

**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: January 18, 2024

SUBJECT: Report on The District’s Housing Code Inspection Process: Broken and In Need of Repair

CONTENTS

I.	Executive Summary	1
II.	Introduction.....	5
III.	History and Context	6
IV.	Training and Organizational Culture	10
V.	Complaint Intake.....	16
VI.	Scheduling and Conducting Inspections	18
VII.	Initiating and Issuing NOIs	20
VIII.	Abatement of Violations	26
IX.	Settlement and Adjudication of Infractions	29

I. EXECUTIVE SUMMARY

Over the course of several months, the Committee of the Whole investigated the housing code inspection process at the Department of Buildings. Through the investigation, the Committee found:

- Unnecessary delays in serving notices of infraction (NOIs) to respondents and unnecessary delays in the filing of NOIs with the Office of Administrative Hearings.
- Many NOIs are sent to an address where the property owner does not live or to someone other than the property owner or property management company.
- Most violations are not abated within the time frames required by notices of infraction.
- The Department does not require an in-person inspection to verify the abatement of a violation.

A summary of findings and recommendations are below. Detailed commentary on these findings and recommendations are provided in the following sections.

Training and Organizational Culture

Findings

- Many trainings are conducted through a virtual platform that provides limited opportunity for real-time engagement.
- Training materials reviewed by the Committee simply list various code sections. They do not incorporate interactive training exercises or connect building code enforcement to public health outcomes.
- Training topics are not selected and formalized based on a comprehensive assessment of need.
- New technology or systems are often implemented without input from the staff tasked with utilizing these systems.
- The cost of materials and tests for International Code Council (ICC) certification can be prohibitive for many employees.

Recommendations

- The Department should provide more in-person or hybrid training opportunities so staff can engage with trainers and colleagues in person.
- The Department should revise training materials to incorporate interactive training exercises and activities.
- The Department should consistently emphasize the connection between enforcement of the housing code and health outcomes.
- The Department should conduct a training needs assessment with staff to determine what new training may be needed.
- The Department should establish a process to collect staff input prior to procuring new technology or systems and implementing new policies.
- The Department should continue offering employees vouchers to pay for ICC materials and tests.

Complaint Intake

Findings

- Complaint intake information from tenants is often limited and inconsistent.

Recommendations

- The Department should revise the online intake form so that more accurate, useful information is collected from complainants.
- The Department should create a complaint intake guide and train program support staff to collect similar information from complainants via e-mail or phone.

Scheduling and Conducting Inspections

Findings

- If a complainant requests that an initial inspection be rescheduled outside of the Department's 15-day service-level agreement, the inspection request must be canceled, and the complainant must file a new request.
- The vast majority of inspections occurred within 15 days of receipt of a complaint.
- While inspectors can access a checklist through a mobile application, it is not utilized to guide the inspection process.
- The Department requires inspectors to conduct re-inspections of emergency violations within 3 to 7 days after an NOI has been generated and mailed and re-inspections of non-emergency violations within 60 days after an NOI has been generated and mailed.

Recommendations

- The Department should revise its system and service level agreements so that requests to reschedule an initial inspection outside the 15-day service-level agreement do not require the complainant to file a new request.
- The Department should continue to promptly inspect routine violations, consistent with the service level agreement established in its standard operating procedures.
- The Department should encourage inspectors to utilize a standard checklist for consistency and thoroughness when conducting inspections.
- The Department should revise its standard operating procedure for conducting inspections to do away with the re-inspection requirement where neither the tenant nor the housing provider has indicated the violation has been abated.

Initiating and Issuing Notices of Infraction

Findings

- Over half (56%) of the NOIs reviewed by the Committee were sent to an address where the property owner did not live or to someone other than the property owner or property management company.
- While a majority (61%) of NOIs reviewed by the Committee were served to the respondent within one to two days of the initial inspection, nearly three in 10 (29%) were served to the respondent five days or more after the initial inspection.
- The Department offers "deferred enforcement" to housing providers who cure a violation within 24 hours or 60 days. Deferred enforcement may result in the dismissal of the NOI and associated fines.

Recommendations

- The Department should establish protocols for investigating and verifying the addresses of property owners to whom NOIs are issued and only use e-mails for service of an NOI if explicitly requested by the property owner.
- The Department should establish a key performance indicator that measures the time between an initial inspection and the service of an NOI to the respondent.
- The Department should feature deferred enforcement in NOIs and other notices sent to property owners more prominently.
- The Department should revise its protocol for NOIs and deferred enforcement so that fines are not automatic but applied after a specific period of time passes by in which the housing provider does not comply (i.e., a week, two weeks, etc.) if the housing provider does not comply.

Abatement of Violations

Findings

- Less than half (47%) of the violations in NOIs reviewed by the Committee were verified as abated.
- The Department does not require in-person inspections to verify all abatements. Many abatements are “verified” through an online portal that requires property owners to submit evidence verifying an abatement.

Recommendations

- The Department should consider “nudging” property owners to address alleged violations through a courtesy letter sent before or after an initial inspection.
- The Department should revise its standard operating procedures to require a re-inspection when the tenant or the property notifies the Department that the violation has been abated.

Settlement and Adjudication of Infractions

Findings

- Nearly two-thirds (62%) of NOIs reviewed by the Committee were filed with OAH.
- Only 34% of NOIs were filed with OAH between 20 and 30 days after service.
- On average, over seven months passed from the date on which an NOI was filed with OAH to the date on which a final order was issued. Over half (53%) of final rulings on NOIs found the respondent in default and liable for violations.

Recommendations

- The Department should establish a key performance indicator that sets a standard for when non-responsive NOIs must be filed with OAH.
- The Department should provide more information to housing providers about the Alternative Resolution Program to increase utilization.

II. INTRODUCTION

Table 1. Characteristics of Selected Properties¹

	Number of Properties (%)
<i>Property Type</i>	
Apartment	21 (42%)
Condominium	3 (6%)
Multifamily	4 (8%)
Other	10 (20%)
Single-Family	12 (24%)
<i>Year Property Built</i>	
Before 1970	25 (50%)
1970 to 1990	15 (30%)
1991 or Later	10 (20%)
<i>Ward of Property</i>	
1	6 (12%)
2	7 (14%)
3	5 (10%)
4	7 (14%)
5	7 (14%)
6	4 (8%)
7	7 (14%)
8	7 (14%)
<i>Number of Units in Building</i>	
One or Less	15 (30%)
2 to 20	17 (34%)
21 to 100	11 (22%)
100 or More	7 (14%)

The Committee of the Whole initiated an in-depth oversight investigation into the housing code inspection process at the Department of Buildings in July 2023 due to continued complaints from tenants, housing providers, and legal service organizations about the ineffectiveness of the current process. To conduct the investigation, the Committee requested data and documentation on at least 50 rental properties where NOIs were issued for a violation after July 1, 2022. To select properties, the Department created a list of all rental properties with notices of infraction issued after July 1, 2022. The list of properties was stratified by Ward; then, a random number generator

¹ Information about the year the property was built and the number of units in the building was acquired from Computer Assisted Mass Appraisal data and other sources.

was used to select several properties from each Ward. For each property, the Department provided a spreadsheet that contained intake information, workflow history, violation-level data, NOIs in PDF form, and applicable final orders from the Office of Administrative Hearings. As shown in Table 1, most of the selected properties are either apartments (42%) or single-family home rentals (24%), half of the properties were built before 1970, the properties are distributed relatively evenly across Wards, and most of the properties are smaller (i.e., 20 units or less).

In addition to this data and documentation, the Committee requested and received:

- Active and pending standard operating procedures related to housing code inspections.
- Access to training materials for housing code inspectors.
- A focus group interview with Department staff.
- A ride along with an inspector.

The Committee supplemented the information and documents provided by the Department with the following:

- Interviews of ten tenants who filed housing code complaints with the Department. Tenants were asked about their experiences filing complaints and interacting with Department staff.
- A focus group interview with five housing providers in the District in collaboration with the Apartment and Office Building Association of Metropolitan Washington. Housing providers were asked about their experiences with the Department and how specific policies have impacted their operations.
- Conversations with agency leaders and housing code inspection staff in other jurisdictions, including Baltimore, Seattle, San Francisco, Dallas, and New York City.

Pseudonyms are used when quoting a specific tenant, employee, or housing provider to preserve anonymity.

III. HISTORY AND CONTEXT

Before October 1, 2022, the Department of Consumer and Regulatory Affairs (DCRA) was the agency charged with enforcing the housing and property maintenance codes in the District. DCRA was created on March 31, 1983, pursuant to Reorganization Plan No. 1 of 1983 (D.C. Official Code § 1-1506.01).² Under the reorganization plan, the Department assumed responsibility for a broad range of functions, including regulation of professional and occupational practices, consumer protection, business registration and licensing, regulation of rental housing, and registration, licensing, and certification of health facilities. These functions were previously spread among eight entities in the District government, four of which were abolished due to the reorganization. Over many years, multiple attempts were made to reform DCRA to make it a better

² Before 2014, the Department enforced the housing code or Title 14 of the D.C. Municipal Regulations. Housing code requirements were first adopted in 1955 under a Commissioner's order (See the Housing Regulations of the District of Columbia, 5G DCRR § 2308, Commissioners' Order 55-1503 (August 11, 1955). Until administrative procedures were established in 1985, violations carried criminal penalties.

functioning agency, but these reforms failed.³ These failed reform efforts were the catalyst for creating the Department of Buildings.

The Department of Buildings was created via the “Department of Buildings Establishment Act of 2020” (“Act”)(D.C. Law 23-269). Pursuant to the Act, the Department’s core functions include reviewing construction plans, issuing permits, regulating land use and development, and enforcing the District’s construction codes.⁴ The construction codes include the property maintenance code (PMC), which establishes standards for the continued use and maintenance of buildings.⁵ The PMC is based on the International Property Maintenance Code, developed by the International Code Council, a membership association that develops widely used standards for building construction and property maintenance. Some of the requirements in the District’s PMC include:

- Ensuring that the exterior of a structure is maintained in good repair, structurally sound, and sanitary;
- Maintaining all interior surfaces in good, clean, dry, and sanitary conditions;
- Keeping all exterior property and premises free from the accumulation of rubbish or garbage; and
- Installing and maintaining smoke alarms, carbon monoxide alarms, and fire suppression systems.

The importance of these and other requirements in the PMC cannot be understated. Research has consistently found that the built environment can profoundly impact physical and mental health. For instance, living in a house with poor ventilation increases the risk of developing asthma and respiratory disease,⁶ a lack of heating or cooling systems increases the risk of experiencing heat stroke and hypothermia,⁷ inadequate plumbing systems and facilities increase the risk of contracting infectious diseases,⁸ and insufficient lighting may exacerbate mental health conditions such as depression and anxiety.⁹

³ See pages 2-3 of the Committee of the Whole’s Report on the “Department of Buildings Establishment Act of 2020” for more information on these failed attempts to reform DCRA (https://lms.dccouncil.gov/downloads/LIMS/41724/Committee_Report/B23-0091-Committee_Report2.pdf?Id=115311).

⁴ The construction codes are reviewed and updated by the Construction Codes Coordinating Board, a 13-member Board with members appointed by the Mayor and one member appointed by the Chair of the Council. After the Board approves code amendments, they are subject to review by the Council (D.C. Official Code § 6-1409).

⁵ 12-G DCMR, Property Maintenance Code Supplement of 2017.

⁶ Wimalasena, N. N., Chang-Richards, A., Wang, K. I. K., & Dirks, K. N. (2021). Housing risk factors associated with respiratory disease: a systematic review. *International journal of environmental research and public health*, 18(6), 2815.

⁷ Herity, B., Daly, L., Bourke, G. J., & Horgan, J. M. (1991). Hypothermia and mortality and morbidity. An epidemiological analysis. *Journal of Epidemiology & Community Health*, 45(1), 19-23; Rogot, E., Sorlie, P. D., & Backlund, E. (1992). Air-conditioning and mortality in hot weather. *American journal of epidemiology*, 136(1), 106-116.

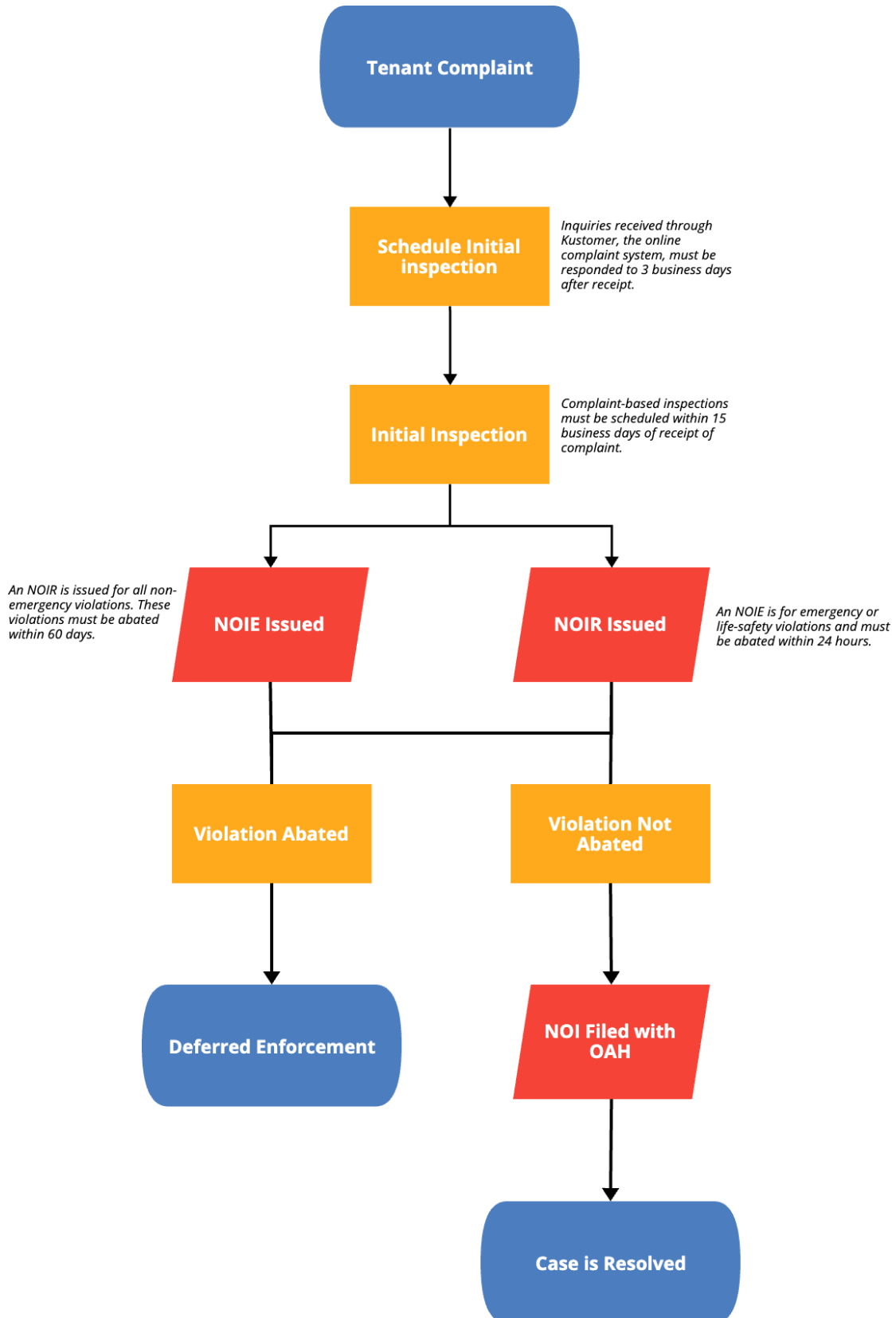
⁸ Bursa, P. E. *A Historical Perspective on the Impact of the Infectious Disease Outbreaks on Architectural and Urban Changes*.

⁹ Osibona, O., Solomon, B. D., & Fecht, D. (2021). Lighting in the home and health: A systematic review. *International journal of environmental research and public health*, 18(2), 609.

To enforce the PMC, the Department inspects properties for compliance through proactive or complaint-based inspections. The complaint-based inspection process begins when a tenant files a complaint with the Department. A tenant can file a complaint one of three ways: 1) via the Kustomer portal on the Department's website, 2) via phone at (202)-671-3500, 3) or via sending an e-mail to dcra.housingcomplaints@dc.gov.¹⁰ Once the Department receives a complaint, a program support specialist is required to respond within three business days of receipt. The program support specialist works with the tenant to schedule an initial inspection within 15 business days of receipt of the complaint. When an inspector finds a violation, they will issue a notice of infraction (NOI). Depending on the nature of the violation, the housing code inspection will issue either a Notice of Infraction Emergency (NOIE) or a Notice of Infraction Routine (NOIR). NOIEs are issued for life-safety violations such as lack of heat, no smoke detectors, or lack of running water and require abatement within 24 hours, while NOIRs are issued for less severe violations and require abatement within 60 days. If a housing provider abates the violation within the applicable time frame, then the violation qualifies for deferred enforcement. Deferred enforcement means the NOI will either not be filed with the Office of Administrative Hearings (OAH) or dismissed without fines. If a housing provider fails to abate the violation within the applicable time frame, the NOI is filed with OAH and adjudicated. Figure 1 provides a visual overview of the complaint-based process, which is the focus of this report. The remainder of this report provides detailed commentary on findings and recommendations at each step in the process based on the Committee's review of the data, documentation, and qualitative interview information.

¹⁰ A program support specialist will input the information into the Kustomer portal if a tenant files a complaint via the latter two options.

Figure 1. Complaint-Based Process for Housing Code Inspections



IV. TRAINING AND ORGANIZATIONAL CULTURE

Findings:

1. Many trainings are conducted through a virtual platform that provides limited opportunity for real-time engagement.
2. Training materials reviewed by the Committee simply list various code sections. They do not incorporate interactive training exercises or connect building code enforcement to public health outcomes.
3. Training topics are not selected and formalized based on a comprehensive assessment of need.
4. New technology or systems are often implemented without input from the staff tasked with utilizing these systems.
5. The cost of materials and tests for International Code Council (ICC) certification can be prohibitive for many employees.

Recommendations:

1. The Department should provide more in-person or hybrid training opportunities so staff can engage with trainers and colleagues in person.
2. The Department should revise training materials to incorporate interactive training exercises and activities.
3. The Department should consistently emphasize the connection between enforcement of the housing code and health outcomes.
4. The Department should conduct a training needs assessment with staff to determine what new training may be needed.
5. The Department should establish a process to collect staff input before procuring new technology or systems and implementing new policies.
6. The Department should continue offering employees vouchers to pay for ICC materials and tests.

Training

An employee's onboarding experience is critical to their long-term success and the success of the organization itself. Poor or inadequate onboarding can lead employees to become demoralized or disengaged and may lead some employees to begin looking for a new job. Meanwhile, effective onboarding can boost morale, increase competency, and decrease employee turnover.¹¹ Research and practitioner experiences suggest that there are several characteristics of effective onboarding processes:¹²

- The onboarding process should be formal rather than informal;
- The onboarding process should provide opportunities for new hires to interact and socialize with colleagues;
- The values of the organization should be clearly communicated and tied to the employee performance;
- Managers should take an active role in the onboarding process;
- The onboarding process should encourage open dialogue and discussion;
- New hires should be assigned a mentor or work buddy who can help answer questions and assist with skill development;
- Trainings should be based on the needs of employees; and
- Training should be comprehensive and progressively structured.

The Committee found that the Department's current onboarding process adheres to many of these characteristics. For instance, the onboarding process for the Department is formalized, there are opportunities for new hires to interact and socialize with colleagues, and managers often play an active role in onboarding new hires. Additionally, all housing code inspectors must complete progressively structured training modules and courses in their first two weeks. As shown in Table 2, the first week of training covers basic information about the Department, including the Department's five-year strategic plan, the Kustomer (KRM) system, and an overview of the Department's various offices.

¹¹ See, for instance, Gupta, P. D., Bhattacharya, S., Sheorey, P., & Coelho, P. (2018). Relationship between onboarding experience and turnover intention: intervening role of locus of control and self-efficacy. *Industrial and Commercial Training*, 50(2), 61-80; Kirchner, M., & Stull, F. (2021). Employee onboarding and satisfaction in US manufacturing companies. *Industrial and Commercial Training*, 54(2), 267-278; Kurnat-Thoma, E., Ganger, M., Peterson, K., & Channell, L. (2017). Reducing annual hospital and registered nurse staff turnover—A 10-element onboarding program intervention. *SAGE Open Nursing*, 3, 2377960817697712.

¹² See, for instance, Frögéli, E., Jenner, B., & Gustavsson, P. (2023). Effectiveness of formal onboarding for facilitating organizational socialization: A systematic review. *PLoS one*, 18(2), e0281823; Klein, H. J., & Polin, B. (2012). Are Organizations On Board with Best Practices Onboarding?. *The Oxford handbook of organizational socialization*, 267; Klein, H. J., Polin, B., & Leigh Sutton, K. (2015). Specific onboarding practices for the socialization of new employees. *International Journal of Selection and Assessment*, 23(3), 263-283.

Table 2. Week 1 Training Topics

Week 1 Topics
<ul style="list-style-type: none"> • DOB Orientation <ul style="list-style-type: none"> ○ Workflows (High-Level) ○ Five-Year Strategic Plan Overview • Customer Service and Account Management • Customer Service Standards and Expectations
<ul style="list-style-type: none"> • DOB Agency Performance Team Review • DOB Dashboard • Language Access Learning • FOIA and Ethics • Office of Construction and Building Standards Overview <ul style="list-style-type: none"> ○ Master List of Sister Agencies ○ How DOB Protects Residents ○ Introduction to Permits and Service-Level Agreements ○ Introduction to 12-A DCMR
<ul style="list-style-type: none"> • Kustomer (KRM) <ul style="list-style-type: none"> ○ KRM Basics 101 ○ KRM Basics 102 ○ Conversations in Kustomer 2.0 • Inspectors City Gov. App
<ul style="list-style-type: none"> • Office of Zoning Administration Overview • Office of Strategic Enforcement Administration Overview • DOB Investigations and Special Investigations Overview • Office of the General Counsel Overview • Office of the Surveyor Overview

In week two, inspectors receive more specialized training covering illegal construction and housing inspection processes and utilizing systems such as SCOUT and DISPATCH. Table 3 provides an overview of the topics.

Table 3. Week 2 Training Topics

Week 2 Topics
<ul style="list-style-type: none"> • Overview of Illegal Construction • Illegal Construction 2.0 and Stop Work Orders • Enforcement Cases and Accela • Failure to Protect Adjacent Properties
<ul style="list-style-type: none"> • Commercial Construction Inspections • Permit Center Division <ul style="list-style-type: none"> ○ Permit Operations: Checklists, Consistency and Plan Review • Vacant Building and Housing Abatement • Notice of Infraction • Structural Defects Training • Special Inspections

<ul style="list-style-type: none">• Accelerated Plan Review• DOB Noise Control Act• Resident Inspectors• Neighbor Notifications• Housing Inspections<ul style="list-style-type: none">○ Multifamily Dwelling Unit○ Plumbing○ Fire*○ Mechanical*○ DCMR 12*• Ethics for Residential Inspectors
<ul style="list-style-type: none">• Tertius• Project Dox• SCOUT and Quickbase• DISPATCH• Certifi - C of O Application Process

While the training is progressively structured, the Committee found the format and content of the training lacking in many respects.¹³ The training materials reviewed by the Committee are all online through an application called Trainual.¹⁴ For each topic in the Trainual application, employees must watch a video where managers provide an overview of the subject. After finishing the video, employees are generally required to take a short quiz assessing their knowledge retention.¹⁵ Research suggests that virtual or online training sessions are as effective as in-person training sessions in promoting knowledge acquisition and retention.¹⁶ However, recorded virtual training sessions do not allow employees to ask questions, perform tasks or activities, or engage with colleagues. This may limit the effectiveness of the virtual training sessions for some employees. Another factor that may limit the effectiveness of these training sessions is the content. For instance, training sessions that require the performance of specific tasks or contain problem-solving activities promote greater knowledge acquisition and self-efficacy.¹⁷ All the training

¹³ Initial trainings for the topics listed in tables 2 and 3 were conducted live via video or in a hybrid format, but the Committee did not receive any indication that this continues to be the case for new hires.

¹⁴ In discussions with Committee staff, the Department indicated that live, in-person, or hybrid training sessions also occur, but these training sessions are mostly to support inspectors who need to obtain certification from the International Code Council.

¹⁵ The quizzes are essentially open-book and do not engage participants in problem-solving activities. Employees have access to the PowerPoints and can easily determine the answers to the questions in the quiz by simply looking at the requisite PowerPoint slide.

¹⁶ See, for instance, Mallonee, S., Phillips, J., Holloway, K., & Riggs, D. (2018). Training providers in the use of evidence-based treatments: A comparison of in-person and online delivery modes. *Psychology Learning & Teaching*, 17(1), 61-72; Mullin, D. J., Saver, B., Savageau, J. A., Forsberg, L., & Forsberg, L. (2016). Evaluation of online and in-person motivational interviewing training for healthcare providers. *Families, Systems, & Health*, 34(4), 357.

¹⁷ See, for instance, Courteille, O., Fahlstedt, M., Ho, J., Hedman, L., Fors, U., Von Holst, H., ... & Möller, H. (2018). Learning through a virtual patient vs. recorded lecture: a comparison of knowledge retention in a trauma case. *International journal of medical education*, 9, 86; Deslauriers, L., McCarty, L. S., Miller, K., Callaghan, K., & Kestin, G. (2019). Measuring actual learning versus feeling of learning in response to being actively engaged in the classroom. *Proceedings of the National Academy of Sciences*, 116(39), 19251-19257; Li, F., Zhang, J. S., Sheng, X. Y., Shen, X.

materials reviewed by the Committee simply list various code sections with stock pictures interspersed throughout, as shown in Figure 2.

Figure 2. Property Maintenance Code Supplement Training Slides

CHAPTER 1 SCOPE AND ADMINISTRATION

104 DUTIES AND POWERS OF THE CODE OFFICIAL

104.1 General. The code official shall enforce the provisions of the *Property Maintenance Code*.

104.1.1 Code official authority. The provisions of Sections 104.1 and 104.1.1 of Title 12-A *Property Maintenance Code* and are hereby incorporated by reference.

CHAPTER 3 GENERAL REQUIREMENTS

302 EXTERIOR PROPERTY AREAS

302.1 Sanitation. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition. Without limiting the generality of the foregoing, the accumulation of trash on a premises shall constitute an unsanitary and unhealthy condition if it creates a:

1. Harbor or concealment (including hiding places for persons);
1. Harbor or refuge for snakes, rodents, or other vermin, including rats and mice;
1. Noxious or unpleasant odor; or
1. Fire hazard.

Finally, the Committee found that the Department has not conducted a training needs assessment to determine what training employees need or want. For instance, during the Committees’ focus group interview with staff, the topic of conflict resolution was discussed. Inspectors and other public-facing staff often deal with tense situations, navigating communications between frustrated tenants and property owners. Staff in the focus group interview indicated that conflict resolution training would be useful, but they were unaware of any such training offered by the Department. A training needs assessment can be used to identify gaps such as this.¹⁸

To rectify these issues, the Committee makes several recommendations regarding training. First, the Committee recommends that the Department provide more opportunities for in-person or hybrid training sessions so staff can engage with trainers and colleagues in person. Second, the Committee recommends that the Department revise training materials to incorporate interactive training exercises and activities and ensure that training materials emphasize the connection between enforcement of the housing code and health outcomes.

M., Xia, W. P., Shen, L. X., & Jiang, F. (2020). Effects of three different first-aid training methods on knowledge retention of caregivers and teachers: a randomized and longitudinal cohort study in China. *Public Health*, 178, 97-104; Yannier, N., Hudson, S. E., Koedinger, K. R., Hirsh-Pasek, K., Golinkoff, R. M., Munakata, Y., ... & Brownell, S. E. (2021). Active learning: “Hands-on” meets “minds-on”. *Science*, 374(6563), 26-30.

¹⁸ The Society for Human Resource Management and other organizations offer tools and how-to guides on how to conduct a training needs assessment. See, for instance: <https://www.shrm.org/topics-tools/tools/how-to-guides/how-to-conduct-training-needs-assessment>.

Finally, the Committee recommends that the Department conduct a training needs assessment with staff to determine what new training is needed or wanted.

Organizational Culture

Research has consistently found that organizational culture impacts employees' well-being, performance, and effectiveness. Employees who work in toxic or negative cultural environments report lower levels of job satisfaction, higher turnover intentions, and higher levels of stress and psychological distress.¹⁹ This impacts the effectiveness of individual employees and the organization as a whole.²⁰

To assess the Department's organizational culture, the Committee conducted a focus group interview with a group of DOB employees using a structured interview guide. Questions in the structured interview guide asked these employees to describe the culture of the Department, what opportunities for growth and professional development exist, how their performance is assessed by management, and whether their voices are included or considered when new systems or processes are proposed or implemented.

Employees in the focus group generally described the organizational culture favorably, noting that managers and supervisors are supportive and helpful and that the Department provides them with opportunities for growth and development, such as providing financial support for certifications and encouraging cross-training. In particular, employees felt the Department's financial support for ICC certification was important and should continue. **The Committee agrees and recommends that the Department continue offering employees vouchers to pay for ICC materials and tests.** Utilizing vouchers to help employees cover the costs of study materials and the examination, rather than reimbursing employees after the examination is successfully completed, provides employees with greater financial support.

Employees felt the department fell short regarding employee input in decision-making, particularly regarding the implementation of new systems or processes. According to these employees, the Department has a history of procuring new technology and systems or implementing new policies without soliciting and considering the input of employees tasked with using the new technology or systems or implementing the policies. All of the employees in the focus group cited the Dispatch application, which is used to schedule inspections, as an example

¹⁹ See, for instance, Dextras-Gauthier, J., Marchand, A., & Haines III, V. (2012). Organizational culture, work organization conditions, and mental health: A proposed integration. *International Journal of Stress Management*, 19(2), 81; Dóra, K., Péter, R., Péter, S. Z., & Andrea, C. (2019). The effect of organizational culture on employee well-being: Work-related stress, employee identification, turnover intention. *Journal of International Cooperation and Development*, 2(2), 19; Hafidhah, R. N., & Martono, S. (2019). The effect of perceived organizational support, job stress, and organizational culture on job performance. *Management Analysis Journal*, 8(2), 177-187; Marchand, A., Haines, V. Y., & Dextras-Gauthier, J. (2013). Quantitative analysis of organizational culture in occupational health research: a theory-based validation in 30 workplaces of the organizational culture profile instrument. *BMC Public Health*, 13(1), 1-11.

²⁰ See, for instance, Martinez, E. A., Beaulieu, N., Gibbons, R., Pronovost, P., & Wang, T. (2015). Organizational culture and performance. *American economic review*, 105(5), 331-335; Shahzad, F., Luqman, R. A., Khan, A. R., & Shabbir, L. (2012). Impact of organizational culture on organizational performance: An overview. *Interdisciplinary journal of contemporary research in business*.

of this dynamic. The application was procured and implemented without input from program support staff or inspectors. This led to workflow issues and persistent bugs, creating more work and headaches for staff. **To ensure that something like this does not happen again, the Committee recommends that the Department establish a process to collect staff input prior to procuring new technology or systems or prior to implementing new policies.**

V. COMPLAINT INTAKE

Finding:

1. Complaint intake information from tenants is often limited and inconsistent.

Recommendations:

1. The Department should revise the online intake form so that more accurate, useful information is collected from complainants.
2. The Department should create a complaint intake guide and train program support staff to collect similar information from complainants via e-mail or phone.

The complaint-based inspection process begins when a tenant files a complaint with the Department. A tenant can file a complaint one of three ways: 1) via the Kustomer portal on the Department's website, 2) via phone at (202)-671-3500, 3) or via sending an e-mail to dcra.housingcomplaints@dc.gov. For complaints filed through the Department of Buildings website, tenants must fill out a "Housing Inspection and Property Maintenance Request Form." The form begins with a paragraph explaining the mission of the Department and then asks respondents two questions, as shown in Figure 3. After answering these questions, the respondent provides information about themselves (i.e., name, e-mail, and phone number), the location of the complaint, and information about the property owner or property manager (i.e., name, e-mail, and phone number). Finally, the respondent is presented with two columns of checkboxes to select from, a textbox to describe the issue, and an opportunity to upload supporting documentation.

Figure 3. Department of Buildings Housing Inspection Request Form

Housing Inspection and Property Maintenance Request Form

The Department of Buildings (DOB) supports a thriving community of residents, businesses, and visitors through diligent protection of health and safety and equitable administration of regulation and compliance in the District. It is the mission of the DC Department of Buildings (DOB) to ensure your building and your unit is healthy and safe. Please use the form below to complete an inspection request.

If you are experiencing an emergency, please call 911.

If you are inquiring about a BBL inspection, please submit a request with our [Basic Business License Rental Housing Inspection Request form](#).

Have you previously submitted a complaint at the property?*

- Yes
 No

Is the property vacant?*

- Yes
 No
 Unsure

The Committee analyzed the intake information of 50 complaints, all of which were submitted via the online form, and found that the intake information provided by tenants was often limited or inconsistent. For instance, one complaint merely states, “I have an infestation in my unit.” There is no indication of what kind of infestation it may be or where it is located in the unit.²¹ In another complaint, the respondent wrote “Outlet, kitchen floor, and more” and then selected the checkboxes for “Ceiling/Roof Collapse” and “Doors” as the issues they are reporting. While the inspector found many violations in the unit, a collapsing ceiling or roof was not among them.

Several of the tenants that the Committee spoke with noted that the content of the form is confusingly worded, poorly designed, and lacks the functionality to immediately generate non-English translations, which may be why the intake information is often very limited.²² For example, the property conditions list has duplicative and vague categories, such as “Gates,” “Roofs,” “Doors,” and “Walking Surface,” the latter two of which are listed twice. Several listed categories also contain multiple, distinct violations, such as “Peeling Paint, Holes, Water Damage, Unsanitary Condition.” **Given the importance of intake information in the inspection process, the Committee recommends that the Department completely revise the intake form and test**

²¹ If the infestation is bedbugs, for instance, an inspector would want to prepare to ensure that bedbugs do not attach to their clothing or other belongings during the inspection.

²² Phone conversations with tenants took place between October 2, 2023 and November 17, 2023.

its usability with a focus group of tenants. In revising the form, the Department should consider the following:

- The content of the form should be readable at a 9th-grade level or lower. Tools like Readable enable users to assess the readability of materials with various metrics such as the Flesch-Kincaid Grade Level and the Gunning Fog Index.²³
- Users should be able to translate the form into another language, such as Spanish, without leaving the form.
- The form should ask for (but not require) information on the location of the violation (i.e., bedroom, living room, etc.).
- Property condition categories should be more precise and not contain different types of violations in the same category.

The Department could consult some examples when revising the intake form, such as San Francisco,²⁴ New York City,²⁵ and Los Angeles.²⁶

VI. SCHEDULING AND CONDUCTING INSPECTIONS

Findings:

1. If a complainant requests that an initial inspection be rescheduled outside of the Department's 15-day service-level agreement, the inspection request must be canceled, and the complainant must file a new request.
2. The vast majority of inspections occurred within 15 days of receipt of a complaint.
3. While inspectors can access a checklist through a mobile application, it is not utilized to guide the inspection process.
4. The Department requires inspectors to conduct re-inspections of emergency violations within 3 to 7 days after an NOI has been generated and mailed and re-inspections of non-emergency violations within 60 days after an NOI has been generated and mailed.

Recommendations:

1. The Department should revise its system and service level agreements so that requests to reschedule an initial inspection outside the 15-day service-level agreement do not require the complainant to file a new request.

²³ See: <https://readable.com/>.

²⁴ See: https://dbiweb02.sfgov.org/dbi_complaints/default.aspx?page=AddressQuery.

²⁵ See: <https://portal.311.nyc.gov/sr-step/?id=96106710-5eaa-ee11-92bd-000d3a7bf4f6&stepid=be973791-d174-e811-a83a-000d3a33bdbd>.

²⁶ See: <https://housingapp.lacity.org/PROPERTY/PAGES/ReportViolation>.

2. The Department should continue to promptly inspect routine violations, consistent with the service level agreement established in its standard operating procedures.
3. The Department should encourage inspectors to utilize a standard checklist for consistency and thoroughness when conducting inspections.
4. The Department should revise its standard operating procedure for conducting inspections to do away with the re-inspection requirement when neither the tenant nor the housing provider has indicated the violation has been abated.

Scheduling Inspections

After the Department receives a complaint, a program support specialist is supposed to respond within three business days of receipt. The program support specialist works with the complainant to schedule an inspection through the Dispatch application, which then displays the scheduled inspection in ACCELA and CityGov, two other applications utilized by the Department. Pursuant to the Department's standard operating procedure for scheduling and rescheduling inspections, the "service level agreement" for conducting is 15 business days. The service level agreement is operationalized through a key performance indicator in the Department's performance plan: The percentage of inspections completed within 15 days of request. The Department set a target of 80%. Data reviewed by the Committee suggests that the vast majority (98%) of complaints are inspected within 15 business days of receipt, which means the Department is meeting its KPI. However, it is also clear that the Department is obscuring instances where they do not meet the KPI. If, for instance, a complainant asks to reschedule an inspection outside of the 15-business day service level agreement, a program support specialist will cancel the original request and inform the complainant that they must resubmit the request. One of the tenants the Committee spoke to about their experiences with the Department, Jennifer, said that this process was confusing and demoralizing for her. Two days before the scheduled inspection date, her family experienced a crisis that required her to leave the District for a few weeks. When she contacted the Department to reschedule the inspection for some time the following month, she was told she would have to resubmit the request and go through the process all over again. In her words, "I still don't understand why I had to resubmit when they already had my information. It just made me feel like the Department didn't care about my circumstances."²⁷ The Committee does not believe that forcing complainants to submit a new request for an inspection can be justified because of a KPI in a performance plan. **As such, the Committee recommends that the Department revise its system and service-level agreements so that requests to reschedule an initial inspection outside the 15-day service-level agreement do not require the complainant to file a new request.**

Conducting Inspections

Once an inspection has been successfully scheduled, the inspector must prepare for and conduct the inspection. Up to 48 hours prior to the date of the inspection and on the day of the inspection, the inspector must call the tenant to determine whether the violations are still pending.

²⁷ A phone conversation with this tenant took place on November 7, 2023.

If the violations have not been abated, the inspector provides the tenant a two-hour window to arrive on the inspection date.²⁸ When conducting an inspection, an inspector utilizes several tools, including an iPad to record violations through the Department’s mobile application, a heat/air conditioning gun to measure the temperature of air coming from heaters or air conditioning units, and a water temperature to gauge to ensure that the unit has both hot and cold running water. The Committee observed an inspector conducting proactive inspections during a ride-along on November 20, 2023. The inspector in question had all the tools necessary to conduct the inspection and, in the Committee’s view, did a good job conducting the inspections. The inspector was adept at talking to property management staff and tenants, and they rightfully prioritized checking for life safety violations that could endanger the tenant’s safety. That said, the Committee is concerned that at no point during the inspection did the inspector use the checklist in the mobile application to guide the inspection *process*. Rather, the checklist was used after the inspection was completed—or after the inspector noticed a significant violation—to record the violation. In this instance, the inspector did not seem to miss any significant violations because of not using the checklist, but this may not be true for all inspectors. **Therefore, the Committee recommends that the Department encourage inspectors to use a standard checklist for consistency and thoroughness when conducting inspections.**

Re-Inspections

If a violation is found and an NOI is generated, the Department requires inspectors to conduct re-inspections within a certain number of days, regardless of whether the tenant or property owner has indicated the violation has been abated. For emergency violations, inspectors must re-inspect within 3 to 7 days after an NOI has been generated and mailed. Inspectors must conduct re-inspections for non-emergency violations within 60 days after an NOI has been generated and mailed. Conversations with Department employees and managers did not provide any clarity as to why these re-inspections are required. Perhaps the Department thinks these re-inspections are a way to nudge property owners to address violations, but there are other ways to nudge property owners to comply. Additionally, there is no data or evidence that these re-inspection requirements have increased compliance rates or shortened the time between the issuance of an NOI and abatement. **The Committee recommends that the Department revise its standard operating procedure for conducting inspections to do away with the re-inspection requirement where neither the tenant nor the housing provider has indicated the violation has been abated.**

VII. INITIATING AND ISSUING NOIS

Findings:

1. Over half (56%) of the NOIs reviewed by the Committee were sent to an address where the property owner did not live or to someone other than the property owner or property management company.

²⁸ This is only for in-person inspections. The Department allows inspections to be conducted virtually as well.

2. While a majority (61%) of NOIs reviewed by the Committee were served to the respondent within one to two days of the initial inspection, nearly three in 10 (29%) were served to the respondent five days or more after the initial inspection.
3. The Department offers “deferred enforcement” to housing providers who cure a violation within 24 hours or 60 days.

Recommendations:

1. The Department should establish protocols for investigating and verifying the addresses of property owners to whom NOIs are issued and only use e-mails for service of an NOI if explicitly requested by the property owner.
2. The Department should establish a key performance indicator that measures the time between an initial inspection and the service of an NOI to the respondent.
3. The Department should more prominently feature information about deferred enforcement in NOIs and other notices sent to property owners.
4. The Department should revise its protocol for NOIs and “deferred enforcement” so that fines are not automatic but applied after a specific period of time (i.e., a week, two weeks, etc.) if the housing provider does not comply.

Serving NOIs to the Correct Address

Basic due process requirements enshrined in District law require agencies to serve NOIs to a respondent who is found in violation of civil laws or codes so that they have an opportunity to contest or remediate the alleged violation.²⁹ The Department operationalizes this requirement via the SOP for “Preparing, Conducting, and Resulting the Inspection Process.”³⁰ Pursuant to this SOP, if an inspector finds a violation at a property, the violation is logged in the Department’s mobile app, and an NOI is initiated. NOIs are reviewed by managers within the Office of Residential Inspections for approval within 48 hours of initiation. Once an NOI is approved, it is sent to the property owner via first-class mail and/or electronic mail. The big problem is that many NOIs never make it to the property owner, which means they can never contest or remediate the alleged violation.

Housing providers first raised this issue during a focus group interview with Committee staff. One housing provider, Daniel, estimated that “around half” of the NOIs they reviewed were sent to registered commercial agents, staff with no role in property management, or incorrect addresses. As Daniel described what he found when reviewing NOIs, many for a violation he did not know existed until years after the fact, all the other housing providers nodded in agreement. Committee staff were stunned to hear this and undertook a rigorous review of NOIs provided to the Committee to verify whether they were sent to property owners or property management

²⁹ D.C. Official Code § 2-1802.01.

³⁰ ORI-RHI-PRO-002, Effective August 7, 2023.

company staff who could address the violation. The Committee’s review revealed that over half (56%) of the NOIs were sent to an address where the property owner did not live or to someone other than the property owner or property management company.

The biggest problem with proper NOI service seems to be for single-family rentals. For nearly all NOIs served to property owners of single-family rentals, the NOIs were sent to the rental unit’s address even though the property owner does not live there. For instance, the Department served an NOI to the property owner of 1704 A Street, S.E., on July 29, 2022, and August 1, 2022, for overgrown weeds and plant growth in the front of the building. The NOI was served to 1704 A Street, S.E., but the Committee verified that the property owner lives in San Antonio, Texas. Other examples are shown in Table 4. In each instance, thousands of dollars in fines were levied against property owners, but it is either unclear whether the NOI ever reached the property owner or the property owner indicated to the Committee that they did not receive the NOI.

Table 4. Examples of NOIs Sent to Incorrect Person or Address

Violation Address	Number of Violations	Total Fine Amount	NOI Service Address	Property Owner Location
1707 Kilbourne Place, N.W.	3	\$4,982	1707 Kilbourne Place, N.W.	Gulfport, Florida
444 Q Street, N.W.	9	\$12,178	444 Q Street, N.W.	Property owner listed on NOI died in 2016
313 Peabody Street, N.E.	2	\$2,214	313 Peabody Street, N.E.	Morganville, New Jersey
314 Delafield Place, N.W.	4	\$4,429	314 Delafield Place, N.W.	Upper Marlboro, MD
1705 Capitol Avenue, N.E.	7	\$5,897	1705 Capitol Avenue, N.E.	D Street, N.E. (in the District)
2916 Southern Avenue, S.E.	4	\$2,216	2916 Southern Avenue, S.E.	Clinton, MD

However, the problem of proper NOI service isn’t confined to single-family rentals. For example, the property owner of 900 7th Street, S.W., a 173-unit property, was cited for one violation totaling over \$1,000 in January 2023. The NOI was sent to an LLC at 760 Maine Avenue, S.W. However, basic research confirmed that this was the developer’s address, not the property management company’s. In another case, the property of 1521 – 1523 F Street, N.E., a 92-unit property, was cited for 12 violations totaling nearly \$10,000 in one of the units in December 2022 and May 2023. The NOIs were served to a location occupied by a psychiatric therapy practice.

In discussions with the Department, they noted that some of the NOIs were also served via electronic mail, but it’s unclear whether the Department verifies an e-mail address before sending the NOI. Without verification, the Department cannot know whether the e-mail address is valid, which increases the risk of bounce-backs, e-mails going to spam folders, or people simply overlooking the e-mail. Even if the Department verified e-mail addresses, however, the use of e-mail to send NOIs without explicit authorization from the property owner would still be problematic. Consider, for instance, that:

- The open rate for all e-mails is around 33%. Government e-mails fare somewhat better, but open rates are still below 50%.³¹
- Nearly one in five e-mail users do not check their inbox daily.³²
- Non-primary e-mail accounts and catch-all e-mail addresses are accessed and read less frequently than primary accounts.³³ The Department does not have a mechanism to determine whether an account is primary, secondary, etc.

Given these issues, the Committee recommends that the Department only send NOIs via electronic mail when they have obtained consent from a property to do so. Consent can be obtained in a number of ways, including establishing a database for property owners to supply information on what e-mail addresses should receive any NOIs, as was suggested by several housing providers in the focus group interview with Committee staff.

That so many NOIs are being served to an inaccurate address, the wrong people, or e-mail addresses of questionable validity is extremely concerning. In discussions with officials in other jurisdictions, all of them noted the importance of a thorough investigation into the whereabouts of the property owner. One official in Baltimore shared that they have investigators who conduct skip traces via Accurant, a product of LexisNexis, to verify identity and confirm addresses.³⁴ No such rigor seems to exist within the Department. Standard operating procedures merely state that “OCI [Office of Civil Infractions] will review the cap [a unique identifying number given to a case in Accela] for ownership information and approve the cap.”³⁵

With all of this information in mind, the Committee recommends that the Department look into procuring similar public records databases and establish a protocol for verifying identities and addresses within their standard operating procedures so employees are consistent in which sources of information they use to examine and verify the identity and addresses of property owners.

Serving Notices of Infraction Timely

However, verifying accurate ownership and address information for the recipient of an NOI is only one part of the process. After verification, the Department must send the notice to the property owner. A lack of timely service may delay the abatement of the violation, which negatively impacts the tenant. It could also delay the Department’s ability to file the NOI with the Office of Administrative hearings should the property owner fail to respond.

³¹ Constant Contact, Average Industry Rates for e-mail as of September 2023 (https://knowledgebase.constantcontact.com/email-digital-marketing/articles/KnowledgeBase/5409-average-industry-rates?lang=en_US).

³² See: <https://www.statista.com/chart/8387/checking-inbox-for-emails/>.

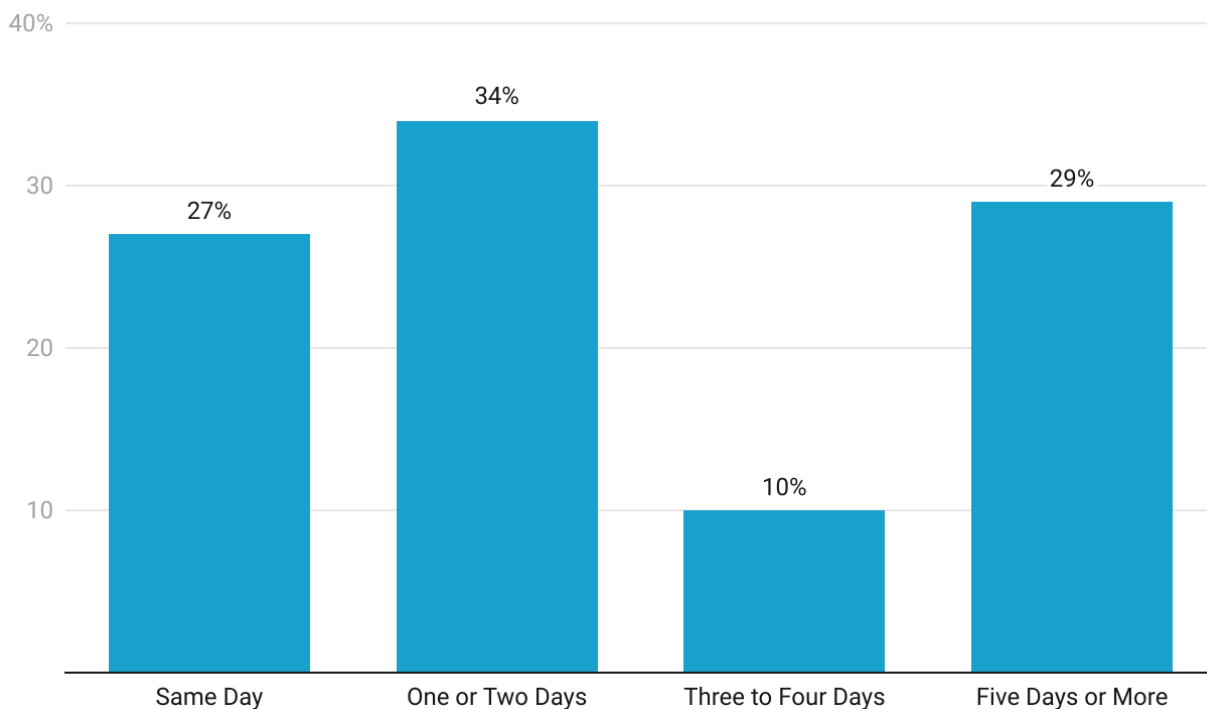
³³ Return Path. (June 2015). Frequency Matters: The keys to optimizing email send frequency (<https://www.validity.com/resource-center/frequency-matters/>).

³⁴ Phone conversation with Baltimore official, November 1, 2023.

³⁵ ORI-RHI-PRO-002, 4.3.5.2, Effective August 7, 2023.

The Committee reviewed workflow data from 81 NOIs and found that a majority (61%) of NOIs are served to the housing provider within one to two days after the initial inspection. While the Committee believes this is a positive number, it is worth noting that nearly three in ten NOIs were served to the respondent five days or more after the initial inspection. In five instances, NOIs were served to the respondent ten days or more after the initial inspection. For example, an initial inspection was conducted at 444 Q Street, N.W., on July 5, 2022. The inspector found extensive structural damage to the property in the interior due to the collapse of the neighbor’s chimney. The NOI was an emergency NOI, which means the property owner has 24 hours from the service of the NOI to abate the violation. Yet, workflow data from the Department suggests that the NOI was not approved and served until 20 days later, on July 25, 2022.

Figure 4. Time From Initial Inspection to Issuance of NOI



Note: Based on data from 81 NOIs.

Source: Department of Buildings • Created with Datawrapper

Currently, the Department has no service level agreement or key performance indicator that measures the time between an initial inspection and the service of an NOI. Instead, the Department requires “initiation” of an NOI within two business days of the initial inspection.³⁶ The Committee does not believe this is a useful metric to include in performance plans or service-level agreements. **The Committee recommends that the Department establish a performance indicator that sets a target for the minimum length of time allowed between an initial inspection and the service of an NOI.**

³⁶ The Department of Buildings FY24 Performance Plan, March 22, 2023, pg. 8 (<https://oca.dc.gov/sites/default/files/dc/sites/oca/publication/attachments/DOB24.pdf>).

NOIs and Deferred Enforcement

In April 2019, the Department of Consumer and Regulatory Affairs announced that it would no longer issue notices of violation (NOVs) before an NOI for civil infractions. The Department indicated it would begin issuing NOIs immediately in the next month. According to the Department, the reason for this policy change was because property owners were not responsive to NOVs.³⁷ While the Committee lacks the data to determine whether this claim is true, housing providers interviewed by Committee staff indicate that they were not consulted or even notified about this policy change until it was publicly announced. As a result, the negative impacts on housing providers have been significant, particularly when considered in concert with the fact that the Department has been sending many NOIs to the wrong person or an inaccurate address. All housing providers indicated that, due to the lack of proper notice and a “cure period” for violations, they feel they have no choice but to challenge the NOIs. This dynamic has resulted in drastic increases in legal fees for attorneys, significantly more work for administrative staff, and a large backlog of cases at the Office of Administrative Hearings. Data from the Office of Administrative Hearings suggests that the backlog now includes more than 9,900 cases.³⁸ Even if many of these cases are in default, such a large backlog is simply unsustainable for both DOB and OAH.

In recognition of the issues associated with the NOI-first policy change, the Department started offering “deferred enforcement” earlier this year. Under the deferred enforcement process, if a housing provider abates a violation within the timeframe prescribed in the NOI, the Department will either not file the NOI or dismiss the NOI without fines. The Committee believes this is a step in the right direction but provides two recommendations that may increase the use of deferred enforcement. **First, the Committee recommends that the Department more prominently feature information about deferred enforcement on NOIs sent to property owners and explain what deferred enforcement entails.** Currently, NOIs contain one sentence about deferred enforcement. It is not bolded, underlined, or highlighted to draw the respondent’s attention. Nor does the sentence explain how deferred enforcement works.

³⁷ DCRA Announces Enforcement and Consumer Protection Enhancements, April 1, 2019 (<https://content.govdelivery.com/accounts/DCWASH/bulletins/23b2a73>).

³⁸ E-mail communication with Michael Bonan, Attorney Advisor for the Office of Administrative Hearings, December 14, 2023.

Figure 5. Deferred Enforcement Language in NOI

You are charged with violating the District of Columbia laws or regulations stated below. You MUST SIGN and RETURN this Notice **WITHIN 15 CALENDAR DAYS (20 CALENDAR DAYS IF RECEIVED BY MAIL)** of the date of service. You must also indicate below each infraction whether you **ADMIT, ADMIT WITH EXPLANATION, or DENY**. **Instructions are on the reverse side of this Notice.**

Priority 2 are violations that DOB has deemed to be none-life-safety hazards and must be abated within sixty (60) calendar day of the receipt of this notice. If you abate all Priority 2 Violations within sixty (60) calendar days of receipt of this notice you may qualify for deferred enforcement. If you do not abate the violation(s), you may be required to pay the cost of abatement incurred by the Government of the District of Columbia in addition to any fine or other penalty. For questions, please contact DOB Customer Service at (202) 671-3500 or email dob@dc.gov.

Item#:	D.C. Official Code AND/OR D.C. Municipal Regulation Citation	Priority	Abate in	Fine for Infraction	Penalty
1	12-G DCMR § 305.3	2	60 Days	\$590.00	

Violation: Failure to correct cracked or loose plaster, holes, decayed wood, water damage and/or other defective surface conditions

Location: Living room **Floor Number:** Interior

Notes: Repair or replace defective surfaces and paint to match existing paint.

Date of Infraction: 03/21/2023

Time of Infraction: 03:00 PM

Answer: ADMIT (Pay Fine)

DENY (Appear for Hearing)

ADMIT WITH EXPLANATION (See Back)

Signature: _____

Second, the Committee recommends that the Department revise the deferred enforcement process to be consistent with D.C. Official Code § 2-1802.01(b)(4). Pursuant to D.C. Official Code § 2-1802.01(b)(4), the Mayor may issue an NOI that contains “... the date by which the respondent must comply to avoid incurring a penalty.” However, the current deferred enforcement process flips this on its head, as fines are applicable immediately upon issuance of the NOI and dismissed once a violation has been confirmed as abated. The Committee believes this is unfair to property owners, given the problems with property owners receiving appropriate notice of violations (from both tenants and the Department), and may hamper the utilization of deferred enforcement.

VIII. ABATEMENT OF VIOLATIONS

Finding:

1. Less than half (47%) of the violations in NOIs reviewed by the Committee were verified as abated.
2. The Department does not require in-person inspections to verify all abatements. Many abatements are “verified” through an online portal that requires property owners to submit evidence verifying an abatement.

Recommendation:

1. The Department should consider “nudging” property owners to address alleged violations through a courtesy letter sent prior to or after an initial inspection.

2. The Department should revise its standard operating procedures to require a re-inspection when the tenant or the property notifies the Department that the violation has been abated.

Nudging Housing Providers

The ideal outcome of any housing code enforcement process is to obtain substantial compliance from housing providers as quickly as possible to ensure the safety and well-being of the tenant. In the District, this happens far less than it should: Workflow and NOI data reviewed by the Committee show that less than half (47%) of violations were verified as abated. While a few violations in the data were more recent (i.e., cited two to three months before the data was provided), nearly 46% were cited in 2022. As shown in Table 5, around 85% of unabated violations were cited more than 120 days before the Department provided the data to the Committee, suggesting that few property owners feel compelled to comply promptly.

Table 5. Time Between NOI and Date Data Was Provided to Committee

	Percent of Violations
Less than 30 Days	5%
31 to 60 Days	0%
61 to 90 Days	5%
91 to 120 Days	5%
121 Days or More	85%

The Committee understands that compliance can be impacted by a wide array of variables, some of which are outside any government agency’s control. That said, the Committee believes the Department should think strategically about ways to obtain compliance. **One simple intervention that the Committee recommends is the service of a courtesy letter that could be sent to the housing provider before or after an initial inspection.** In a study conducted in New Orleans, Linos, Quan, and Kirkman (2020) sent a randomized list of property owners a “courtesy letter” after a resident made a 311 complaint about blight. The courtesy was sent before any inspection occurred, which incentivized property owners to address the alleged violation. Linos, Quan, and Kirkman (2020) found that the courtesy letter increased the likelihood of compliance by 14.7% when compared to the “business-as-usual” process.³⁹ This is consistent with other research in behavioral economics and public administration that has consistently found that simple reminders can increase compliance in various settings.⁴⁰

³⁹ Linos, E., Quan, L. T., & Kirkman, E. (2020). Nudging early reduces administrative burden: Three field experiments to improve code enforcement. *Journal of Policy Analysis and Management*, 39(1), 243-265.

⁴⁰ See, for instance, Chirico, M., Inman, R., Loeffler, C., MacDonald, J., & Sieg, H. (2019). Deterring property tax delinquency in Philadelphia: An experimental evaluation of nudge strategies. *National Tax Journal*, 72(3), 479-506; Mackay, M., Yamazaki, S., Jennings, S., Sibly, H., van Putten, I. E., & Emery, T. J. (2019). The influence of nudges on compliance behaviour in recreational fisheries: a laboratory experiment. *ICES Journal of Marine Science*, 77(6), 2319-2332; Peth, D., Mußhoff, O., Funke, K., & Hirschauer, N. (2018). Nudging farmers to comply with water protection rules—experimental evidence from Germany. *Ecological economics*, 152, 310-321; Sinning, M., & Zhang, Y. (2023). Social norms or enforcement? A natural field experiment to improve traffic and parking fine compliance. *Journal of Economic Behavior & Organization*, 210, 43-60.

Verifying Abatements

Under the Department’s current standard operating procedures, abatements *may* be verified via re-inspections, which are conducted three to seven days after service of a NOIE or 60 days after service of a NOIR. However, based on the focus group interviews with staff and housing providers, most abatements are verified via an online “Proof of Abatement” portal.⁴¹ Through the online portal, housing providers can submit videos, photographs, and other evidence of abatement. The evidence is then reviewed by the housing code inspector, who approves or denies the submission.⁴²

Of all the jurisdictions examined by the Committee, only one—New York City— allows housing providers to certify abatement of housing code violations through an online portal.⁴³ While city officials contacted by the Committee noted that eCertification saves time and money for the Department and housing providers, audits produced by New York City’s Department of Housing Preservation and Development suggest a high number of false certifications. In a report to New York City for fiscal year 2021, for instance, the Department found that nearly a third of all audited correction certifications were false.⁴⁴ This has led the New York City Council to propose numerous changes to the process to better protect tenants from unscrupulous housing providers who submit false certifications.⁴⁵

The Committee is concerned that DOB’s process is similarly flawed and may result in many abatements being falsely verified. Inspectors will undoubtedly catch some attempts to game this abatement verification system. Indeed, during the Committee’s focus group interview with inspectors, several noted that they had rejected submissions from housing providers where it was blatantly obvious that the submitted photographs were not from the same unit, for instance. But as an agency leader in Baltimore noted during an interview with the Committee, more sophisticated bad actors are unlikely to be so sloppy, and we would have little, if any, way of knowing whether the proof is falsified.⁴⁶

For example, let’s say that an inspector finds a violation of 12-G DCMR § 304.2.1 in one of the units in a 35-unit property.⁴⁷ The Department’s standard operating procedures suggest that items such as photographs, videos, work orders, and invoices are acceptable forms of documentation, but all these items can be easily falsified or manipulated in ways that may be very difficult to catch.⁴⁸ The housing provider could submit a photo of a wall without chipping or flaking paint from another unit that looks similar or identical to the one with the violation. They could also submit a falsely written tenant statement or generate a fake work order or invoice for

⁴¹ ORI-RHI-PRO-006.

⁴² Department of Buildings, Proof of Abatement Portal (<https://info.dob.dc.gov/contact/abatement-tracking-BJbZLthgw>).

⁴³ New York City Department of Housing Preservation and Development eCertification (<https://webapps.hpdnyc.org/eSignature/Login.aspx>).

⁴⁴ New York City Department of Housing Prevention and Development, Report to the City Council Pursuant to Local Law 117 (<https://www.nyc.gov/assets/hpd/downloads/pdfs/services/certification-of-corrections-fy21.pdf>).

⁴⁵ See, for instance, Int. 1279-2018, Int. 0443-2018, Int. 2121-2020, and Int. 0583-2022.

⁴⁶ See *supra* note 17.

⁴⁷ 12-G DCMR § 304.2.1 is failure to properly eliminate flaking, chipping, and defective paint on a pre-1978 structure.

⁴⁸ ORI-RHI-PRO-006, 4.1.2.

work done by a property maintenance staffer or contractor. In other circumstances, such as an ongoing water leak that the inspector could not verify the origin of, a housing provider could easily paint over the damaged drywall without fixing the leak and create a fake invoice or work order. As the prior examples demonstrate, it would not be difficult for a housing provider to manipulate the online portal to their benefit. **Therefore, the Committee recommends that the Department verify abatements via an in-person re-inspection.**

IX. SETTLEMENT AND ADJUDICATION OF INFRACTIONS

Findings:

1. Nearly two-thirds (62%) of NOIs reviewed by the Committee were filed with OAH.
2. Only 34% of NOIs were filed with OAH between 20 and 30 days after service.
3. On average, over seven months passed from the date on which an NOI was filed with OAH to the date on which a final order was issued. Over half (53%) of final rulings on NOIs found the respondent in default and liable for violations.

Recommendations:

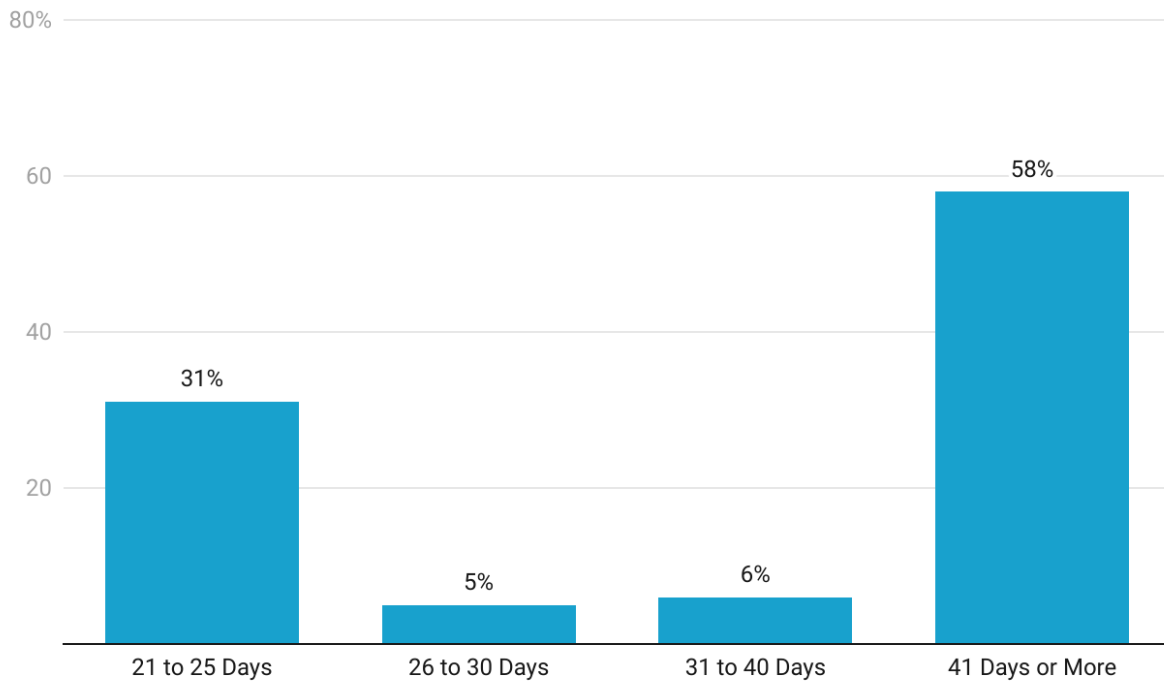
1. The Department should establish a key performance indicator that sets a standard for when non-responsive NOIs must be filed with OAH.
2. The Department should provide more information to housing providers about the Alternative Resolution Program process to increase utilization.

Filing NOIs with OAH

Pursuant to 1 DCMR Sec. 2803.5, if a property owner does not respond to an NOI within 15 days of service (i.e., the date on which the NOI was mailed), the Department may file the NOI with the Office of Administrative Hearings for adjudication. Data provided to the Committee suggests that this happens to most housing code enforcement cases: Of the NOIs reviewed by the Committee, nearly two-thirds (62%) were filed with OAH at some point. As such, the timely filing of NOIs with OAH is critical. In discussions with the Department, staff indicated that they provide the recipient of the NOI 20 days to respond if the NOI was sent via first-class mail. Yet, less than a third of NOIs reviewed by the Committee were filed close to 20 days after service, as shown in Figure 6. In fact, most NOIs (58%) filed with OAH were filed more than 40 days after service. In many of these cases, NOIs were not filed until two months or more after the service of the NOI to the respondent.⁴⁹

⁴⁹ The Committee defined two months as 60 or more days passing between the service of the NOI and the filing of the NOI with OAH.

Figure 6. Time Between Issuance of NOI and Filing of NOI with OAH



Note: Based on data from 61 NOIs.

Source: Department of Buildings • Created with Datawrapper

That so many NOIs were not filed promptly is worrying, as it means a tenant will continue to be exposed to potentially hazardous conditions in their unit. To address this issue, the Committee recommends that the Department adopt a key performance indicator that sets a standard for when non-responsive NOIs must be filed with OAH. **Given the Department’s current practice of providing 20 days between service and filing, the Committee recommends that the target KPI be no more than 25 days.**

Settlement and Adjudication of NOIs

At any point before or after the NOI is filed with OAH, the property owner may negotiate a settlement with the Department via the Alternative Resolution Team (ART), a process implemented by the Department in 2021 to “prevent cases from going to trial at OAH by securing positive resolutions for the public.”⁵⁰ A property owner must abate all violations to qualify for an ART settlement. After the ART verifies abatement, the ART members draft a settlement agreement that may result in lower financial penalties or dismissal of the NOI.⁵¹

In the focus group with housing providers, several providers noted that they have utilized the ART process or intend to do so but said that they only heard about the ART process after a webinar conducted by the Apartment and Office Building Association of Metropolitan

⁵⁰ ART-SOP-001, Effective October 4, 2021.

⁵¹ *Ibid.*

Washington. This suggests that the process was not widely advertised to housing providers and is likely underutilized. NOI data reviewed by the Committee confirms this suspicion: Only 12.5% of property owners who abated violations utilized the ART process. In most cases, the ART process occurred after the NOI was filed with OAH. **To increase awareness of the ART process, the Department should provide more information to housing providers, including attaching information about the ART process to NOIs.**