



October 18, 2013

Paul Waters, Deputy Director  
DC Dept. of Consumer and Regulatory Affairs  
1100 Fourth Street, SW  
Room 5100  
Washington DC 20024

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

Dear Mr. Waters:

The purpose of this letter is to comment on the above-referenced rulemaking.

First, I note that this Third Proposed Rulemaking incorporates numerous recommendations made by our office and by tenant advocates in the legal community. Several recommendations were made through the participation starting in March 2012 of this office as a member of the Property Maintenance Technical Advisory Group (PM-TAG). We submitted further comments on the Second Proposed Rulemaking on June 14, 2013, and we also addressed overlapping issues in our comments on draft revisions to the Housing Code at D.C.M.R. Title 14. I commend and thank DCRA and the Construction Code Coordinating Board for their engagement and responsiveness to our concerns throughout this entire process.

As I have stated previously, my overarching concern is that the construction codes – and in particular the Property Maintenance Code – should be made as available and accessible as possible to the public. Tenants play a key catalytic role when it comes to the enforcement of the District's property maintenance regulations. In this regard, many tenants, attorneys, and advocates have become familiar with the Housing Code at D.C.M.R. Title 14, which is widely and freely available and is also relatively user-friendly.

As we have discussed at length on an interagency basis, the construction codes are problematic in terms of public accessibility in two respects. First, the method by which the code is periodically updated involves the incorporation within our municipal regulations of certain international model code provisions by mere citation reference, and the inclusion of textual amendments to others. Therefore, to appreciate the full regulatory context of a given issue, it is necessary to engage in a cross-referencing exercise that is difficult even for many sophisticated attorneys to navigate. Second, public access to the construction codes is severely limited due to their proprietary nature as "for sale" publications by an international construction code vendor.

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We understand that DCRA is exploring ways to address both of these issues. First, it may be possible for the District to purchase a tailored on-line code version that integrates the full text of the relevant international provisions into our municipal code, such as that acquired in recent years by New York State. Second, it may be possible to purchase hard copies of the relevant documents and distribute them to appropriate organizations – including relevant government agencies, resource centers, public libraries, university housing clinics, and non-profit legal service providers – which in turn may provide free public access.

I strongly urge DCRA to aggressively pursue these options with the goal of maximizing public access to these vital legal documents. I also urge DCRA to initiate an outreach and education campaign to apprise the public as fully as possible about the construction codes generally; the interrelationship between Title 14 and Title 12G; the pending transition of a portion of the property maintenance regulations from the former to the latter; and available technical and legal assistance. I offer the full assistance of this office in any such effort.

I also have a comment in the nature of a technical correction. In Section 608.1 “Air Conditioning,” there are two (2) parenthetical references to the “Celsius” number that corresponds to 15 degrees Fahrenheit, but they are inconsistent. The “general” provision correctly states that figure as nine (9), while the “exception” incorrectly states it as eight (8).

I welcome the opportunity to further discuss any aspect of this rulemaking. I also look forward to continuing the dialogue in future code cycles, both regarding recommendations not adopted in this code cycle, and new suggestions we may have to further improve the property maintenance regulations.

Again I thank DCRA and the Board for the engagement and responsiveness to our concerns. I also thank DCRA and the Board for the care and attention paid to regulations that have such a significant impact on the quality of rental housing in the District.

Sincerely,



Johanna Shreve  
Chief Tenant Advocate  
Office of the Tenant Advocate

JS/jc

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