



June 7, 2013

Jill Stern, Esq.
Code Coordinating Specialist, Construction Codes Coordinating Board
Office of the Director
D.C. Department of Consumer and Regulatory Affairs
1100 Fourth Street, S.W., Room E500
Washington, DC 20024

RE: OTA's Second Set of Comments
on DCRA's Draft Revisions to D.C.M.R. Title 14

Dear Ms. Stern:

Thank you for your May 24, 2013 response to our May 17, 2013 letter regarding DCRA's draft revisions to D.C.M.R. Title 14; for your revision incorporating some of our suggestions; and for the invitation to provide further questions and comments prior to proposed rulemaking.

First and foremost, I would like to take this opportunity to encourage DCRA to do whatever is possible to maximize public access to the D.C. Construction Codes, particularly the Property Maintenance Code. As I noted in the May 17, 2013 letter, I support the effort to consolidate the housing code regulations at D.C.M.R Title 14 and Title 12G. Consolidation should resolve many, if not all, of the inconsistencies that are due to decades of Construction Code revisions, which were made without comparable revisions to Title 14.

Nevertheless, accessing and understanding Title 12G -- and the International Property Maintenance Code which Title 12G incorporates by reference -- can be challenging even for those in government, much less the general public. Yet the District's success in enforcing the housing code depends in large measure on the public being informed and proactive, particularly so for tenants. Thus, it is critically important to minimize any barriers that District residents may confront in accessing the relevant codes in their entirety.

My understanding from the interagency discussion is that DCRA is looking into the possibility, and the cost, of purchasing and publishing a consolidated on-line version of the Construction Codes following Council approval -- that is, one that integrates the adopted portions of the model codes as well as the District-specific provisions. I heartily endorse this approach. I would further recommend working with the D.C. Office of Documents to ensure that copies of all relevant code materials are placed in as many public libraries and agency resource centers as possible. I would welcome the opportunity to suggest specific locations.

As for specific provisions, existing section 300.1 ("Notice to Tenants of Housing Code Provisions") requires landlords to provide to each tenant at the start of the tenancy a copy of (1)

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Title 14, Chapter 3 (“Landlord and Tenant”); (2) section 101 (“Civil Enforcement Policy”); and (3) section 106 (“Notification of Tenants Concerning Violations”).¹

Given other changes made as of the May 23, 2013 revision, I support the idea raised during interagency discussion to modify this requirement so that it applies to (1) the revised Title 14, Chapter 3; (2) proposed section 101.11 (regarding the District’s civil enforcement policy); and (3) proposed section 107.6 (“Copies of notices and orders”).

I would recommend, however, that proposed section 101.11 be more prominently placed within either proposed section 100 (“General”) or proposed section 101 (“Enforcement and Penalties”). Also, in keeping with existing section 101 and with its significance as a public interest policy statement, I believe the discrete heading “Civil Enforcement Policy” should be retained.²

Finally, I recommend that consideration be given to replacing the definition of the term “tenant” in existing section 199³ with the definition of “tenant” at section 3899.⁴ The section 3899 definition is based on section 103(36) of the Rental Housing Act of 1985 (D.C. Code § 42-3501.03(36)), and it applies generally in the District to all aspects of landlord-tenant law. By contrast, the current section 199 definition contains a phrase (“with the consent of such owner”) which is conceptually problematic, given that a tenancy may continue by operation of law following the landlord’s withdrawal of consent.

Thank you once again for your responsiveness to our suggestions and I look forward to continuing the good dialogue about this important rule-making.

Sincerely,



Johanna Shreve
Chief Tenant Advocate
Office of the Tenant Advocate

JS/jc

cc: Paul E. Waters, Esq., Deputy Director for Enforcement and Legislative Affairs, DCRA

¹ This provision was refashioned in the May 1, 2013 revision as “Notice to Tenants of Property Maintenance and Housing Code Provisions,” and was omitted from the May 23, 2013 revision.

² Please note that in the May 23, 2013 revision, the Table of Contents for Chapter 1 “Administration and Enforcement” jumps from 14-100 to 14-102, omitting “14-101 Enforcement and Penalties.”

³ Section 199: “Tenant - any person who holds or possesses a habitation in subordination to the title of the owner of the premises in which such habitation is located, with the consent of such owner.”

⁴ Section 103(36): “‘Tenant’ includes a tenant, subtenant, lessee, sublessee, or other person entitled to the possession, occupancy, or the benefits of any rental unit owned by another person.”