



June 14, 2013

Helder Gil
Legislative Affairs Specialist
D.C. Department of Consumer and Regulatory Affairs
1100 Fourth Street, S.W., Room 5164
Washington, DC 20024

RE: OTA's Comments on Second Proposed Rulemaking for
Subtitle 12G Property Maintenance Code Supplement of 2013

Dear Mr. Gil:

The following are our comments on the Second Proposed Rulemaking for D.C.M.R. Subtitle 12G, the Property Maintenance Code Supplement of 2013.

1. **Minimum timeframe for AC service (section 608.1):**

Each year the OTA and Council offices (and we suspect DCRA) receive numerous complaints from tenants about the lack of AC, despite the fact that it is supposed to be a provided service. Such complaints are often made even during the hottest months of the year. Property Maintenance Code (PMC) section 602.3 currently requires the housing provider to supply heat from October 15th through May 15th. By contrast, the District currently has no minimum timeframe for AC.

That is why the OTA recommended that the CCCB adopt a minimum timeframe for AC if it is a provided service. Accordingly, the PM-TAG recommended and the CCCB adopted a minimum AC timeframe of June 15th to September 15th (proposed PMC section 608.1). This minimum timeframe was selected in part to give housing providers enough time to switch HVAC systems to and from heat, given the current required heat timeframe.

Tenant stakeholders who commented to the OTA on the proposal agreed that the current AC regulations are inadequate. Nevertheless, two concerns were raised about the proposal itself.

The first and more common concern is that the proposed June 15th to September 15th minimum timeframe should be longer given the District's weather patterns. Accordingly, we looked into average daily high temperatures for the District. We compared this data to the 78 degree F. benchmark in section 608.1, which is the existing outer boundary for

an acceptable temperature provided by AC.¹ We found that the average daily high temperature begins to exceed this benchmark in the last week of May, and does not fall back below the benchmark until the week after September 15th. (We also took note of average daily low temperatures in relation to the 68 degree F. benchmark in section 602.3, which is the existing minimum acceptable temperature provided by heat from October 15th to May 15th).

We encourage the CCCB to also review the relevant data and consider whether adjustments in the proposed minimum AC timeframe -- and if necessary corresponding adjustments in the existing heat timeframe – are warranted. In particular, we believe a June 1st start date for the minimum AC timeframe may well be warranted. We also note that this would roughly correspond to the traditional end of May, Memorial Day weekend opening for many pools.

2. **Clarity that the timeframe for AC service (section 608.1) is a minimum not a standard:**

The other concern about this is that some building owners or managers may treat the new minimum AC timeframe as a “standard” rather than as a minimum timeframe. Consequently, tenants who are accustomed to having AC available earlier than June 15th could be deprived of AC until that date.

Of course that would be contrary to the intention of this provision. The intention is simply and solely to establish a *minimum* timeframe to better protect tenants who, despite the fact that AC is a provided service, are unreasonably deprived of AC even during the hotter summer months.

To make this intention clearer -- taking into account the suggested date change above -- we recommend that the relevant phrase in section 608.1 be amended to read:

... during a period *starting no later than* June 1 and *ending no earlier than* September 15.

3. **Exclusivity of tenant notification provisions (sections 107.7.3 and 108.3.1):**

Both section 107.7.3 and section 108.3.1 state that the “code *official* shall not be subject to any other *tenant* notification provision, except as set forth in ... Section 107.7.”

This seems to exclude the “Special notice provisions for residential premises” at section 107.2.1 regarding the closure and barricade of a residential structure or dwelling units.

Accordingly, we recommend that these exclusivity provisions be amended to include section 107.2.1.

¹ We note that the energy-savings guidelines issued by the U.S. Dept. of Energy recommend that thermostats be set at 68 degrees F. for heat and 78 degrees F. for AC. We encourage further discussion and consideration of temperature benchmarks and minimum timeframes beyond just this code cycle.

Finally, I wish to reiterate a recommendation I addressed at greater length in my June 7, 2013 letter commenting on D.C.R.A.'s draft revisions to D.C.M.R. Title 14. While I support the effort to consolidate the housing code regulations at D.C.M.R. Title 14 and Title 12G, I also urge D.C.R.A. to minimize barriers that District residents confront in accessing all the relevant codes in their entirety. I understand that DCRA is looking into several possibilities in this regard, and I applaud and encourage that effort.

Thank you for your attention to this matter.

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
Jill Stern, Esq., Code Coordinating Specialist, Construction Codes Coordinating Board