



GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE TENANT ADVOCATE



June 28, 2011

Ms. Alexis Taylor, General Counsel
District of Columbia Office of Human Rights
441 4th Street, N.W., Suite 570N
Washington, D.C. 20001

RE: OTA comments on proposed rule-making by the Office of Human Rights
To amend D.C.M.R. Title 4 (Human Rights), Chapter 10 (Housing and Commercial Space)

Dear Ms. Taylor:

Pursuant to the Office of Human Rights (OHR) Notice of Proposed Rulemaking (D.C. Register, May 27, 2011, Vol. 58 – No. 21, 004598 – 004617), the purpose of this letter is to submit our comments and recommendations regarding the proposed revisions to Chapter 10 (Housing and Commercial Space) of Title 4 (Human Rights) of the District of Columbia Municipal Regulations.

In relevant part, these proposed changes would implement legal protections for tenants who are victims of domestic violence and other intrafamily offenses; clarify the Director's responsibilities; and define certain terms used in the chapter. I commend OHR for this important rulemaking which will add a critical layer to the District's tenant protection laws.

Our recommendations, which are largely technical in nature, are as follows:

1. Section 1002.4 requires the housing provider to make "reasonable efforts" regarding rental unit transfers that may be necessary for the tenant's physical safety. Section 1002.10 prohibits the housing provider from requiring the tenant to provide a waitlist waiver to qualify for that service.

Our concern is that what constitutes "reasonable efforts" in this context may not be sufficiently clear, and that this lack of clarity could result in disputes that may be avoidable. For example, pursuant to section 1002.4, must the housing provider prioritize an emergency transfer request over any other consideration, including the waitlist referenced in section 1002.10? We presume that to be the case, but a housing provider may reasonably reach a different conclusion. More explicit regulatory guidance on this issue, and other issues that may be foreseeable, should promote housing provider responses to emergency transfer requests that are consistent, timely, and sound.

Recommendation: We recommend that section 1002.4 enumerate examples of what might constitute "reasonable efforts" and "unreasonable efforts" to comply with this provision. Alternatively, we recommend that this matter be addressed in section 1001.10 regarding training and technical assistance that OHR makes



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available for housing providers. More specifically, section 1001.10 should inform the housing provider that it may seek OHR's advice on how to handle a particular case that arises under the chapter, within whatever parameters the agency deems appropriate.

2. Sections 1002.4 and 1002.10 discussed in item #1 above both concern emergency transfer requests, but are separated by a number of provisions (sections 1002.4(b) through 1002.9) that are unrelated to emergency transfer requests. The lack of proximity between these two provisions increases the likelihood that a reader who may have an interest in this particular matter will fail to notice the key provision at section 1002.10.

Recommendation: To make the provisions related to rental unit transfers more user-friendly, we recommend that section 1002.10 be re-designated as section 1002.4(b), and that subsequent provisions be renumbered accordingly.

3. Sections 1002.4(b) and 1002.4(d) contain the phrase "actual or imminent threat," which we note is a defined term. Section 1002.4(c), however, contains the phrase "actual *and* imminent threat" (emphasis added).

Recommendation: For the sake of consistency and conformity with the defined term, we recommend amending this phrase in section 1002.4(c) to read "actual or imminent threat."

4. The paragraph numbering within section 1002 omits a paragraph 1002.15.

Recommendation: In addition to our renumbering recommendation above, we recommend that the paragraphs in section 1002 be renumbered to cure this omission.

Thank you for considering these recommendations, and thank you again for this important addition to the District's tenant protection laws. We would be happy to discuss any aspect of this matter with you.

Sincerely,

Johanna Shreve
Chief Tenant Advocate
Office of the Tenant Advocate

JS/jc/ac