COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
COMMITTEE REPORT
1350 Pennsylvania Avenue, NW, Washington, DC 20004

TO: All Councilmembers

FROM: Chairman Phil Mendelson
Committee of the Whole

DATE: October 6, 2020

SUBJECT: Report on Bill 23-456, "Abatement and Condemnation of Nuisance Properties Act of 2020"

The Committee of the Whole, to which Bill 23-456, the "Abatement and Condemnation of Nuisance Properties Act of 2020"[1] was referred, reports favorably thereon and recommends approval by the Council.

CONTENTS

I. BACKGROUND AND NEED

On October 1, 2019, Bill 23-456, the "Abatement and Condemnation of Nuisance Properties Act of 2019" was introduced by Chairman Mendelson at the request of the Attorney General. Bill 23-456 would authorize the Office of the Attorney General to issue subpoenas for documents and testimony as part of a receivership investigation and clarifies the basis for the appointment of a Housing Receiver, authorizes the Court to order anyone in the care and control of the property to contribute funds in excess of the rents to abate violations, provides for the relocation of displaced tenants and the upkeep and debts of the building while in receivership, and establishes when a receivership can be terminated and clarify when the court can enjoin the respondents.

[1] Formerly titled the "Abatement and Condemnation of Nuisance Properties Act of 2019."

Tenant Receivership Act

The Tenant Receivership Act (TRA) is a District law that allows the Attorney General to ask a judge to appoint a "Receiver" to address chronic health and safety issues at a rental property. A receiver is a neutral third party who takes control of the property, makes all decisions about its management and operation, and ensures necessary repairs are made. A receiver must be a person or company with experience managing rental properties, as well as possessing the knowledge and skills to make to assess what repairs are needed and to hire and supervise professionals to make repairs.

The TRA applies to cases where the life, health, and safety of tenants are at risk due to chronic neglect of the property by the owner or manager. A judge can appoint a receiver if one of the following things are true:

- The Department of Consumer and Regulatory Affairs has cited the property for code violations that present a risk to the health, safety, and security of tenants and the owner or manager has failed to correct the violations in the specified time frame; or
- A property owner or manager has engaged in a pattern of neglect for more than 30 days.

A "pattern of neglect" includes evidence such as rat or pest infestations, the presence of mold in violation of mold assessment and remediation standards (D.C. Official Code § 8-241.01 *et seq*.), or roof or plumbing leaks, that show that the owner or manager has maintained the property in a state of serious disrepair.[2] If the court finds that either of the conditions above is true and appoints a receiver, the receiver will conduct an assessment of needs at the property and creates a plan for fixing violations. The abatement plan is submitted to the court for review by the judge and parties to the case. Once all necessary repairs have been made pursuant to the abatement plan, the receivership is ended by the court. In conjunction with filing a request for a receiver in TRA cases, the Attorney General also files a consumer protection claim. A consumer protection claim allows the Attorney General to get repayments for tenants for the rent they paid while living in dangerous and unhealthy conditions caused by the neglect of the property owner or manager.

Since 2016, the Office of Attorney General has filed 11 TRA cases. Several of these cases involve properties that were owned by Sanford Capital, a development company that once owned more than 65 buildings in the District.[3] In one Sanford owned property, 84 separate violations of the housing code were cited by a DCRA inspector, including cracked walls, vermin infestations, lack of heat in several units, and missing smoke detectors and fire extinguishers.[4] In six of the 11 TRA cases, a receiver has been appointed. For these receivership cases, the courts have ordered property owners to pay a total of $3.5 million to the receiver for repairs, $3 million of which has been collected.[5]

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[2] D.C. Official Code § 42–3651.02(b).
[3] Natalie Delgaldillo, "Accused Slumlord Sanford Capital Signs Million Dollar Settlement With D.C. Attorney General's Office," DCist, (November 13, 2019), https://www.washingtoncitypaper.com/news/article/20850914/life-is-hell-for-tenants-of-giant-dc-slumlord-sanford-capital.
[4] *D.C. v. Terrace Manor LLC et al.*, Memorandum of Points and Authorities in Support of District of Columbia's Motion for Contempt, pgs. 2-3.
[5] As of March 24, 2020. This is the amount ordered and collected that is in excess of rents.

Bill 23-456

As introduced, Bill 23-456 would make several changes to the TRA. First, it would strike language in D.C. Official Code § 42–3651.02(b) and define "serious threat to the health, safety, or security of tenants" to include vermin or rat infestations, filth or contamination, inadequate ventilation, illumination, sanitary, heating or life safety facilities, inoperative door or window locks, and other conditions that constitute hazards to tenants, occupants and the public. This change will provide clarity on the specific types of violations that warrant receivership, many of which have been present in cases filed by the OAG. In the case of Congress Heights, for instance, the violations included inoperable fire alarms and fire extinguishers, broken doors, rodent and bedbug infestations, and accumulation of trash.[6]

Second, the bill would allow the Attorney General or their designee to issue subpoenas to investigate properties to determine whether the adequate grounds exist to file a petition to appoint a receiver or to determine if a party to receivership is maintaining other properties in a state of disrepair. It also grants the court the authority to enjoin respondents from actions or practices at other properties. This will ensure that the OAG has any evidence it needs for a receivership petition when it files a TRA case and brings it in line investigative authority of other statutes such as the Consumer Protection Procedures Act. It will also enable the OAG to investigate other properties owned by the individual or company that is a party to the case. Two properties put under receivership by the court in TRA cases since 2016, Terrace Manor and Congress Heights apartments, were owned by Sanford Capital.[7]And the OAG recently settled with Sanford Capital on another property for back rent and payment of fines associated with housing code violations.[8] These cases highlight the need for the OAG and courts to consider investigation and enforcement at other properties in a respondents' portfolio.

Third, the bill would require owners of the subject rental housing in a receivership case to contribute funds in excess of rents for abatement, relocating and maintain tenants displaced during the implementation of the abatement plan, and satisfying upfront receivership costs. Additionally, the bill would require owners to refund at least half, but not more than two-thirds of any tenants rent up to three years before the date the receivership was granted for any period that the District of Columbia presents evidence that the rental housing accommodation suffered from a serious state of disrepair. As noted earlier in the report, the OAG currently seeks back rent through consumer protection complaints. This would explicitly allow the OAG to collect back rent through the tenant receivership process.

Finally, the bill would clarify when termination of a receivership may take place. The new subsection (a)(1) in D.C. Official Code § 42-3651.07 would specifically prohibit termination of a receivership until the District has been reimbursed for any expenses related to the appointment of a receiver, abatements performed by the District or on its behalf, and all fines or fees owed to the District for code violations at the property.

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[6] *D.C. v. 1309 Alabama Ave LLC et al.,* Petition and Complaint for Appointment of Receivership and for Declaratory and Injunctive Relief, pgs. 6-7.
[7] See *D.C. v. Terrace Manor LLC et al.*, and *D.C. v. 1309 Alabama Ave LLC et al.*
[8] See *D.C. v. 315 Franklin LLC et al.*, Consent Order and Judgment.

The Committee Print inserts language in D.C. Official Code § 42-3651.01 that ensures that receivership cases do not preclude other housing code violation claims or defenses by tenants and tenant associations. The Committee believes this language is important, since the OAG may not be able to reach every tenant or litigate every claim on their behalf. If a tenant has claims that are not included in an OAG case, they should be able to pursue those claims as an individual or in concert with a tenant association. The Committee Print also removes the two-thirds cap for payment of back rent. There may be circumstances where more than two-thirds is warranted, and the court should have the discretion to award a higher amount in those cases.

II. LEGISLATIVE CHRONOLOGY

October 1, 2019	Bill 23-456, the "Abatement and Condemnation of Nuisance Properties Amendment Act of 2019" is introduced by Chairman Mendelson at the request of the Attorney General.
October 8, 2019	Bill 23-456 is "read" at a legislative meeting; on this date the referral of the bill to the Committee of the Whole is official.
October 11, 2019	Notice of Intent to Act on Bill 23-456 is published in the *District of Columbia Register.*
December 27, 2019	Notice of a Public Hearing on Bill 23-456 is published in the *District of Columbia Register*.
January 28, 2020	The Committee of the Whole holds a public hearing on Bill 23-456.
October 6, 2020	The Committee of the Whole marks-up Bill 23-456.

III. POSITION OF THE EXECUTIVE

Ernest Chrappah, Director of the Department of Consumer and Regulatory Affairs, testified at the Committee's public hearing on January 28, 2020. Director Chrappah did not speak directly to Bill 23-456. Instead, he advocated for the Committee to hold a hearing on Bill 23-14, the "Landlord Accountability Through Expedited Receivership Amendment Act of 2019." Bill 23-14 is substantially similar to Bill 23-456, although it contains several sections not in Bill 23-456.

IV. COMMENTS OF ADVISORY NEIGHBORHOOD COMMISSIONS

The Committee did not receive comments from any Advisory Neighborhood Commissions (ANC) regarding this bill.

V. SUMMARY OF TESTIMONY

The Committee of the Whole held a hearing on several bills, including Bill 23-456, on Tuesday, January 28, 2020. The testimony summarized below pertains to Bill 23-456. Copies of written testimony are attached to this report.

Elizabeth Oquendo, Policy Attorney with Children's Law Center, testified support of the bill. Ms. Oquendo noted that the bill expands the Attorney General's pre-suit authority in receivership cases, which will allow cases to move towards resolution faster.

Beth Harrison, Supervising Attorney with Legal Aid Society of D.C., testified on behalf of Rachel Rintelmann in support of the bill. Ms. Rintelmann's suggested that the Committee include language that would ensure any recovery by the Attorney General is without prejudice to tenants' claims and defenses.

Jimmy Rock, Assistant Deputy Attorney with the Office of the Attorney General, testified in support of the bill. Mr. Rock provided an overview of the work of the Public Advocacy Division on TRA cases since 2016. He noted that the bill amends the TRA in four ways. First, it enhances the OAG's pre-suit investigative tools. Second, it clarifies the Superior Court's powers in connection with funding and implementing a Receivership. Third, it allows the Superior Court to award back rent to tenants forced to live in neglected housing. Fourth, it clarifies the Superior Court's powers in connection with ending a Receivership. Mr. Rock said that all of these amendments are based on the lessons they have learned litigating and enforcing TRA cases.

Ernest Chrappah, Director of the Department of Consumer and Regulatory Affairs, testified on behalf of the Executive in opposition to the bill. His testimony is summarized in Section III.

VI. IMPACT ON EXISTING LAW

Bill 23-456 amends D.C. Official Code § 42-3651.01 *et seq.* to make changes to the tenant receivership process. The bill would authorize the Office of the Attorney General to issue subpoenas for documents and testimony as part of a receivership investigation and clarifies the basis for the appointment of a Housing Receiver, authorizes the Court to order anyone in the care and control of the property to contribute funds in excess of the rents to abate violations, provides for the relocation of displaced tenants and the upkeep and debts of the building while in receivership, and establishes when a receivership can be terminated and clarify when the court can enjoin the respondents.

VII. FISCAL IMPACT

The attached fiscal impact statement from the District's Chief Financial Officer states that funds are sufficient in the FY 2019 through FY 2022 budget and financial plan to implement the bill.

VIII. SECTION-BY-SECTION ANALYSIS

Section 1 — Short title.

Section 2 — (a) Ensures receivership cases do not impede a tenant or tenant association's ability to pursue a case against a property owner for violation of the housing code.

(b) Defines what constitutes a "serious threat to the health, safety, or security of the tenants."

(c) Grants the Attorney General authority to issue subpoenas for the production of documents, inspection of the premises, witness testimony, sworn written responses to questions to determine whether adequate grounds exist to file a petition for the appointment of a receiver.

(d) Allows the court to enjoin respondents' actions, practices, or patterns of neglect at any rental properties owned by the respondent, establishes a monitoring period for abatement plans, and requires the court to order the respondent to contribute funds above rents for specific purposes.

(e) Replaces the phrase "Corporation Counsel" with the "Office of the Attorney General for the District of Columbia."

(f) Establishes grounds for when a receivership may be terminated.

Section 3 — Fiscal impact statement.

Section 4 — Effective date.

IX. COMMITTEE ACTION

X. ATTACHMENTS

1. Bill 23-456 as introduced.
2. Written Testimony.
3. Fiscal Impact Statement for Bill 23-456.
4. Legal Sufficiency Determination for Bill 23-456.
5. Comparative Print for Bill 23-456.
6. Committee Print for Bill 23-456.

Chairman Phil Mendelson at the
request of the Attorney General

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Abatement and Condemnation of Nuisance Properties Omnibus Amendment Act of 2000 to clarify the basis for the appointment; to authorize the Office of the Attorney General to issue subpoenas for documents and testimony as part of a receivership investigation, to require the Court to monitor the execution of a landlord's plan to abate housing code violations; to authorize the Court to order an owner, member, or any person with charge, care, or control of the property to contribute funds in excess of the rents to abate violations, reimburse the District, relocate displaced tenants, fund up-front receivership costs, and maintain the upkeep, utilities, mortgages, back rent, and debts of the building while in receivership; to prohibit the termination of a receivership until the District is reimbursed for all expenses associated with the receivership, all abatement costs, and all fines, infractions, and penalties arising from code violations are paid in full, and to clarify that the Court may enjoin the respondents from continuing actions, practices, or patterns of neglect at the rental housing accommodation and at any other rental accommodations owned, managed, or controlled by the respondent(s)."

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that this act may be cited as the "Abatement and Condemnation of Nuisance Properties Amendment Act of 2019".

Sec. 2. The Abatement and Condemnation of Nuisance Properties Omnibus Amendment Act of 2000, effective April 27, 2001 (D.C. Law 13-281; D.C. Official Code § 42-3651.01 *et seq.*), is amended as follows:

(a) Section 502 (D.C. Official Code § 42-3651.02) is amended as follows:

(1) Subsection (b) is amended by striking the sentence "For purposes of this subsection, the term "pattern of neglect" includes all evidence that the owner, agent, lessor, or manager of the rental housing accommodation has maintained the premises in a serious state of

disrepair, including vermin or rat infestation, filth or contamination, inadequate ventilation, illumination, sanitary, heating or life safety facilities, inoperative fire suppression or warning equipment, or any other condition that constitutes a hazard to its occupants or to the public."

(2) A new subsection (b)(1) is added to read as follows:

"(b)(1) For purposes of this subsection, the term "pattern of neglect" includes all evidence that the owner, agent, lessor, or manager of the rental housing accommodation has maintained the premises in a state of disrepair that constitutes a serious threat to the health, safety, or security of the tenants or to the public."

(3) A new subsection (c) is added to read as follows:

"(c) For purposes of this chapter, the phrase "serious threat to the health, safety, or security of the tenants" includes all violations that involve:

(1) Vermin or rat infestation;

(2) Filth or contamination;

(3) Inadequate ventilation, illumination, sanitary, heating or life safety facilities;

(4) Inoperative fire suppression or warning equipment;

(5) Inoperative door or window locks; or

(6) Any other condition that constitutes a hazard to tenants, occupants or to the public."

(b) Section 503 (D.C. Official Code § 42-3651.03) is amended as follows:

(1) Strike the phrase "Corporation Counsel" wherever it appears and insert the phrase "Office of the Attorney General for the District of Columbia".

(2) A new subsection (a-1) is added to read as follows:

"(a-1) (1) The Attorney General, or his or her designee, shall have the authority to issue subpoenas for (i) the production of documents and materials, (ii) the inspection of premises, (iii) the attendance and testimony of witnesses under oath, and (iv)sworn written responses to questions, related to any investigation necessary to determine whether adequate grounds exist to file a petition to appoint a receiver, or to determine if a person or party subject to a receivership is maintaining other rental accommodations in an state of disrepair that that constitutes a serious threat to the health, safety, or security of the tenants or to the public.

"(2) Subpoenas issued pursuant to this subsection shall conform to the procedures established in section 110a of the Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010, effective October 22, 2015 (D.C. Law 21-36; D.C. Official Code § 1-301.88d).".

(c) Section 505 (D.C. Official Code § 42-3651.05) is amended as follows:

(1) Subsection (a)(1) is amended by adding a new sentence to read as follows:

"As part of any order granting a receivership, the Court may also enjoin the respondent(s) from continuing any of the actions, practices, or patterns of neglect at the rental housing accommodation and at any other rental accommodations owned, managed, or controlled by the respondent(s)."

(2) Subsection (a)(2) is amended to read as follows:

"(a)(2) Upon acceptance of a respondent's plan, the Court shall retain the case for purposes of monitoring respondent's execution of the plan. The monitoring shall continue until the Court, on its own motion or that of any party:

(A) Dismisses the petition on grounds that all conditions that constituted a serious threat to the health, safety, or security of the tenants have been abated; or

(B) Finds the respondent has not made sufficient progress to complete the plan, in which event it may order appointment of a receiver under this section."

(1) Subsection (f) is amended to read as follows:

"(f)(1) As part of any proceeding commenced for the appointment of a receiver, or in any plan for abatement presented by a respondent, the Court shall order that the respondent and/or any owner(s) of the subject rental housing accommodation contribute funds in excess of the rents collected from the rental housing accommodation for any or all of the following purposes:

(A) Abating housing code violations;

(B) Reimbursing the District of Columbia for any abatements undertaken;

(C) Assuring that any conditions that are a serious threat to the health, safety, or security of the occupants or public are corrected;

(D) Relocating and maintaining tenants displaced during the implementation of any abatement plan into comparable units including any difference in the rent due to relocation;

(E) Satisfying the up-front receivership costs, including posting a bond pursuant to subsection (d) herein, reasonable up-front compensation to the receiver, and any costs associated with obtaining professional studies or evaluations of the property's condition and abatement needs;

(F) Refund prior rents paid of at least one-half (1/2) and up to two-thirds (2/3) of any month's rent up to three years prior to the date the receivership was granted for any period of time that the District of Columbia presents evidence that the rental housing accommodation suffered from a serious state of disrepair; or

(G) For other purposes reasonably necessary in the ordinary course of business of the property, including maintenance and upkeep of the rental housing accommodation, payment of utility bills, mortgages and other debts, and payment of the receiver's fees; or

A new subsection (f)(2) is added to read as follows:

"(f)(2) For the purpose of this section, "owner" shall mean any person or entity who, alone or jointly or severally with others, meets either of the following criteria:

(A) Has legal title to the subject rental housing accommodation; or

(B) Has charge, care, or control of the subject rental accommodation, whether as owner or member, in whole or in part, of the legally titled owner ('owner'), as agent of the owner, or as a fiduciary of the estate of the owner or any officer appointed by the court.

(c) Section 506 (D.C. Official Code § 42-3651.06) is amended as follows:

(1) Strike the phrase "Corporation Counsel" both times it appears and insert the phrase "Office of the Attorney General for the District of Columbia" in its place.

(2)

(d) Section 507 (D.C. Official Code § 42-3651.07) is amended as follows:

(1) Subsection (a)(1) is amended to read as follows:

"(a)(1) The Court determines that the receivership is no longer necessary because: the grounds on which the appointment of the receiver was based no longer exist; the receiver has received proper compensation for the services provided; the District of Columbia has been reimbursed for all expenses related to the appointment of the receiver; the District of Columbia has been reimbursed for all expenses related to abatements performed by the District or on its behalf by any third-party; and all fines, infractions, and penalties arising from code violations at

the property to date have been paid in full to the District of Columbia; or"

(2) Subsection (b)(1) is amended by striking the period and inserting the phrase ", for all expenses related to abatements performed by the District or on its behalf by any third-party, and all fines, infractions and penalties arising from code violations at the property to date have been paid in full to the District of Columbia."

(3) A new subsection (d) is added to read as follows:

"(d) As part of any order terminating a receivership, the Court may also permanently enjoin the respondent(s) from continuing any of the actions, practices, or pattern of neglect at the rental housing accommodation and at any other rental accommodations owned, managed, or controlled by the respondent(s)."

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(l) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(l)), and publication in the District of Columbia Register.

dc's CHILDREN'S LAW CENTER family. health. education.

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Testimony Before the District of Columbia Council
Committee of the Whole
January 28, 2020

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

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

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

Elizabeth Oquendo
Policy Attorney
Children's Law Center

Introduction

Good morning Chairman Mendelson and members of the Committee of the Whole. My name is Elizabeth Oquendo. I am a Policy Attorney at Children's Law Center.[i] I am testifying today on behalf of Children's Law Center, which fights so every DC child can grow up with a loving family, good health and a quality education. With almost 100 staff and hundreds of pro bono lawyers, Children's Law Center reaches 1 out of every 9 children in DC's poorest neighborhoods – more than 5,000 children and families each year. Through our medical-legal partnerships with Children's National Hospital, Mary's Center and Unity Health Care, families are referred to us when there are health harming legal needs identified by the pediatricians. We have repeatedly testified about our client's experiences and the health impacts of mold, lead, infestations, and poor housing conditions can have on children and their families. We thank you for the opportunity to testify on three important Acts, which reviewed alongside much of the work the Council has undertaken this session, is another step towards ensuring that all District children and families have a right to live in a safe and healthy home.

The Tenant and Homeowner Accountability and Protection Amendment Act of 2019

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

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

Business License Needed in Order to Evict or Raise Rent

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

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

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

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

Establishment of Rental Housing Inspections Division

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

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

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

Mandated Inspector Ratios

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

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

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

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

Strategic Housing and Health Official

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

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

Housing Provider Repeated Violation Enhancement Amendment Act of 2019

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

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

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

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

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

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

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

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

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

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

Conclusion

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

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

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[i] Children's Law Center fights so every child in DC can grow up with a loving family, good health and a quality education. Judges, pediatricians and families turn to us to advocate for children who are abused or neglected, who aren't learning in school, or who have health problems that can't be solved by medicine alone. With almost 100 staff and hundreds of pro bono lawyers, we reach 1 out of every 9 children in DC's poorest neighborhoods – more than 5,000 children and families each year. And, we multiply this impact by advocating for city-wide solutions that benefit all children.

[ii] We have testified at several other hearings about DCRA's lack of proactive inspections. Although Director Chrappah testified on November 18, 2019 that the agency was is working on a new algorithm with Georgetown University to create a proactive inspection program. However, we remain concerned that the basic data being utilized to feed that algorithm is bad. We contend that if DCRA does not have a full list of which properties are rental housing units, then how can the algorithm include the right properties to inspect? We know that many landlords are not obtaining their Basic Business License, as evidenced by the Chairman's spreadsheet of property addresses that were not in the DCRA database. *See* Rachel Chason. *Georgetown University works with D.C. agency to improve rental inspection policies.* Washington Post. January 17, 2020. *Retrieved from* https://www.washingtonpost.com/local/dc-politics/georgetown-university-works-with-dc-agency-to-improve-rental-inspection-policies/2020/01/17/7756a568-3945-11ea-bb7b-265f4554af6d_story.html.

[iii] The certificate of occupancy application is a mere two pages long. *See* DCRA. *Certificate of Occupancy (C of O) Application.* Retrieved from https://eservices.dcra.dc.gov/DocumentManagementSystem/Home/retrieve?id=Certificate%20of%20Occupancy%20Application.pdf.

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

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

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

[vii] Number of inspections completed in FY 2018 and FY 2019 calculated from data provided in the DCRA Inspections Chart located on the Agency Dashboard. *Retrieved from* https://eservices.dcra.dc.gov/DCRAAgencyDashboard/index.

[viii] *Id.*

[ix] *See* https://www.childrenslawcenter.org/resource/docitieshaveenoughhousinginspectors.

[x] It is our understanding there were 1219 inspectors based on 2018 oversight data. We estimate DC's occupied rental units in 2018 to be in the 175,000185,000 range based on 2010 population and rental housing data extrapolated to today, as well as on 2016 data showing the number of nonowner occupied

housing units to be approximately 186,000. This, however, does not take in to account the number of unoccupied units. The number of unoccupied rental units in 2010 was 13,000 and demand for DC rental housing has increased since that time. (Use https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml and input "Washington DC," and https://www.census.gov/quickfacts/fact/table/DC/PST045217 2016 data.)

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

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

Legal Aid Society
OF THE DISTRICT OF COLUMBIA
MAKING JUSTICE REAL

Testimony of Rachel Rintelmann
Supervising Attorney, Housing Law Unit
Legal Aid Society of the District of Columbia

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

Public Hearing Regarding:

Bill 23-0456
"Abatement and Condemnation of Nuisance Properties Amendment Act of 2019"

and

Bill 23-0499
"Housing Provider Repeated Violation Enhancement Amendment Act of 2019"

January 28, 2020

The Legal Aid Society of the District of Columbia[1] submits the following testimony in support of Bill 23-0456, the Abatement and Condemnation of Nuisance Property Amendment Act of 2019, and Bill 23-0499 "Housing Provider Repeated Violation Enhancement Amendment Act of 2019." We believe that these pieces of legislation strengthen one of the most powerful tools available in the District of Columbia for the enforcement of tenants' rights to safe and habitable housing.

The Tenant Receivership Statute is a Powerful Tool in the Fight for Safe and Habitable Rental Housing in the District of Columbia

[1] 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." Legal Aid is the oldest and largest general civil legal services program in the District of Columbia. Over the last 88 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, and our blog, www.MakingJusticeReal.org.

The lack of safe and affordable housing in the District of Columbia has reached a crisis point. As the availability of affordable units decreases, demand for affordable housing far outstrips supply, leaving landlords with multiple applicants for every vacancy, no matter the location or condition of the property. This dynamic gives landlords unequal bargaining power and little incentive to make repairs. Much of the remaining affordable housing stock is in serious disrepair, forcing low-income DC residents into neglected and substandard housing. We regularly meet tenants living with serious housing code violations, including rodent, roach and bedbug infestations, no heat in the winter and no air conditioning in the summer, severe plumbing and roof leaks, untreated mold, broken windows and door locks, and more.

Tenants living with such conditions have historically had limited options for the enforcement of their rights: they can withhold rent and risk being sued for eviction; they can sue in Housing Conditions Court (which can be a long and frustrating ordeal);[2] they can file an affirmative civil action, which is difficult without legal counsel; or they can contact DCRA (but recalcitrant landlords know they can ignore threats of fines because they are rarely enforced). We have assisted tenants in pursuing their rights through each of these channels, none of which is perfect, and all of which require significant expenditure of time and resources on the part of the tenant.

Within this bleak landscape, we have been heartened in recent years to watch as the Office of the Attorney General ("OAG") has prioritized this issue, using the Tenant Receivership Statute to enforce tenants' rights to safe and habitable housing. Landlords that have long neglected the condition or safety of their properties have suddenly had to answer for their misconduct on a larger scale, forced to either abate housing conditions themselves, or see a receiver appointed to do so. Because OAG generally pairs these cases with claims under the Consumer Protection Procedures Act, landlords are becoming increasingly aware that maintaining properties in these conditions is not only unlawful, but expensive.

These actions have had wide-ranging effect, securing needed repairs for all tenants in properties with poor conditions, even those who have not pursued claims themselves. In so doing, OAG has eliminated barriers for tenants who are elderly or disabled and for whom frequent court appearances simply are not practicable, as well as for tenants whose work or childcare obligations prevent them from prosecuting claims on their own behalf. In a single action, OAG can vindicate the rights of hundreds of tenant households, having a massive impact on the security and habitability of those families' homes.

In many cases, receivership actions have not replaced, but have complemented tenants' own exercise of their rights. For example, where OAG has filed a receivership action and the

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[2] The Court created the Housing Conditions Calendar in 2010, allowing tenants to sue their landlords to make required repairs to address housing code violations. Unfortunately, Housing Conditions Court has not proven to be an ideal or effective forum for the resolution of these claims. The Court is slow to require even emergency repairs, does not issue or enforce written orders, declines to take testimony from tenants, often dismisses cases even when repairs are not complete, and fails to hold landlords sufficiently accountable for failures to make repairs. Tenants are often frustrated by what they (reasonably) see as a huge investment of their time to obtain slow and incomplete relief.

landlord has responded by filing for bankruptcy, Legal Aid has assisted tenants in pursuing their claims in bankruptcy court so that their individual claims relating to the housing conditions were not waived. Where receivership actions have prompted landlords to file eviction cases against tenants in bulk, Legal Aid has done affirmative outreach to conduct intake with those tenants and provided them legal representation in the eviction cases, where they can assert housing conditions defenses. Where a receivership action prompts the owner to sell a property, Legal Aid can assist the tenants in exercising their rights pursuant to the Tenant Opportunity to Purchase Act, bargaining for long-term affordability and building improvements. These coordinated efforts serve to maximize the effects of our efforts, as well as the efforts of the Attorney General.

Receivership is a valuable tool, and we believe that both of the related legislative proposals before the Council today are thoughtfully designed to sharpen that tool for maximum effect.

Legal Aid Supports the Housing Provider Repeated Violation Enhancement Amendment Act of 2019

Legal Aid supports the expansion of the legal grounds for the appointment of a receiver. We believe that this bill takes a reasonable and common-sense approach to ensuring that the law targets the worst-actor landlords. It is our hope that -- coupled with much-needed improvements to housing inspection, citation, and code enforcement -- these changes will lead to greater enforcement of tenants' rights in the District.

The Abatement and Condemnation of Nuisance Properties Amendment Act of 2019 will Make the Receivership Statute Stronger

In our observation, OAG has carefully honed its use of the Receivership Statute, taking lessons learned from each such case and adjusting and improving its strategy for the next. We believe that the proposed Amendments are measured and informed by experience, and that they will enable OAG to continue to build its efforts and improve even further upon outcomes of receivership actions.

Pre-Suit Subpoena Power Will Enable the Attorney General to Fully Investigate Claims Prior to Initiating Actions

The primary concern we have heard raised by tenants about the receivership cases litigated to date is that it takes too long for the Court to appoint a receiver. This is in part because of the process of building a body of evidence for the Court which currently happens through discovery after the filing of a receivership action, and it can take many months. Granting OAG pre-suit subpoena authority would allow it to begin more fully investigating its case prior to the filing of the action, and concurrently with its other litigation preparations, thereby shortening the time it takes to get a receiver in place. We also believe that the ability to look into the financial structure of corporate entities that own or manage the property in question will enable OAG to ensure that the proper parties are named and held to account.

Landlords Should be Required to Contribute Funds in Excess of Rents Collected to Make Needed Repairs

The Act clarifies that an owner, member, or any person with charge, care, or control of the property can be required to deposit funds in excess of tenant rents to abate violations. We are fully supportive of this clarification. Moreover, we do not believe that tenant rents should be viewed as the exclusive, or even the primary, source of funds for repairs.

Tenants in the District have the right to withhold rent due to substandard housing conditions, and every building in receivership will meet that definition. Requiring the receiver to rely on tenant rents to cover the costs of repairs puts that receiver at odds with the tenants, prompting them to demand rents that tenants may be lawfully withholding. We do not believe that this should ever be the outcome of the appointment of a receiver, because in every such case both the Attorney General and the Court have determined that the property is not in compliance with housing codes, and under this Act, tenants should be entitled to at least a 50% abatement of their rent. The receiver should not be threatening tenants with eviction over the lawful exercise of their protected rights, nor should it waste funds paying the cost of counsel to pursue eviction actions. Instead, the landlord must be held liable for providing the requisite funds to make necessary repairs.

Legal Aid Supports the Refund of at Least Half of Rent Paid, and Recommends the Removal of the Cap on Recovery

We support the Act's provision that tenant rents should be refunded in an amount of no less than one half. In order to meet the statutory threshold for the appointment of a receiver, OAG must establish a "pattern of neglect" and "serious disrepair," which is an extremely high threshold. In cases where there has been a finding of such severe violations as to warrant the appointment of a receiver, we believe that a minimum 50% rent refund to tenants forced to endure such violations is wholly appropriate.

However, we recommend that the upper limit of a refund of two-thirds of the rent be eliminated. We have seen cases with conditions so deplorable that tenants can no longer reside in rental units, or continue to reside in those units at serious risk to their own health and safety. In such cases, we believe that rent refunds exceeding 66% may be appropriate and believe that discretion should be left to the Court.

Legal Aid Recommends Clarification that any Recovery by the Attorney General is without Prejudice to the Tenants' Individual Claims and Defenses

While we fully support the Attorney General's efforts to recover rent overpaid by tenants when their rental homes were out of compliance with housing regulations, we would encourage the Council to ensure that any such recovery does not prejudice individual tenants' ability to raise conditions affirmatively or defensively in future actions. This is particularly true because individual tenants are not parties to the receivership action, and have no say in the litigation or settlement of those claims. We worry that landlords after receivership may argue that tenants are precluded from asserting housing code defenses as a result of the receivership action, or that tenants should be precluded from litigating their own claims as a result of a case in which they did not participate.

While we believe that there would be a legal basis for opposing such an assertion by a landlord, many tenants do not have the benefit of legal counsel, and so clarity in the language of the law is necessary. Legal Aid would welcome the opportunity to discuss language that would address this concern.

Legal Aid Would Support the Creation of a One-Time, Self-Replenishing Fund for the Attorney General to use for Emergency Repairs

Another challenge we have observed with receivership actions is that even after a receiver is appointed, it can be a significant undertaking to get the landlord to provide the funds required for repairs. Often, landlords claim an inability to pay, forcing the Court to order an extensive review of their finances. This process can be lengthy, and every day that passes without much-needed repairs can prove hazardous for tenants at these properties.

To address this concern, we would support the creation of a fund that would allow OAG to undertake urgent repairs for emergency housing and fire code violations, with the idea that the landlord would reimburse the fund, with interest, through a court-ordered payment or via a lien placed on the property by the District. It is our hope that the availability of such funds will allow OAG to cut through procedural and administrative hurdles and secure the repairs necessary to protect the life and safety of tenants.

Conclusion

We thank the Attorney General for his commitment to securing safe and habitable housing for all DC residents and look forward to continuing to work with his office to achieve this end. We also thank the Committee for the opportunity to testify in support of the Abatement and Condemnation of Nuisance Property Amendment Act of 2019. We support the bill as written, and believe that with minor modifications, it can be made even stronger.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Public Hearing
On
B23-361, the "Equal Access to Changing Tables Amendment Act of 2019";

B23-499, the "Housing Provider Repeated Violation Enhancement Amendment Act of 2019";

B23-394, the "Tenant and Homeowner Accountability and Protection Amendment Act of 2019"

Testimony of
Ernest Chrappah
Director
Department of Consumer and Regulatory Affairs

Before the
Committee of the Whole
Council of the District of Columbia
The Honorable Phil Mendelson, Chairman

January 28, 2020
11:30 am
Room 412
John A Wilson Building

1350 Pennsylvania Avenue, NW
Washington, DC 20004

Good morning, Chairman Mendelson, Councilmembers, and staff. I am Ernest Chrappah, the Director of the Department of Consumer and Regulatory Affairs (DCRA). I am here today to testify on three pieces of legislation: B23-361, the "Equal Access to Changing Tables Amendment Act of 2019", B23-499, the "Housing Provider Repeated Violation Enhancement Amendment Act of 2019"; and B23-394, the "Tenant and Homeowner Accountability and Protection Amendment Act of 2019".

"Equal Access to Changing Tables Amendment Act of 2019"

Let me first discuss B23-361, which is the "Equal Access to Changing Tables Amendment Act of 2019." We support the intent of this bill and believe that all parents, regardless of their gender, should have safe and convenient access to baby changing stations in the District. Many fathers like myself would appreciate the convenience of having a changing station in men's restrooms, just as my wife has in women's restrooms. With that said, DCRA has a few recommendations that I would like to share, with the aim of making the legislation more effective and workable.

First, the proposed legislation includes a requirement that existing establishments and places of public accommodation that are being "substantially renovated" must add diaper-changing accommodations as detailed in the legislation. The legislation defines "substantially renovated" as, "the construction, alteration, or repair of toilet facilities where the work requires a permit and the construction cost is $10,000 or more." For practical purposes, it would be helpful to make this definition a bit more specific, noting whether the $10,000 threshold includes both labor and materials.

Second, the bill mandates that owners of all newly constructed or substantially renovated business establishments and places of public accommodation shall provide these changing stations

for both women, men, and gender-neutral restrooms on each floor. While the intention here is good, the current language is overly broad, forcing the requirements on businesses such as nightclubs, where, because of age restrictions, changing stations would not be needed. Our recommendation is to include an exemption, similar to the one included in a similar piece of legislation passed by the Illinois General Assembly, which exempts industrial buildings, nightclubs, and bars that do not permit anyone under the age of 18.[1]

Third, the proposed legislation states that the Director of DCRA, or a designee, may exempt a public building from the diaper-changing requirements if an installation would not comply with District or federal laws relating to access to persons with disabilities, or would be infeasible due to spatial or structural limitations. As DCRA already has the authority to render interpretations of the Construction Codes and make such determinations, we believe these sections are redundant, but we do not have any objections to the current language.

"Housing Provider Repeated Violation Enhancement Amendment Act of 2019"

Let me now discuss B23-499, the "Housing Provider Repeated Violation Enhancement Amendment Act of 2019." DCRA strongly believes receivers should be an option when landlords prove incapable or unwilling to meet their obligations to their tenants. However, I have a few concerns with bill 23-499 that I would like to note. First, it is unclear from the bill who is responsible for the appointment of the receiver and what role, if any, DCRA will have in the appointment.

Second, the bill does not specify whether the Notices of Infraction (NOIs) must simply be issued, or if the owner must be found liable, in order for the violation to count as one of the three

[1] 410 ILCS 35/18, The Equitable Restrooms Act; 2019.

instances within the 18-month period laid out by this bill. The bill also does not address what happens if any of the NOIs are dismissed.

Third, the terms "flagrant," "fraudulent," and "willful" are not defined. As such, it's unclear how violations would be determined to be flagrant, fraudulent, or willful, especially since intent is not a component of any housing code violations. I would now like to turn your attention to a bill that we believe that, while sharing the intent of the bill before us, would be a better means to achieving the goal of B23-499. Bill 23-14, the "Landlord Accountability Through Expedited Receivership Amendment Act of 2019," that was submitted by Mayor Bowser to the Council on January 7, 2019, will strengthen and expedite the rent receivership process to hold landlords accountable for living conditions that pose serious threats to the health, safety, and/or security of District tenants. Although the legislation that was introduced by the Office of the Attorney General (OAG) is substantially similar, there are sections to our bill that we believe are important to mention.

First, the Mayor's bill aims to clarify the basis for the appointment of a Housing Receiver by amending Section 502 of the Tenant Receivership law. This section of the code lays out the framework for the D.C. Superior Court to appoint a receiver. One of the ways a receiver can be appointed is when a property owner has shown a "pattern of neglect" that "poses a serious threat to the health, safety, or security of the tenants" for a period of 30 consecutive days. The Mayor's bill clarifies what constitutes a "pattern of neglect" and details the violations that would rise to the level of a "serious threat to the health, safety, or security of the tenants." These violations would include: (1) vermin or rat infestation; (2) filth or contamination; (3) inadequate ventilation, illumination, sanitary, heating or life safety facilities; (4) inoperative fire suppression or warning equipment; (5) inoperative doors or window locks; or (6) any other condition that constitutes a

hazard to tenants, occupants, or to the public. This detailed list makes the process less subjective for our inspectors and clarifies which violations rise to the level of a "serious threat" that would be grounds for a receivership being appointed by the D.C. Superior Court.

Second, the Mayor's bill includes a provision that allows the Mayor and relevant District agencies to submit a written request to the Office of the Attorney General (OAG) to petition the Superior Court to appoint a receiver. The OAG would be given five (5) business days to either file a petition for receivership or notify the Mayor that OAG is declining the petition. We believe this is an important amendment and allows the Executive, most notably, DCRA, the ability to flag or bring forth a negligent property owner before the Court so that a receiver can be appointed. Since DCRA is the agency that handles inspections and issues citations for violations, it should also have the opportunity to elevate specific instances that rise to the level of needing a receiver. Unfortunately, the similar bill proposed by the OAG does not include this provision.

Third, the Mayor's bill shortens the statutory time for the Court hearing on the receivership petition from 30 days to 10 business days. This provision was added to allow these petitions to get in front of the Court on a much shorter timeframe. This shortened timeframe will allow for abatement to be ordered by the Court and give some relief to those tenants who are being negatively affected by the actions or inactions of a negligent property owner.

Fourth, we have proposed that the Superior Court be required to monitor the execution of a landlord's plan to abate housing code violations. The bill details how the Court will monitor and hold the landlord accountable as it oversees the execution of the mandated plan to abate the violations of the housing code that prompted the receivership. The bill gives the Court the ability to order the property owner to cover the costs of abating the housing violations, reimburse the

District government for any abatement the District has already performed, pay any fees associated with relocating the displaced tenants, and pay the administrative costs of the receiver appointment.

Fifth, the Mayor's bill defines owner as any person or entity who has legal title to the rental property or is charged with caring for it. This clarification is important as it defines who the Court can order to contribute funds in excess of the rents to abate violations, as briefly mentioned earlier in my testimony.

DCRA worked closely with the Housing and Community Justice Section of the OAG to identify these necessary improvements included in the Mayor's bill. As learned from recent, high-profile receivership proceedings, the current process takes too long, petitioners encounter too many obstacles, and landlords often know how to work the current system to their advantage in Superior Court. The Mayor's proposed amendments will hold these landlords more immediately and more directly accountable and will incentivize them to proactively abate violations. DCRA believes the Mayor's bill deserves a public hearing to properly debate the merits of what we have proposed and hear from the general public and expert witnesses on other possible solutions to this ongoing issue.

"Tenant and Homeowner Accountability and Protection Amendment Act of 2019"

Finally, I will now discuss B23-394, "Tenant and Homeowner Accountability and Protection Amendment Act of 2019."

DCRA shares many of the overarching goals behind this bill, given that the bill seeks to protect tenants and homeowners from a variety of dangers, such as known hazards and potential bad actors. We look forward to working with the Council to better ensure that residents in the District are safe from known threats and that mechanisms are in place to protect tenants and homeowners to the greatest extent possible. While we applaud the Council's efforts in this regard and agree with several aspects of the bill, in some ways this bill does not take into account the way

DCRA is currently organized and how many of our procedures work. Much of this bill is either redundant with current organization structures, processes, and procedures already in place, or would complicate established processes that are working well. I would like to raise specific concerns and recommendations we have with various sections of the bill, in sequential order.

Concerns and Recommendations

Section 2

Regarding Section 2 ("Contractor Insurance"), I have three concerns that I would like to share with the Council. First, Section 2(a)(1) requires an applicant to provide "proof of financial responsibility" with each application for a permit for construction or demolition where the estimated cost is greater than $10,000. In turn, Section 2(f) defines "proof of financial responsibility" as "documentation from an insurance company licensed to do business in the District that the licensed contractor or business is insured to conduct business in the District." While DCRA is not opposed to the requirement in Section 2(a)(1), the bill is silent as to the type or amount of insurance that the licensed contractor or business must have. Our recommendation is to define the amount of insurance required as ten times the cost of the project. Second, there will be a fiscal impact as this would require DCRA to hire additional staff, or train existing staff, to have the expertise necessary to determine whether an applicant has adequate insurance coverage. Third, Section 2(c) requires that "[a]ny entity that provides insurance to contractors or businesses licensed by the District shall notify the Department electronically when an insurance policy of record has lapsed for at least 15 days but before the policy has lapsed for 20 days." Our recommendation is that in addition to DCRA, the Department of Insurance, Securities and Banking (DISB) should also be notified of any lapses of insurance, as DISB has the authority to bring administrative actions against insurers for violating any District law. Regarding Section 2(d),

DCRA can evaluate the impact of issuing a Stop Work Order upon notification of a lapse of insurance.

Section 4

Section 4 ("Mandatory inspections for residential permits") would require DCRA inspectors to inspect construction sites to determine whether work has taken place within a six month period. If work has not begun, or if it has been suspended or abandoned, the site's permit would become null and void. DCRA has three concerns with this section. First, while I believe the bill's intention is to limit the requirements in this section to residential permits, the changes this bill makes to the D.C. Code do not make that clear. Second, the bill does not define key terms such as "residential," "suspended," or "abandoned." Additionally, because "residential" is not defined, it is unclear whether commercial projects that include residential elements would be subject to this new requirement. Our suggestion is to use the definition for "residential" that is used in the International Residential Code (IRC) or the International Building Code (IBC). As for the terms "suspended" and "abandoned," it is unclear what would constitute suspension or abandonment, or how long work must be suspended or abandoned in order for a permit to be nullified. There are also situations where construction work is suspended to perform work on an adjoining neighbor's property to protect it from damage, we recommend Council insert a provision to ensure the permit is not nullified in this case. Third, this new mandate would require DCRA to conduct a significantly higher number of inspections, which would have implications for our employees as well as a financial impact. If Section 4 were to become law, it would need to include funding for additional inspectors and supervisors.

Section 5

Section 5 ("Rat and mouse abatement for demolition") requires that all demolition permit applicants shall initiate a rat eradication program on the project site at least fifteen days prior to the start of the demolition, razing, clearing or grading of a site. However, demolition projects sometimes take place on a single floor of a large building. In these instances, it would not make sense to impose this requirement. We recommend limiting this section to razing, clearing, and grading projects only.

Section 6

Section 6 ("Bond increases") requires that permitted parties update the estimated cost of construction to ensure that the final bond on construction is 10% of the costs of construction. Specifically, this section includes a requirement that prior to a declarant's first conveyance of a residential unit to a purchaser, the declarant shall "provide a sworn statement from a contractor licensed in the District of Columbia of cost estimates for the work proposed in the permit" and that "[t]he sworn statement of estimated costs and the bond or letter of credit must be updated for any changes submitted for plan approval to the Department or if costs increase greater than 10% of the cost estimate at any time." DCRA's concern with this requirement is that it places an additional burden on declarants by requiring them to obtain a sworn statement from a contractor that must be updated for any changes in plans or increases in costs. This new requirement would also be a significant burden to development projects which may have a number of contractors or subcontractors.

Section 6 also states that "[p]rior to an issuance of certificate of occupancy, the declarant must submit a final accounting of cost and update the bond or letter of credit to reflect 10% cost of construction or conversion." DCRA has two concerns with this requirement. First, it would slow down the issuance of certificates of occupancy considerably. DCRA's standard timeline for

issuing a certificate of occupancy is 10 business days, which is something I am striving to reduce. Adding this new requirement would of course hinder the goal of issuing these certificates more quickly. Second, this mandate would require DCRA to hire additional staff to essentially audit construction projects in order to ensure that the final bond on construction is 10% of the costs of construction.

Section 7

Section 7 ("Housing Code Inspections and Enforcement") raises four significant concerns.

First, Section 7(a)(1) requires that all inspectors performing inspections be employed by DCRA. As you are aware, DCRA has implemented a Resident Inspection Training Program that trains participants, many of whom are District residents, to become vacant building, illegal construction, and housing inspectors. The program aims to allow participants to earn extra income while helping the agency keep pace with the District's growing demand for inspectors. Participants who complete and pass the appropriate training exams are able to work as independent contractors or compete for full-time positions, when available. As of January 13, 2020, DCRA has certified 167 total resident inspectors. Specifically, DCRA has approved 103 inspectors to work on illegal construction; 17 inspectors to work on property maintenance (housing) inspections; and 47 inspectors to work on vacant properties. This has had a positive impact on the number of inspections that are able to take place across the District. Given that the program has already greatly increased our inspection capacity—a goal the Council supports—taking away this flexibility seems like a step in the wrong direction.

Second, Sections 7(a)(3) through (5) require that all DCRA inspectors be trained, certified, and licensed as professional inspectors of lead, mold, and asbestos. As you are aware, DCRA inspectors are not currently trained to conduct these types of inspections and tasking them with

these new responsibilities would cause the agency's inspectors to be spread too thin. Indeed, the Council often expresses concerns that the agency has too many responsibilities, but this bill proposes tasking our inspectors with even more duties. Moreover, these requirements would duplicate work that is already being performed by the Department of Energy and Environment (DOEE).

Regarding lead, I would like to point out that while DCRA inspectors are able to issue Notices of Infraction for peeling, chipping, and/or flaking paint, they do not have the capability to test for lead in paint. This is a function that resides with DOEE. Specifically, one of the divisions within DOEE's Environmental Services Administration is the Lead-Safe and Healthy Homes Division. This Division includes, the Compliance and Enforcement Branch which oversees the District's lead laws (including lead certification, accreditation, and abatement requirements), and undertakes compliance monitoring and assistance as well as enforcement measures.

Regarding mold, the existing indoor mold law requires that DOEE license or certify indoor mold assessors and indoor mold remediators, and requires DOEE to set a threshold level of indoor mold contamination at which professional remediation is required. Pursuant to these requirements, DOEE has certified 141 professional indoor mold assessors and 159 professional indoor mold remediators. DOEE's regulations require that these professionals notify DOEE if they find mold at or above the threshold level of 10 square feet.

Regarding asbestos, DOEE has an Asbestos Abatement Program which ensures that asbestos removal contractors protect their own health and safety, and the health and safety of building occupants and the general public. The program is also tasked with issuing asbestos abatement permits to licensed contractors and collecting permit fees; inspecting and monitoring

asbestos abatement projects and reviewing asbestos abatement reports; investigating asbestos complaints; and prosecuting violators who fail to comply with asbestos laws and regulations.

As you can see, DOEE is already responsible for the inspection and remediation processes for lead, mold, and asbestos. We should ensure that these processes are as streamlined as possible for District residents. Requiring DCRA inspectors to be trained, certified, and licensed in these areas would produce a redundancy with DOEE's already-existing work, which could result in confusion and an extra layer of bureaucracy for those residents seeking assistance.

Third, Section 7(b) seeks to create a new "Rental Housing Inspections Division" at DCRA which would observe certain protocols regarding Notices of Violation. DCRA has two concerns with this subsection. As an initial matter, to a large extent these protocols reference an enforcement process that no longer exists, as DCRA only issues Notices of Violation for proactive inspections—for everything else, we issue Notices of Infraction, which include fines, if violations have not been addressed by the owner during the first inspection. I should also note that we have a triage process where landlords get electronic notifications to address an issue before the first scheduled inspection date. Because Notices of Violation are now only issued as part of our proactive inspections program, Section 7(b) is not an accurate reflection of the Department's current processes. Moreover, DCRA recently realigned and optimized its Building Department so that there is a Housing Division within the Department and is run by a Program Manager for Housing Inspections. As a result, creating a new "Rental Housing Inspections Division" would be redundant and unnecessary.

Fourth, Section 7(c)(1) requires that "[a]t a minimum, there shall be one residential housing inspector for every 2,000 occupied residential housing units." This is problematic for several reasons. The bill does not define the term "occupied" and DCRA does not keep track of resident

occupancy status. According to a March 2018 D.C. Policy Center Housing Report, there are an estimated 303,950 total housing units in the District of Columbia. If we assume an 80% occupancy rate, this means there are 243,160 occupied housing units. If DCRA were required to have one housing inspector for every 2,000 occupied residential housing units, we would need 122 housing inspectors. DCRA currently employs 25 full-time housing inspectors, so in order to meet the requirement under Section 7(c)(1), we would need to hire almost 100 new housing inspectors. DCRA must be funded at the appropriate level for the number of additional inspectors and the legal and administrative staff necessary to support their work if this mandate were to become law.

Section 8

Regarding Section 8 ("Inspectors assigned to the District of Columbia Superior Court"), Section 8(a) requires that DCRA "assign at least one inspector to the Housing Conditions Calendar of the District of Columbia Superior Court, and at least three inspectors to the Landlord Tenant Branch of the Superior Court." DCRA already assigns at least one inspector to the Housing Conditions Calendar of the Superior Court. With respect to assigning at least three inspectors to the Landlord Tenant Branch, it is unclear why this is necessary, as we already provide an inspection whenever one is requested by a tenant.

Section 9

Section 9 ("Office of Code Enforcement duties and powers") raises five significant concerns.

First, Section 9(a) seeks to establish a new "Office of Code Enforcement" within DCRA consisting of a Code Enforcement Unit and a Civil Infraction and Fines Assessment Unit. This structure already exists within DCRA as it relates to code enforcement and civil infractions, so allow me to briefly explain the way our office is set up. DCRA currently has an Office of Civil

Infractions (OCI). The OCI is responsible for coordinating and providing quality assurance for DCRA's issuance, service, and tracking of Notices of Infractions to property owners and licensees, as well as the filing of NOIs with the Office of Administrative Hearings (OAH) for adjudication. OCI is also responsible for tracking and collecting all fines, special assessments, penalties, and interest associated with DCRA abatement activities and violations adjudicated by OAH and/or settled by DCRA's Office of the General Counsel. Additionally, OCI places liens on properties when violators fail to pay outstanding special assessments and fines and coordinates with the Office of the Chief Financial Officer and Central Collection Unit on collection activities. Given the functions and responsibilities of OCI, creating a new "Office of Code Enforcement" would be unnecessary and redundant.

Second, while Sections 9(b)(1) through (3) reference property owner "extensions," currently the only situation in which an "extension" might be provided is if an owner indicates that he or she is making repairs, in which case we may schedule the inspection for a date after the repairs are expected to be completed. DCRA does not provide extensions to property owners after an inspection has occurred. In addition to referencing "extensions," I have a general concern that Section 9 references an outdated version of DCRA's enforcement process. I want to make clear that DCRA does in fact currently keep tenants abreast of enforcement actions that impact them by providing them with a copy of the Notice of Infraction. Additionally, on our website you will soon be able to track the status of an enforcement action, such as a Notice of Infraction.

Third, Section 9(b)(4) requires that DCRA "[p]rovide a copy of any Notice of Infraction to the OAH at the time of service on the owner of the property." While DCRA shares the desire to speed up the adjudication process, I do want to note that this subsection runs contrary to OAH's rules and to the Civil Infractions Act concerning service.

Fourth, Sections 9(c)(1) and (2) require that a newly established "Civil Infraction and Fines Assessment Unit" within DCRA review each Notice of Infraction for legal sufficiency and represent DCRA in all appeals at OAH. As previously mentioned, DCRA's Office of Civil Infractions already handles most of the functions the proposed "Civil Infractions and Fines Assessment Unit" would conduct with the exception of legal sufficiency reviews which is a function that is typically performed by licensed attorneys. Attorneys in DCRA's Office of General Counsel currently represent the agency at OAH. In short, it is unnecessary and redundant to create a new Unit when all of the functions of that unit are currently being appropriately performed by the Office of Civil Infractions and the Office of the General Counsel.

Fifth, Section 9(c)(3) requires that DCRA file a lien within ninety days of filing a Notice of Infraction with OAH or within ninety days of a final order from OAH. However, there is already a mechanism for filing liens within thirty days of a final order from OAH, and DCRA is statutorily prohibited from filing liens until we have the Final Order. As a result, Section 9(c)(3) is actually less stringent than the current practice.

Section 10

Section 10 ("Strategic Housing and Health Official") seeks to establish a "Strategic Housing Health Official" for DCRA who would be appointed by the Mayor. This position sounds very similar to the DC Partnership for Healthy Homes administered by DOEE. The DC Partnership for Healthy Homes, which was spearheaded by DOEE's Lead and Healthy Housing Division, consists of a broad coalition of District agencies and some of the District's most prominent medical providers, managed care organizations, non-profits, and environmental health professionals. Participating health providers and social service agencies serve as front-line responders who refer dangerous situations to DOEE's Lead and Healthy Housing Division.

Because this already exists, it is not clear what problem Section 10 would solve that is not already addressed by an existing agency or program.

Section 11

Section 11 ("Review of fines, fees and costs") would require DCRA to review all fines, fees, and costs every five years, and report a range of related information to the Council on an annual basis. While DCRA has no concerns with this section, I do want to note that it will have a financial impact, particularly on our IT operations. Additionally, I want to point out that Section 11(a)(4), which requires DCRA to make recommendations on any change in the amount assessed for fines, fees, or costs, will necessarily include fluctuations due to the past year's Consumer Price Index (CPI). As the Council is aware, it recently passed legislation requiring DCRA to increase assessed fine amounts in tandem with the past year's CPI.

Section 12

Section 12 ("Zoning regulations") raises two significant concerns. First, Section 12(a) would require the Office of the Zoning Administrator to "make public all opinions and rulings related to zoning regulations in guidance letters and determination letters." DCRA currently posts these documents online and has been doing so for almost ten years. Specifically, there are over 550 determination letters available online dating back to 2011. Moreover, we recently revamped our website to make it easier for the public to search for these documents. Posting documents prior to ten years ago may not be possible, and the cost of doing so would likely outweigh any benefits. Second, Section 12(c)(4) states that "[t]he Office of the Attorney General may represent residents in appeals of decisions made by the Department regarding interpretation and application of code and zoning regulations." This is problematic for several reasons, chief among them that the Office of the Attorney General currently provides legal advice to the Board of Zoning

Adjustment. As a result, representing residents in appeals of decisions made by the Department would be a conflict of interest.

Section 13

Section 13 ("Testing before the sale of property") would require sellers to provide a sworn statement by a licensed contractor listing information about a slew of environmental risks, including ventilation and temperature control, mold/mildew, pests, the use of pesticides, toxic chemicals/hazardous waste, asbestos, lead-based paint, lead in drinking water, radon, and carbon monoxide. This section raises three concerns. First, Section 13 would place a substantial burden on sellers, who would have to pay for a licensed contractor to attest to this information. Second, the bill does not give DCRA any enforcement mechanism to hold property owners who fail to provide this sworn statement accountable. Third, much of this information is already captured by the Seller's Disclosure Statement. In fact, last November, DCRA published a Notice of Proposed Rulemaking amending the Real Property Seller's Disclosure Statement to include disclosure information related to lead plumbing and water systems and will be publishing a Notice of Final Rulemaking soon.

Section 14

Section 14 ("Protection of solar installations") would require that DCRA "not issue or approve a permit for any construction where the construction will infringe on an existing installation of solar panels on adjacent and adjoining properties." DCRA's concern with this language is that it is overly broad and would significantly restrict development in the District, impacting affordability and the sustainability benefits associated with density. Moreover, existing zoning regulations developed by DCRA are already much more nuanced. For example, 11 DCMR 330.7(g) states that "an [altered or added] roof structure or penthouse, shall not interfere with the

operation of an existing or permitted solar energy system on an adjacent property, as evidenced through a shadow, shade, or other reputable study acceptable to the Zoning Administrator." A suggestion to improve Section 14 might be to create a remediation process for adjacent owners where one owner already has solar panels installed and the other wishes to build or construct on their own property. The process could allow the owner doing the construction to reimburse the solar panel owner for lost revenue and sunken costs, and require the owner doing the construction to make a community solar purchase in the name of the homeowner whose solar panels are being affected.

Section 15

Section 15 ("Establishment of the District of Columbia Construction Commission") would establish a five-member Construction Commission appointed by the Mayor, along with an executive director and full-time staff that includes investigators. DCRA's primary concern with this section is that the bill is silent as to what the Commission would be charged with doing. Moreover, it would diminish the role of the Chief Building Official and create a shadow organization with no accountability to DCRA. If the intention is to weed out bad actors and raise standards as they pertain to contractors, our recommendation would be to expand an existing trade board to include general contractors. This would ensure that the individuals engaged in this trade have the specialized skills and training required to perform general contracting services for the public. Having general contractors regulated by a trade board also provides oversight and a mechanism through which consumers can file complaints. This section could also be amended to allow the Code Official to suspend or revoke professional licenses (including general contractors) for cause, with appeal rights to the trade board.

Section 17

Section 17 ("Authorization of Advisory Neighborhood Commissioners") would allow Advisory Neighborhood Commissioners (ANCs) to submit sworn complaints attesting to the violation of permits and stop work orders. DCRA shares the desire to allow ANCs to report violations and in fact, our agency hosted a training in November 2019 for ANCs on how to spot illegal construction and what enforcement actions can be taken. Upon completion of this training and successfully passing an exam, participants are empowered to post Stop Work Orders on sites that are violating the District's after hours construction regulations. Additionally, DCRA's Resident Inspector Program is a great opportunity to accomplish the goal of this section.

Conclusion

Chairman Mendelson and members of the Council, thank you for the opportunity to testify today. I look forward to answering any questions you may have.

Statement of Jimmy Rock
Assistant Deputy Attorney General - Public Advocacy Division
Office of Attorney General for the District of Columbia

Before the

Committee on the Whole
The Honorable Phil Mendelson, Chairman

Public Hearing

on

Bill 23-456, the "Abatement and Condemnation of Nuisance Properties Amendment Act of 2019"

January 28, 2020
11:30 am
Room 412
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, District of Columbia 20004

INTRODUCTION

Chairman Mendelson and members of the Council. I am Assistant Deputy Attorney General Jimmy Rock, and I am testifying on behalf of Attorney General Karl Racine and in support of the Abatement and Condemnation of Nuisance Properties Amendment Act of 2019. This legislation is designed to enhance the Office of Attorney General's ("OAG") enforcement powers under the District's Tenant Receivership Act.

Under General Racine's leadership, OAG has focused on ensuring that low- and moderate-income District residents have safe and habitable rental housing. OAG has two primary enforcement tools to hold landlords accountable for failing to provide healthy and safe housing: (1) the Tenant Receivership Act ("TRA"), which allows OAG to seek Court oversight over an apartment building that evidences a pattern of neglect, and (2) the Drug-, Firearm-, and Prostitution-Nuisance Abatement Act ("Nuisance Act"), which enables OAG to require landlords to enact Court-ordered plans to address properties that have drug, firearm, or prostitution issues.

In 2016, General Racine created the Public Advocacy Division ("PAD") to bolster the Office's affirmative enforcement work. PAD's Social Justice Section currently enforces the TRA and the Nuisance Act, along with the District's wage and environmental laws. With the assistance from the Council, PAD currently has three Assistant Attorneys General FTE's who focus full-time on housing enforcement work. Based on the Office's now four-year experience with enforcing the TRA, OAG seeks a package of amendments designed to bolster our ability to seek relief for tenants forced to live in housing that suffers from a pattern of neglect.

SUMMARY OF HOUSING ENFORCEMENT WORK

OAG's first TRA case filed under General Racine's tenure was against the infamous D.C. real estate company, Sanford Capitol, concerning the Congress Heights apartments in 2016. OAG has litigated four TRA cases in total against Sanford Capital properties in Wards 5,7, and 8. In those cases, the Superior Court ordered over $1 million dollars to repair various properties, awarded an average of $8,000 per tenant in restitution for their deplorable living conditions, and OAG eventually obtained an order removing Sanford Capital from the D.C. market.

In 2017, OAG filed a key TRA case against Jefferson-11th Street. This case concerns a 26-unit building in Columbia Heights with 13 remaining tenants located at 2724 11th Street NW. For several years, the owner and property manager refused to repair failing systems and address chronic issues at this building, exposing the low-income tenants to toxic mold, rat and bedbug infestation, and utilities that did not consistently function. After extensive litigation, the Superior Court appointed a Receiver over the property, and eventually ordered the property owner to pay $1.8 million to repair the property. Construction is currently underway, and the tenants will likely return home before the end of 2020.

Since 2016, PAD's Social Justice Section has filed ten cases under the TRA and obtained orders from the Superior Court securing over $3.5 million to repair neglected properties. Often with the help of the advocate community, including Housing Counseling Services, Children's Law Center, Bread for the City, and the Legal Aid Society, among others, OAG has been able to preserve and create affordable housing as well as improve the lives of tenants in D.C.

OVERVIEW OF AMENDMENTS

Based on this enforcement experience, OAG has proposed several categories of substantive amendments to facilitate our investigation and litigation of TRA cases. **First**, to assist in our upfront investigation of TRA cases, OAG requests that the Council add pre-suit investigative tools. This includes the ability to request documents and take written and oral testimony to confirm whether there are grounds to bring a TRA case. The TRA contemplates the Superior Court deciding the issue of appointing a Receiver on an expedited basis, so this pre-suit investigative authority will be especially useful in making sure OAG has a complete documentary and evidentiary record in place by the time it files any TRA action. This investigative authority will also bring the TRA in line with other statutes that PAD enforces with similar investigative authority, including the Consumer Protection Procedures Act, Wage Fraud Act, Nonprofit Corporations Act, Antitrust laws, and the False Claims Act.

Second, OAG is seeking amendments that clarify the Superior Court's powers in connection with funding and implementing a Receivership. OAG's experience is that even after a Receiver is appointed, it is often a difficult and time-consuming process to ensure proper funds are available to the Receiver to carry out the needed repair work and protect tenants at the property. To address these issues, OAG is seeking three changes to the TRA provisions that govern the administration and funding of Receivers. (1) First, OAG seeks to adopt a definition of "owner" of a property that includes both the owner of record as well as others (such as a property manager) that has care or control of the property. (2) OAG requests that the TRA be changed to require the Superior Court to order all "owners," as broadly defined, to contribute funds in excess of available rents to repair the Property. The TRA currently only says, at D.C. Code § 42-3651.05(f), that the Superior Court "may, in appropriate circumstances" require

owners to pay amounts in excess of the rents to fund the Receivership. Changing this to a mandatory requirement will facilitate the funding of the Receivership and remove the step of requiring litigation over whether funding is appropriate in each particular case. (3) Third, OAG is seeking to add clarity to the TRA about the types of expenses the Court can order an "owner" to fund in excess of the rents to include not just abating health and safety issues, but also relocating tenants if needed as well as reimbursing the District or the Receiver for any up-front costs incurred in safeguarding the property. It is important to note that these amounts would only be assessed after the Superior Court has found it is appropriate to appoint a Receiver because of a pattern of neglect at the Property.

Third, OAG is also seeking a change to the TRA to allow the Superior Court to award back rent to tenants forced to live in neglected housing. Currently, OAG seeks to recover similar amounts of back-rent amounts by bringing CPPA claims within a TRA case. OAG seeks to streamline the enforcement process by allowing the Superior Court – after it has found evidence of a pattern of neglect justifying a Receiver – to also order "owners" to refund at least half, and up to two-thirds, of rent that tenants paid in the three years prior to the Receivership. This requirement that "owners" will have to refund rents to tenants will serve as a useful deterrent to neglectful owners and lessen the incentive for owners to attempt constructive eviction that may play a part in many of OAG's TRA enforcement cases.

Fourth, OAG seeks to clarify the Superior Court's powers in connection with ending a Receivership. In this respect, OAG seeks two main changes to the TRA at D.C. Code § 42-3651.07. The first change is to make it clear that a Receiver should not be terminated unless the District has been reimbursed for all of its direct or indirect expenses for addressing health and safety issues at the property all outstanding housing code fine paid. The second change is to

permit the Superior Court, as part of winding down a Receivership, to enjoin "owners" from engaging in similar patterns of neglect at other properties they own or manage.

This concludes my testimony. Thank you for your time and I am happy to answer any questions the members of the Committee may have.

Government of the District of Columbia
Office of the Chief Financial Officer

Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO:	**The Honorable Phil Mendelson** **Chairman, Council of the District of Columbia**
FROM:	**Jeffrey S. DeWitt** **Chief Financial Officer**
DATE:	**October 1, 2020**
SUBJECT:	**Fiscal Impact Statement – Abatement and Condemnation of Nuisance Properties Amendment Act of 2020**
REFERENCE:	**Bill 23-456, Committee Print provided to the Office of Revenue Analysis on September 29, 2020**

Conclusion

Funds are sufficient in the fiscal year 2021 through fiscal year 2024 budget and financial plan to implement the bill.

Background

Under the Tenant Receivership Act[1], the Office of the Attorney General (OAG) can hold landlords accountable for failing to provide healthy and safe housing by seeking Court oversight over a building that has a pattern of neglect. In such cases the Court can appoint a neutral third party, known as a receiver, to take control of a property and make necessary repairs. This process is called receivership.

The bill provides additional tools for the Office of the Attorney General (OAG) to enforce laws regarding rental properties under receivership and properties with conditions that might warrant receivership. First, the bill gives OAG subpoena power to investigate properties to determine whether adequate grounds exist to appoint a receiver and whether the owner is neglecting other properties.

[1] See Title 42, Chapter 36A of the D.C. Official Code.

Second, the bill clarifies specific conditions that constitute a "serious threat to the health, safety, or security of tenants" to include additional conditions OAG has observed in receivership cases.

Third, the bill prohibits termination of receivership until the District has been reimbursed for expenses related to abating conditions at properties and appointing a receiver.

Fourth, the bill allows OAG to collect back rent from property owners as part of the receivership process. Currently, back rent can only be collected through a separate consumer protection claim process. The bill further requires owners to refund to tenants at least half of any rent paid by tenants up to three years before the date of receivership (for the dates in which evidence of neglect is presented).The bill also specifies that obligations of the owners include contributing funds in excess of rents collected to cover the cost of abating violations, reimbursing the District for abatements costs, relocating and maintaining tenants displaced by abatements, obtaining professional studies or evaluations on property conditions, and the cost of receivership.

Lastly, the bill affirms that receivership cases do not preclude other housing code violation claims afforded to tenants and tenant associations, preserving other legal remedies for tenants to seek relief.

Financial Plan Impact

Funds are sufficient in the fiscal year 2021 through fiscal year 2024 budget and financial plan to implement the bill. The bill provides additional tools for the Office of the Attorney General to manage and enforce receivership laws which can be employed within its current resources.

DRAFT COMPARATIVE PRINT, Bill 23-456
Committee of the Whole
October 6, 2020

D.C. OFFICIAL CODE § 42–3651.01. PURPOSE OF THE APPOINTMENT OF A RECEIVER.

The purpose of the appointment of a receiver under this chapter shall be to safeguard the health, safety, and security of the tenants of a rental housing accommodation if there exists a violation of District of Columbia or federal law which seriously threatens the tenant's health, safety, or security. The receiver shall not take actions inconsistent with this purpose or take actions other than those necessary and proper to the maintenance and repair of the rental housing accommodation. Nothing in this chapter shall be construed to limit or abrogate any other common law or statutory right to petition for receivership. **Nothing in this chapter shall be construed to limit or abrogate any other common law or statutory right to petition for receivership. Nothing in this chapter shall prevent a tenant or tenant association from asserting as a defense or counterclaim a housing providers' non-compliance with applicable housing regulations.**

* * *

D.C. OFFICIAL CODE § 42-3651.02. GROUNDS FOR APPOINTMENT OF A RECEIVER.

(b)**(1)** A receiver may also be appointed if a rental housing accommodation has been operated in a manner that demonstrates a pattern of neglect for the property for a period of 30 consecutive days and such neglect poses a serious threat to the health, safety, or **security of the tenants**. ~~**For purposes of this subsection, the term "pattern of neglect" includes all evidence that the owner, agent, lessor, or manager of the rental housing accommodation has maintained the premises in a serious state of disrepair, including vermin or rat infestation, filth or contamination, inadequate ventilation, illumination, sanitary, heating or life safety facilities, inoperative fire suppression or warning equipment, or any other condition that constitutes a hazard to its occupants or to the public.**~~

(b)(2) For purposes of this subsection, the term "pattern of neglect" includes all evidence that the owner, agent, lessor, or manager of the rental housing accommodation has maintained the premises in a state of disrepair that constitutes a serious threat to the health, safety, or security of the tenants or to the public.

(c) For purposes of this chapter, the phrase "serious threat to the health, safety, or security of the tenants" includes all violations that involve:

(1) Vermin or rat infestation;

(2) Filth or contamination;

(3) Inadequate ventilation, illumination, sanitary, heating or life safety facilities;

(4) Inoperative fire suppression or warning equipment;

(5) Inoperative door or window locks; or

(6) Any other condition that constitutes a hazard to tenants, occupants or to the public.

* * *

D.C. OFFICIAL CODE § 42-3651.03. PETITION FOR RECEIVERSHIP.

(a) Notwithstanding the availability of any other remedy, the ~~**Corporation Counsel**~~ **Office of the Attorney General of the District of Columbia** may, in the name of the District of Columbia and based on the grounds set forth in § 42-3651.02, petition the Superior Court of the District of Columbia ("Court") to appoint a receiver of the rents or payments for use and occupancy for the affected rental housing accommodation.

(a-1)(1) The Attorney General, or his or her designee, shall have the authority to issue subpoenas related to any investigation necessary to determine whether adequate grounds exist to file a petition to appoint a receiver, or to determine if a person or party subject to a receivership is maintaining other rental accommodations in an state of disrepair that that constitutes a serious threat to the health, safety, or security of the tenants or to the public. Such subpoenas shall be for:

(i) The production of documents and materials;

(ii) The inspection of premises;

(iii) The attendance and testimony of witnesses under oath; and

(iv) Sworn written responses to questions.

(2) Subpoenas issued pursuant to this subsection shall conform to the procedures established in section 110a of the Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010, effective October 22, 2015 (D.C. Law 21-36; D.C. Official Code § 1-301.88d)

(b) Notwithstanding the availability of any other remedy, a majority of the tenants in the rental housing accommodation may, based on the grounds set forth in § 42-3651.02, submit a written request asking the ~~**Corporation Counsel**~~ **Office of the Attorney General of the District of Columbia** to petition the Court to appoint a receiver of the rents or payments for use and occupancy of the affected rental housing accommodation. If the ~~**Corporation Counsel**~~ **Office of the Attorney General of the District of Columbia** denies the request or does not file a petition within 5 days, excluding Saturdays, Sundays, and legal holidays, after receiving a request, the requestor may file with the Court a petition for the appointment of a receiver.

* * *

D.C. OFFICIAL CODE § 42–3651.05. APPOINTMENT OF A RECEIVER; CONTINUATION OF EX PARTE APPOINTMENT.

(a)(1) After a hearing, the Court may appoint a receiver for a rental housing accommodation or continue the appointment of a receiver made ex parte if it finds that the petitioner has proven, by a preponderance of the evidence, the existence of the grounds for receivership as set forth in § 42-3651.02 and finds that the respondent has not provided the Court with a sufficient plan for abatement of the conditions ~~**alleged in the petition**~~ **alleged in the petition. As part of any order granting a receivership, the Court may also enjoin the respondent(s) from continuing any of the actions, practices, or patterns of neglect at the rental housing accommodation and at any other rental accommodations owned, managed, or controlled by the respondent(s).**

(2) Upon acceptance of a respondent's plan, the Court ~~**may dismiss the petition or**~~ **shall** retain the case for purposes of monitoring respondent's execution of the plan. The monitoring shall continue until the Court, on its own motion or that of any party:

(A) Dismisses the petition on grounds that ~~**the respondent has completed the plan**~~ **all conditions that constituted a serious threat to the health, safety, or security of the tenants have been abated**; or

(B) Finds the respondent has not made sufficient progress to complete the plan, in which event it may order appointment of a receiver under this section.

(f)(1) As part of any ~~**order appointing**~~ **proceeding commenced for the appointment of** a receiver, or in any plan for abatement presented by a respondent, the Court ~~**may, in appropriate circumstances, order that the respondent contribute funds in excess of the rents collected from the rental housing accommodation for the purposes of abating housing code violations and assuring that any conditions that are a serious threat to the health, safety, or security of the occupants or public are corrected.**~~ **shall order that the respondent and/or any owner(s) of the subject rental housing accommodation contribute funds in excess of the rents collected from the rental housing accommodation for any or all of the following purposes:**

(A) Abating housing code violations;

(B) Reimbursing the District of Columbia for any abatements undertaken;

(C) Assuring that any conditions that are a serious threat to the health, safety, or security of the occupants or public are corrected;

(D) Relocating and maintaining tenants displaced during the implementation of any abatement plan into comparable units including any difference in the rent due to relocation;

(E) Satisfying the up-front receivership costs, including posting a bond pursuant to subsection (d) herein, reasonable up-front compensation to the receiver,

and any costs associated with obtaining professional studies or evaluations of the property's condition and abatement needs;

(F) Refund prior rents paid of at least one-half (1/2) of any month's rent up to three years prior to the date the receivership was granted for any period of time that the District of Columbia presents evidence that the rental housing accommodation suffered from a serious state of disrepair; or

(G) For other purposes reasonably necessary in the ordinary course of business of the property, including maintenance and upkeep of the rental housing accommodation, payment of utility bills, mortgages and other debts, and payment of the receiver's fees.

(2) For the purpose of this section, "owner" shall mean any person or entity who, alone or jointly or severally with others, meets either of the following criteria:

(A) Has legal title to the subject rental housing accommodation; or

(B) Has charge, care, or control of the subject rental accommodation, whether as owner or member, in whole or in part, of the legally titled owner ('owner'), as agent of the owner, or as a fiduciary of the estate of the owner or any officer appointed by the court.

* * *

D.C. OFFICIAL CODE § 42-3651.06. POWERS AND DUTIES OF A RECEIVER.

(a)(4)(B) Serve a copy of the plan upon the owner of record, the ~~**Corporation Counsel**~~ **Office of the Attorney General of the District of Columbia**, and the tenants of the rental housing accommodation, or their representative;

(a)(5)(B) Serve a copy of the report upon the owner of record, the ~~**Corporation Counsel**~~ **Office of the Attorney General of the District of Columbia**, and the tenants of the rental housing accommodation, or their representative;

* * *

D.C. OFFICIAL CODE § 42-3651.07. TERMINATION OF RECEIVERSHIP.

(a)(1) The Court determines that the receivership is no longer necessary because**:** the grounds on which the appointment of the receiver was based no longer exist~~**, that;**~~ the receiver has received proper compensation for the services provided~~**, and that;**~~ **the District of Columbia has been reimbursed for all expenses related to the appointment of the receiver; the District of Columbia has been reimbursed for all expenses related to abatements performed by the District or on its behalf by any third-party; and all fines, infractions, and penalties arising from code violations at the property to date have been paid in full to the District of Columbia;** or

(b)(1) Notwithstanding subsection (a) of this section, a receivership of a rental housing accommodation shall not be terminated in favor of any person who was the owner of the rental housing accommodation or his representative at the time the petition was filed under § 42-

3651.03, or, in the discretion of the Court, any person who is or was an affiliate of the owner, agent, lessor, or manager, unless he or she first reimburses the District of Columbia for the expenses incurred in creating the receivership~~.~~**, for all expenses related to abatements performed by the District or on its behalf by any third-party, and all fines, infractions and penalties arising from code violations at the property to date have been paid in full to the District of Columbia.**

(d) As part of any order terminating a receivership, the Court may also permanently enjoin the respondent(s) from continuing any of the actions, practices, or pattern of neglect at the rental housing accommodation and at any other rental accommodations owned, managed, or controlled by the respondent(s).

DRAFT COMMITTEE PRINT
Committee of the Whole
October 6, 2020

A BILL

23-456

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

_____

To amend the Abatement and Condemnation of Nuisance Properties Omnibus Amendment Act of 2000 to clarify the basis for the appointment; to authorize the Office of the Attorney General to issue subpoenas for documents and testimony as part of a receivership investigation, to require the Court to monitor the execution of a landlord's plan to abate housing code violations; to authorize the Court to order an owner, member, or any person with charge, care, or control of the property to contribute funds in excess of the rents to abate violations, reimburse the District, relocate displaced tenants, fund up-front receivership costs, and maintain the upkeep, utilities, mortgages, back rent, and debts of the building while in receivership; to prohibit the termination of a receivership until the District is reimbursed for all expenses associated with the receivership, all abatement costs, and all fines, infractions, and penalties arising from code violations are paid in full, and to clarify that the Court may enjoin the respondents from continuing actions, practices, or patterns of neglect at the rental housing accommodation and at any other rental accommodations owned, managed, or controlled by the respondent(s)."

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that this act may be cited as the "Abatement and Condemnation of Nuisance Properties Amendment Act of 2020".

Sec. 2. The Abatement and Condemnation of Nuisance Properties Omnibus Amendment Act of 2000, effective April 27, 2001 (D.C. Law 13-281; D.C. Official Code § 42-3651.01 *et seq.*), is amended as follows:

(a) Section 501 (D.C. Official Code § 42-3651.01) is amended to read as follows:

"The purpose of the appointment of a receiver under this title shall be to safeguard the health, safety, and security of the tenants of a rental housing accommodation if there exists a violation of District of Columbia or federal law which seriously threatens the tenant's health, safety, or security. The receiver shall not take actions inconsistent with this purpose or take actions other than those necessary and proper to the maintenance and repair of the rental housing accommodation. Nothing in this title shall be construed to limit or abrogate any other common law or statutory right to petition for receivership. Nothing in this title shall prevent a tenant or tenant association from asserting as a defense or counterclaim a housing providers' non-compliance with applicable housing regulations."

(b) Section 502 (D.C. Official Code § 42-3651.02) is amended as follows:

(1) Subsection (b) is amended as follows:

(A) The existing text is designated as paragraph (1).

(B) Newly designated paragraph (1) is amended by striking the phrase "security of the tenants. For purposes of this subsection, the term "pattern of neglect" includes all evidence that the owner, agent, lessor, or manager of the rental housing accommodation has maintained the premises in a serious state of disrepair, including vermin or rat infestation, filth or contamination, inadequate ventilation, illumination, sanitary, heating or life safety facilities, inoperative fire suppression or warning equipment, or any other condition that constitutes a hazard to its occupants or to the public." and inserting the phrase "security of the tenants." in its place.

(C) A new paragraph (2) is added to read as follows:

"(2) For purposes of this subsection, the term "pattern of neglect" includes all evidence that the owner, agent, lessor, or manager of the rental housing accommodation has

maintained the premises in a state of disrepair that constitutes a serious threat to the health, safety, or security of the tenants or to the public."

(2) A new subsection (c) is added to read as follows:

"(c) For purposes of this title, the phrase "serious threat to the health, safety, or security of the tenants" includes all violations that involve:

(1) Vermin or rat infestation;

(2) Filth or contamination;

(3) Inadequate ventilation, illumination, sanitary, heating or life safety facilities;

(4) Inoperative fire suppression or warning equipment;

(5) Inoperative door or window locks; or

(6) Any other condition that constitutes a hazard to tenants, occupants or to the public."

(c) Section 503 (D.C. Official Code § 42-3651.03) is amended as follows:

(1) Strike the phrase "Corporation Counsel" wherever it appears and insert the phrase "Office of the Attorney General for the District of Columbia".

(2) A new subsection (a-1) is added to read as follows:

"(a-1)(1) The Attorney General, or his or her designee, shall have the authority to issue subpoenas related to any investigation necessary to determine whether adequate grounds exist to file a petition to appoint a receiver, or to determine if a person or party subject to a receivership is maintaining other rental accommodations in an state of disrepair that that constitutes a serious threat to the health, safety, or security of the tenants or to the public. Such subpoenas shall be for:

(i) The production of documents and materials;

(ii) The inspection of premises;

(iii) The attendance and testimony of witnesses under oath; and

(iv) Sworn written responses to questions.

"(2) Subpoenas issued pursuant to this subsection shall conform to the procedures established in section 110a of the Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010, effective October 22, 2015 (D.C. Law 21-36; D.C. Official Code § 1-301.88d).".

(d) Section 505 (D.C. Official Code § 42-3651.05) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (1) is amended by striking the phrase "alleged in the petition." and inserting the phrase "alleged in the petition. As part of any order granting a receivership, the Court may also enjoin the respondent(s) from continuing any of the actions, practices, or patterns of neglect at the rental housing accommodation and at any other rental accommodations owned, managed, or controlled by the respondent(s)."

(B) Paragraph (2) is amended to read as follows:

"(2) Upon acceptance of a respondent's plan, the Court shall retain the case for purposes of monitoring respondent's execution of the plan. The monitoring shall continue until the Court, on its own motion or that of any party:

(A) Dismisses the petition on grounds that all conditions that constituted a serious threat to the health, safety, or security of the tenants have been abated; or

(B) Finds the respondent has not made sufficient progress to complete the plan, in which event it may order appointment of a receiver under this section."

(2) Subsection (f) is amended to read as follows:

"(f)(1) As part of any proceeding commenced for the appointment of a receiver, or in any plan for abatement presented by a respondent, the Court shall order that the respondent and/or any owner(s) of the subject rental housing accommodation contribute funds in excess of the rents collected from the rental housing accommodation for any or all of the following purposes:

(A) Abating housing code violations;

(B) Reimbursing the District of Columbia for any abatements undertaken;

(C) Assuring that any conditions that are a serious threat to the health, safety, or security of the occupants or public are corrected;

(D) Relocating and maintaining tenants displaced during the implementation of any abatement plan into comparable units including any difference in the rent due to relocation;

(E) Satisfying the up-front receivership costs, including posting a bond pursuant to subsection (d) herein, reasonable up-front compensation to the receiver, and any costs associated with obtaining professional studies or evaluations of the property's condition and abatement needs;

(F) Refund prior rents paid of at least one-half (1/2) of any month's rent up to three years prior to the date the receivership was granted for any period of time that the District of Columbia presents evidence that the rental housing accommodation suffered from a serious state of disrepair; or

(G) For other purposes reasonably necessary in the ordinary course of business of the property, including maintenance and upkeep of the rental housing

accommodation, payment of utility bills, mortgages and other debts, and payment of the receiver's fees."

"(2) For the purpose of this section, "owner" shall mean any person or entity who, alone or jointly or severally with others, meets either of the following criteria:

(A) Has legal title to the subject rental housing accommodation; or

(B) Has charge, care, or control of the subject rental accommodation, whether as owner or member, in whole or in part, of the legally titled owner ('owner'), as agent of the owner, or as a fiduciary of the estate of the owner or any officer appointed by the court.".

(e) Section 506 (D.C. Official Code § 42-3651.06) is amended by striking the phrase "Corporation Counsel" both times it appears and insert the phrase "Office of the Attorney General for the District of Columbia" in its place.

(f) Section 507 (D.C. Official Code § 42-3651.07) is amended as follows:

(1) Subsection (a)(1) is amended to read as follows:

"(a)(1) The Court determines that the receivership is no longer necessary because: the grounds on which the appointment of the receiver was based no longer exist; the receiver has received proper compensation for the services provided; the District of Columbia has been reimbursed for all expenses related to the appointment of the receiver; the District of Columbia has been reimbursed for all expenses related to abatements performed by the District or on its behalf by any third-party; and all fines, infractions, and penalties arising from code violations at the property to date have been paid in full to the District of Columbia; or"

(2) Subsection (b)(1) is amended by striking the period and inserting the phrase ", for all expenses related to abatements performed by the District or on its behalf by any third-party, and all fines, infractions and penalties arising from code violations at the property to date

have been paid in full to the District of Columbia."

(3) A new subsection (d) is added to read as follows:

"(d) As part of any order terminating a receivership, the Court may also permanently enjoin the respondent(s) from continuing any of the actions, practices, or pattern of neglect at the rental housing accommodation and at any other rental accommodations owned, managed, or controlled by the respondent(s).".

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(l) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(l)), and publication in the District of Columbia Register.