we are eager to apply that process to the Pennsylvania Avenue East Corridor.

Pennsylvania Avenue East of the River is a vital commuter corridor that serves over 25,000 DC residents within a one- mile radius but has no Metro access. Obsolete, deteriorated, and vacant buildings along the corridor are eyesores and contribute to juvenile delinquency, littering, poverty, and crime that impede the provision or expansion of safe, sanitary neighborhoods with thriving local businesses and housing.

Area business owners, ANC Representatives, residents, and other stakeholders are highly receptive to the Revitalization of Pennsylvania Avenue East of the River and provide the board capacity and

volunteer base needed to sustain operations. A recent community survey found that 91% of 146 respondents support revitalization and a Change.org petition garnered 1,137 signatures of support.

DC Income and Property Taxpaying residents, like me, who live along the Pennsylvania Avenue East Corridor, are entitled to the same or similar amenities enjoyed by DC residents in other areas of the city. In conclusion, we request funding to update the section of the Pennsylvania Avenue SE Corridor Land Development Plan (Small Area Plan) dated January 2008, relevant to Pennsylvania Avenue East of the River.

Thank you for this opportunity to speak on this critical community issue.



**Government of the District of Columbia  
ADVISORY NEIGHBORHOOD COMMISSION 3/4G**

CHEVY CHASE, BARNABY WOODS, HAWTHORNE

**COMMISSIONERS**

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**ANC 3/4G Testimony Before the  
Committee on Recreation and Youth Affairs,  
Committee on Education,  
Committee on Housing and Neighborhood Revitalization, and  
Committee of the Whole  
Budget Hearing on the  
Department of Parks and Recreation, DC Public Library,  
Office of Planning, and Housing Production Trust Fund  
May 27, May 29, June 4, and June 8, 2020**

Chairpersons Mendelson, White, Grosso, and Bonds and members of the Committee on Recreation and Youth Affairs, the Committee on Education, the Committee on Housing and Neighborhood Revitalization, and the Committee of the Whole, I am Randy Speck, Chair of ANC 3/4G (Chevy Chase), and I am testifying on behalf of our Commission, which authorized this testimony at its May 19, 2020 meeting by a vote of 6 to 0 (a quorum being 4).

Planning for the future of the Chevy Chase Community Center, the Chevy Chase Library, and the Chevy Chase commercial district from Chevy Chase Circle to Livingston Street (the “Chevy Chase Gateway”) transcends the scope of any one Council committee



or District agency. While the Council oversees the Department of Parks and Recreation (DPR), the DC Public Library (DCPL), the Office of Planning (OP), and the Housing Production Trust Fund (HPTF) through four committees, our community's vision for the Chevy Chase Gateway is based on a holistic approach that transcends those boundaries.

The Commission asks the Council to unify components of the proposed FY 2021 budget to address the broader issue of how to achieve our community's recently expressed<sup>1</sup> goals effectively and efficiently:

- We need more affordable housing that will promote income diversity and enrich our civic life;
- We can and should accommodate population growth while also preserving our neighborhood's hallmark livability and assuring that new development has a compatible scale, function, and character with the surrounding structures;
- We should enhance the space around the Chevy Chase Public Library and the Chevy Chase Community Center to create an active public space;
- Modernization of the Chevy Chase Public Library should include mixed-use/co-location with affordable housing development; and
- A Small Area Plan is necessary to guide long-range development, improve our neighborhood, achieve citywide goals, and attain economic and community benefits.

The Mayor's proposed budget includes four elements that affect our ability to achieve these objectives.

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<sup>1</sup> ANC 3/4G identified these goals in its February 10, 2020 resolution on the proposed Comprehensive Plan amendments, available at <https://bit.ly/2Ir1Gzb> (Comp Plan Resolution). The community had extensive input in developing these goals, including five public meetings between November 2019, and January 2020, and on-line survey in December 2019, with 682 respondents.

1. The DPR capital budget includes a full funding cost of \$19.506 million to modernize the Chevy Chase Community Center with expenditures scheduled through FY 2021.<sup>2</sup> DPR has begun design work but advised the ANC that because of cost increases since the budget was developed, this funding level is no longer considered sufficient to meet the needs that the community has identified.
2. The DCPL capital budget includes a full funding cost of \$20.753 million to modernize the Chevy Chase Community Library, with all expenditures scheduled in FY 2024.<sup>3</sup>
3. OP's proposed operating budget for FY 2021 includes a 23% reduction from FY 2020, which is achieved primarily by cutting back contracting for Design and Neighborhood Planning.<sup>4</sup> OP typically uses these contracting funds to develop Small Area Plans, but the proposed budget has no funds for that activity.
4. The proposed budget "maintains \$100 million in the Housing Production Trust Fund in FY 2020 and FY 2021 to create 1,000 new units of affordable housing and continue investments in affordable housing production and preservation."<sup>5</sup> The Mayor's goal of 1990 affordable housing units in Rock Creek West<sup>6</sup> — which includes our ANC — has not changed.

ANC 3/4G urges the Council to consider these distinct parts of the budget as an integrated whole that can further the District's and the community's objectives. Rather

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<sup>2</sup> FY 2021 to FY 2026 Capital Improvements Plan (Capital Plan), Volume 5, page 202, <https://bit.ly/3g5wSni>.

<sup>3</sup> Capital Plan, Volume 5, page 43.

<sup>4</sup> FY 2021 Proposed Budget and Financial Plan, Agency Budget Chapters, Part 1, Volume 2, page B-69, <https://bit.ly/3g5wSni>.

<sup>5</sup> FY 2021 Budget May 18, 2020 Slide Presentation at page 25, available at <https://mayor.dc.gov/page/fy2021-budget-dchope--mayor-bowser's-commitment-give-every-washingtonian-fair-shot>.

<sup>6</sup> Mayor's October 15, 2019 Housing Equity Report, page 5, available at <http://bit.ly/2phiFxW>.

than addressing each budget item through four committee silos, the Council should modify the proposed budget in four ways.

First, the Community Center and the Library should be treated as a single project. The two buildings are on one campus and share a common space between them. They have some similar functions that use similar facilities — e.g., both the Community Center and the Library have public meeting rooms and require parking space for patrons. The buildings currently face each other, and the new design should reflect a single project that maximizes all aspects of the buildings — e.g., design, construction, and timing. If developed separately, construction of one building will inevitably affect what goes on in the other building, and sequential construction will disrupt that small area for three years or more. Coordinating the design and construction of both buildings in one project should create efficiencies and lower overall costs. The Community Center project has barely begun, so little will be lost by combining the projects at this stage. Despite separate “ownership” by DPR and DCPL, it is in the District’s overwhelming interest to consolidate these projects, to merge their budgets, and to develop a showcase for the District.

Second, the capital expenditure for the Library should be moved up from FY 2024 to FY 2023 to accommodate this unified approach so that the consolidated project can proceed on a unified schedule. The Community Center modernization is urgently needed, but the benefits of a coordinated project with the Library justify a delay until 2023.

Designing and building this new facility will permit both projects to move forward more expeditiously and efficiently.

Third, neither the Community Center nor the Library should be designed without a Small Area Plan that will guide the future of the Chevy Chase Gateway. The Community Center/Library complex will provide an anchor for developing mixed use low-density commercial and mixed-use residential in this area. OP's proposed amendment to the Comprehensive Plan contemplates just such a planning effort before there is any new development.<sup>7</sup> OP's substantially reduced budget should not be permitted to preclude the essential neighborhood planning that must precede design and construction of the Community Center and Library. By using its existing staff — augmented by contributions from university graduate programs and the expertise of residents in our community — OP may need as little as \$100,000 in its FY 2021 budget to produce a high-quality Small Area Plan. This small investment can produce abundant dividends.

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<sup>7</sup> OP's proposed Generalized Policy Map (<https://bit.ly/2TvxCZ6>) identifies the Chevy Chase Gateway as part of a Future Planning Analysis Area defined as

areas of large tracks or corridors where future analysis is anticipated to ensure adequate planning for equitable growth. . . . Planning analyses usually include, but are not limited to, Small Area Plans, Development Frameworks, Technical Studies, Retail Strategies, or Design Guidelines. Such analysis should precede any significant zoning change in this area. The planning process should evaluate current infrastructure and utility capacity against the full build out and projected population growth. Planning should focus on issues most relevant to the community that can be effectively addressed through a neighborhood planning process.

Finally, the Community Center/Library should be a model for incorporating mixed-use residential that can help to address the District's acute housing needs. Our Commission's Comprehensive Plan resolution advocated for "a policy that the District will use its publicly-owned property at the Chevy Chase Public Library for future development of a new library that also includes mixed-income housing, with emphasis on affordable and workforce housing and on housing for public employees (e.g., first responders, librarians, and teachers)." By combining the Community Center and Library projects, the District can maximize its owned property to encourage this housing. To the greatest extent possible, the HPTF should assist non-profit and for-profit affordable housing developers to participate in this project.

This is an opportunity that the Council should not miss. By combining the Community Center and Library modernization into a unified project on a consolidated schedule, by facilitating creation of a Small Area Plan, and by promoting affordable and workforce housing, the Council can kick-start a community-led effort to address the needs of a growing, diverse population while maintaining the vibrant, livable neighborhoods that exemplify our City and provide a visual beacon for the Chevy Chase Gateway as it welcomes visitors into the District.

## Good morning Councilmember Mendelson members of the committee of the whole:

my name is Robert Warren life long DC resident and the current director of the organization people for fairness coalition the co-chair of the consumer engagement work group for the interagency Council on homelessness here Washington DC. people for fairness coalition is also a member group of DC Grassroots planning organization working on giving feedback and suggestions to DC comprehensive plan.

people for fairness coalition's primary goal is to bring about a public policy focusing in on universal housing rights for DC residents who would qualify for said housing vouchers, those most vulnerable residents Who We Are now seeing affected the most with high rates of infection and some deaths in the homeless community, when we've already had a 100% increase in homeless deaths from 2018 to 2019. during this covid-19 Health Emergency we need to focus on housing our most vulnerable residents now more than ever Before.

The mayor's current budget proposal is a recipe for more homeless deaths and hardships for our most vulnerable residents here in Washington DC. In a time when we need a real Morel budget with a racial Equity lens so we can stop the spread of this covid-19 virus amongst our most vulnerable residents with that said as always which has been stated housing is healthcare for many of our most vulnerable residents

The DC comprehensive plan has specific recommendations doing Health emergencies one of them being is to try to house our most vulnerable residents in place and the most safest place for I'll most vulnerable resident is to have there on place of residence in Washington DC the current draft before you states:

**(Start**)-[ 508.3 The benefits of creating safer and more sustainable housing for all

residents go beyond reducing the risk to life and property from shocks or stresses. It decreases demands on emergency response, such as allowing people to shelter in place versus

evacuating Washington, DC or going to public shelters during disaster events. **-end**) It

also decreases the potential for disruptive impacts on vital services, commerce, and the economy by reducing the number of vulnerable people who will end up being physically displaced by economic or other forces following such events. 508.3"]

the comp plan draft also states in "Policy H-2.1.7: Direct Rental Assistance Develop and fund programs that provide direct rental subsidies for extremely low- income households (earning less than 30% percent of areawide median income MFI), including persons

experiencing homelessness individuals and families in need of permanent shelter or rapid rehousing. Continue support for federally funded rental assistance programs, including public affordable housing, project- based Section 8, and the Housing Choice Voucher Program. 510.11

We also want to stress the importance of implementing the Vacant to Virus-Reduction Plan which has identified As of November 15, 2019, DC had almost 10,000 vacant apartment units across about 3000 buildings. See [CFO document, p. 9 \(Dec. 20, 2019\)](#).

Thank you for the opportunity to testify.

Notes to use during question and answer if there is one

“ 508.3 The benefits of creating safer and more sustainable housing for all residents go beyond reducing the risk to life and property from shocks or stresses. It decreases demands on emergency response, such as allowing people to shelter in place versus evacuating Washington, DC or going to public shelters during disaster events. It also decreases the potential for disruptive impacts on vital services, commerce, and the economy by reducing the number of vulnerable people who will end up being physically displaced by economic or other forces following such events. 508.3”

Policy H-2.1.7: Direct Rental Assistance

Develop and fund programs that provide direct rental subsidies for extremely low- income households (earning less than 30% percent of areawide median income MFI), including persons experiencing homelessness individuals and families in need of permanent shelter or rapid rehousing. Continue support for federally funded rental assistance programs, including public affordable housing, project- based Section 8, and the Housing Choice Voucher Program. 509.11510.11

**PROGRAMS TO EMPHASIZE IN DEVELOPING / INCREASING AFFORDABLE HOUSING FOR INDIVIDUALS AND FAMILIES EXITING HOMELESSNESS**

Local Rent Supplement Program (Action H-2.1.B) – Expand the LRSP program for both tenant and new project based support targeted toward public and private held extremely low-income housing for formerly homeless individuals and families. Note that the program the program has been expanded over the past several years from 2,800 households to over 5,700 and a total cost of \$100 million per year. [509.4]

Direct Rental Assistance (Policy H-2.1.7) – Develop and fund programs that provide direct rental subsidies for extremely low-income households (30% MFI and below).

- VACANCIES
  - As of November 15, 2019, DC had almost 10,000 vacant apartment units across about 3000 buildings. See [CFO document, p. 9 \(Dec. 20, 2019\)](#).



## Apartments

### ***Apartment vacancy rates are stable and rents are a little higher***

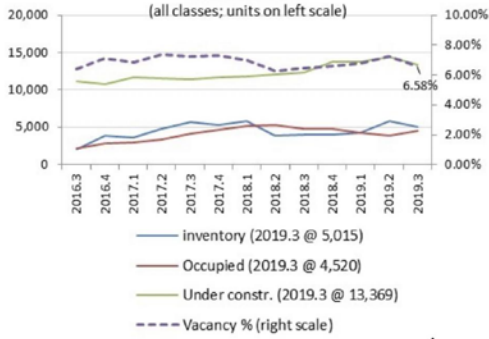
• According to CoStar, for the the 12-month period ending September occupied apartments rose by 4,520 (3.3%) from the prior year. The overall vacancy rate was 6.6% and average rents were 2.8% higher.

• Class A units accounted for 26.3% of all units in the city and 40.5% of vacant ones. They also accounted for 91.8% of the net additions to apartment inventory over the past year, 96.5% of the increase in occupied units, and 83.6% of the units under construction.

• Over the past year effective rent in all classes of apartments increased: Class A by 3.1%, Class B by 2.5%, and Class C by 2.6%.

• Vacancy rates in September: Class A 10.2%, Class B 5.2%, and Class C 5.5%.

DC Apartment units: (1) 12-month change in inventory and occupancy, (2) number under construction, and (3) vacancy rate : 2016.3 to 2019.3

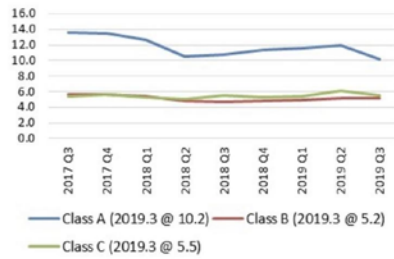


**Table 15. Apartment units in DC: 2013 to 2019.3**

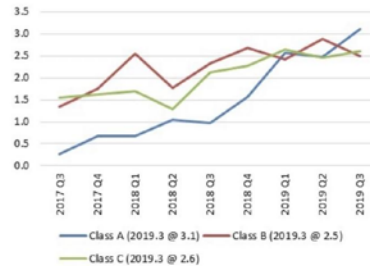
	Level				Change from prior period						Average rent		1 yr ch in units under constr.
	number		% vacant	% ch	Inventory		Occupied		Vacant		per unit	1 yr % change	
	Inventory	Occupied			Vacant	units	% ch	units	% ch	units			% ch
2013	124,917	115,707	9,210	7.4	3,830	3.2	2,175	1.9	1,655	21.9	\$1,628	2.1	-1,317
2014	129,606	119,710	9,896	7.6	4,689	3.8	4,003	3.5	686	7.4	\$1,681	3.3	-24
2015	132,013	123,371	8,642	6.5	2,407	1.9	3,661	3.1	-1,254	-12.7	\$1,780	5.9	3,248
2016	135,914	126,227	9,687	7.1	3,901	3.0	2,856	2.3	1,045	12.1	\$1,830	2.8	743
2017	141,255	130,906	10,349	7.3	5,341	3.9	4,679	3.7	662	6.8	\$1,872	2.3	941
2018	145,234	135,678	9,556	6.6	3,979	2.8	4,772	3.6	-793	-7.7	\$1,913	2.2	2,055
2019.3	149,337	139,511	9,826	6.6	5,015	3.5	4,520	3.3	495	5.3	\$1,971	2.8	1,477
1 Q ch	851	1811	-960								\$7		

Source: CoStar, as of November 15, 2019.

Vacancy rates in DC apartments by class: 2017.3 to 2019.3



1-year % change in average effective rent in DC apartments by class: 2017.3 to 2019.3



**Table 16. Market rate apartment units in DC, Classes A, B, and C: 2019.3**

Class	Inventory					Occupied units			Effective monthly rent		Under construction		
	Buildings	Number	1 yr ch	% ch	% vacant	Number	1 yr ch	% ch	\$ per month	1 yr % ch	Buildings	Units	Avg. size
Class A	188	39,267	4,605	13.3	10.2	35,283	4,363	14.1	\$2,688	3.1	44	11,175	254
Class B	836	52,042	1,132	2.2	5.2	49,374	814	1.7	\$1,893	2.5	21	2,181	104
Class C	1,871	57,896	-722	-1.2	5.5	54,738	-657	-1.2	\$1,380	2.6	2	13	7

Source: CoStar. Includes units in private sector buildings with 5 or more units. Includes affordable units. Vacancy rate is unoccupied units as % of inventory. Data as of Nov. 15, 2019. The total amounts for apartments in table 15 includes a small number of units not shown here.