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**Government of the District of Columbia**



**D.C. Office of the Tenant Advocate**

Testimony of

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**Public Hearing**

**FY 2015 and FY 2016 Performance Oversight  
of the Office of the Tenant Advocate**

Council of the District of Columbia

Committee on Business Consumer and Regulatory Affairs  
The Honorable Vincent C. Orange, Chairperson

Monday, February 29, 2016  
10:00 a.m.

Room 500  
John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004

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Thank you, Chairperson Orange and members of the Committee on Business Consumer and Regulatory Affairs, for giving me this opportunity to discuss the OTA's performance during Fiscal Year 2015, and to provide a summary of the Agency's accomplishments and new challenges facing us in Fiscal Year 2016. I am Johanna Shreve, Chief Tenant Advocate for the District of Columbia, at the Office of the Tenant Advocate.

**The OTA's Statutory Mandates**

The Agency's statutory mandates fall into four programmatic areas: (1) education and outreach regarding tenants' rights; (2) policy advocacy in the legislative, regulatory, administrative, and judicial contexts; (3) legal assistance and/or representation when there are disputes with landlords, including maintaining a Tenant Phone Hotline; and (4) emergency housing assistance.<sup>1</sup>

Historically, the District's tenant protection laws have had too little impact in the lives of renters. This has largely been due to tenants' lack of knowledge about their rights, the lack of affordable legal representation, and the lack of a voice within government. The OTA was established in 2006 to correct these imbalances.

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<sup>1</sup> D.C. Official Code § 42-3531.07

During the past decade the Agency has strived not to tilt the playing field in favor of tenants, but to ensure as level a playing field with housing providers as possible. Tenants who have the legal resources they need of course are better able to vindicate their own rights. But they also better serve the public interest – and indeed the interests of each and every District resident – by helping to preserve quality and affordable rental housing, and the stability and diversity of their own communities.

Since its move to independence in 2007 and by the end of this fiscal year, the organization will have grown from nine (9) to seventeen (17) FTEs (see attachment 1).

### **The OTA's functions and activities**

I will now briefly touch on the four (4) programmatic areas, and provide a glimpse into the accomplishments, challenges faced, and future plans for each operational component.

## **LEGAL ASSISTANCE**

### **Statutory mandate**

The agency's Legal Division is responsible for the following three (3) distinct statutory duties: (a) to "advise tenants and tenant organizations on filing complaints and petitions"; (b) to "represent tenants, at its discretion

and as it determines to be in the public interest”; and (c) to “operate a Tenant Phone Hotline.”<sup>4</sup>

### **Functions and activities**

#### *(a) Case Management Services*

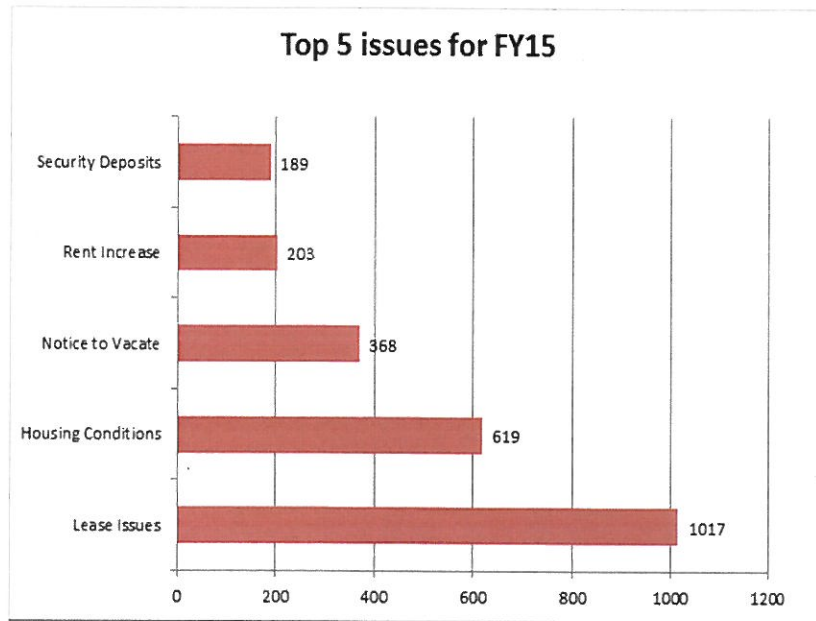
The first step in the legal assistance process is the case management intake system. We have three (3) Case Management Specialists who serve as the frontline for legal and technical advice. They use an automated data system which was designed to capture all relevant information from those tenants who seek our help. For each and every intake case, the case management process is utilized as the starting point from which all other actions flow. On a weekly basis, the Director receives a report on each intake case, including recommended action items.

In FY 2015, the OTA handled cases affecting approximately 10,760 tenants through the intake process. As in previous years, more tenants came to us from Ward 1 than any other Ward, with Ward 6 a close second. The five (5) most common issues recorded through the case intake process were: (1) lease issues (1,017); (2) housing conditions and housing code violations (619); (3) evictions (368); (4) disputed rent increases (203);

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<sup>4</sup>D.C. Official Code § 42-3531.07(3), (5A), & (7)

and (5) security deposit issues (189). In the first quarter of FY 2016, there were a total of 627 intake cases. Upon the completion of the case management intake process, the case is then moved to the next step.



**Figure 1**

*(b) "Tenant Hotline" inquiries*

"Hotline" or general legal questions take the form of inquiries through the on-line "Ask the Director" forum; periodic "Live OTA Q&A Chats" staffed by the Legal Division; and "cold calls" generally to the Director, Legislative Director, or General Counsel. In FY 2015, the OTA received and responded to 725 formal "Ask the Director" and "Ask the

Mayor” inquiries, a slight decrease from the previous year (917). We held nine (9) “Live Chats” and responded to 63 inquiries.

*(c) Legal representation*

The “legal representation” function may take one of two forms – in-house representation or referral to one of the Agency’s contracted legal service providers.

In determining whether to provide in-house representation, the case must meet criteria that address two underlying questions: what role should the government play, and what is the public interest impact? If these criteria are met, an OTA attorney may represent the client for the duration of the case (whether at the Office of Administrative Hearings, Superior Court’s Landlord and Tenant Branch, or the Court’s Housing Conditions Calendar). Alternatively, the OTA may refer a client to an outside legal service provider. Several receive funding from the OTA’s “Legal Service Provider Program” after qualifying through an RFQ process.

In FY 2015, a total 1,162 cases were assigned to four (4) attorney advisors, and a total of 326 cases were assigned to them in the first quarter of the FY 2016.

## **Accomplishments**

Several years ago we began to maintain data regarding the financial returns – including damage awards and rent rollbacks – derived from both in-house representation and from the “Legal Service Provider Program.” In FY 2015, the operational budget for the Legal Division was \$899,906, and the return to our clients was \$1,761,046. This represents a 196% return on the District’s investment in the OTA’s litigation team. With a total appropriation of \$235,000 in FY 2015, funding recipients reported a total of \$1,846,314 in FY 2015 returns to the tenant community – a 786% return on the taxpayers’ investment in the program.

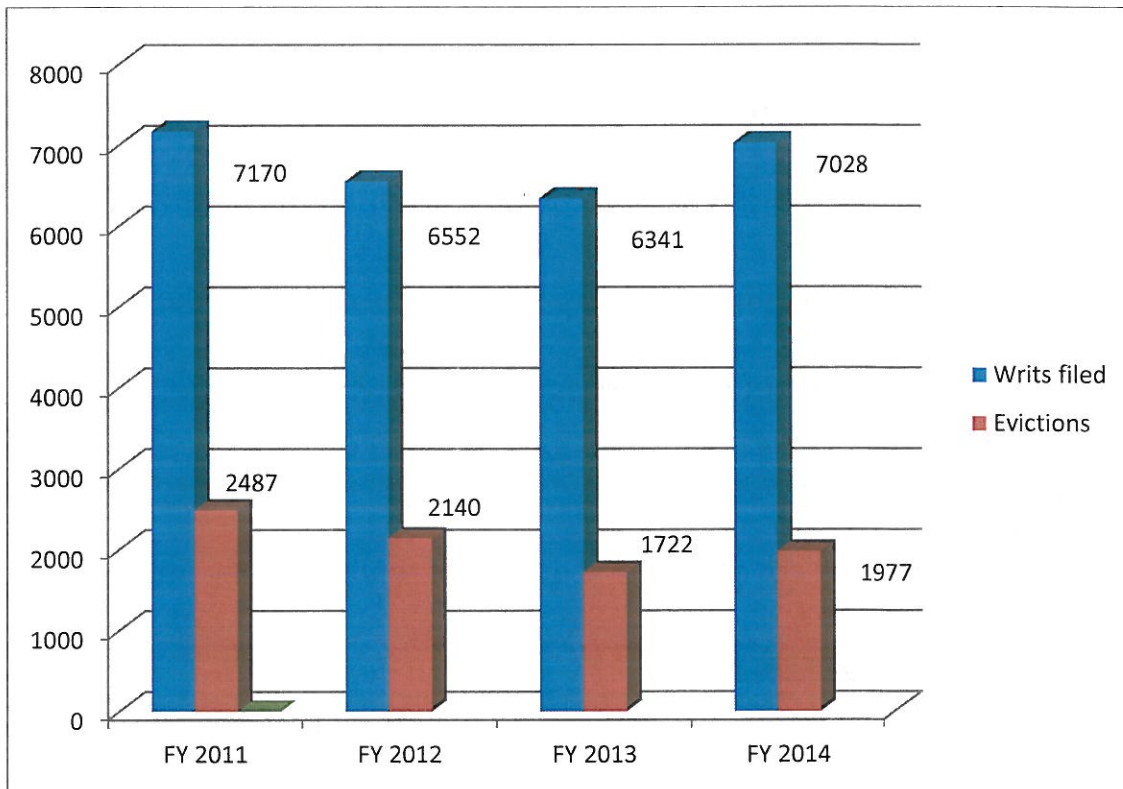
As I have pointed out in the past, however, the actual bang for the buck extends beyond these numbers. A legal win for a tenant promotes future compliance and enforcement by the housing provider who is a party to that particular case, but by others as well. And when the case involves one or more illegal rent increases, affordability is preserved; when the case involves poor housing conditions, the quality of rental housing improves.

## **Future Considerations**

While the perennial challenge continues to be ensuring that any tenant who needs an attorney can secure one, I am pleased that the agency

will soon add two (2) new attorney-advisor FTEs to the Legal Division. The Agency will begin to investigate how best to develop “A Right to Counsel” program aimed at preventing tenants from having to defend themselves in eviction court *pro se*. This has become something of a national movement, as policy-makers are starting to realize that reducing the number of unwarranted evictions will help to reduce homelessness.

With the assistance of D.C. Superior Court, we have begun to track the number of eviction cases filed and the actual number of evictions in DC (see figure 2), and will continue to work on improving the data.



**Figure 2**



## **POLICY ADVOCACY**

### **Statutory mandate**

The Agency's policy advocacy mission is to "represent the interests of tenants and tenant organizations in legislative, executive, and judicial issues, including advocating changes in laws . . ." <sup>5</sup> Accordingly, the OTA engages each branch of District government to promote the public policy interests of tenants and the tenant community.

### **Functions and activities**

A key Policy Division function is to work with stakeholders, the Council and the Mayor's office, sister agencies, and others to help identify statutory, regulatory, and other gaps in the District's system of tenant protections, and to develop proposals to fill in those gaps. The Policy Division also keeps the community apprised of relevant legislative and regulatory developments – at both the federal and District levels – through regular listserv notices, and, working in tandem with the Education and Outreach Division, holds regular stakeholder meetings. The Policy Division also regularly consults non-governmental policy organizations such as the DC Preservation Network, the Coalition for Non-Profit Housing and

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<sup>5</sup>D.C. Official Code § 42-3531.07(2)

Economic Development, the Urban Institute, the DC Fiscal Policy Institute, and the National Low-Income Housing Coalition.

### **Accomplishments**

In FY 2015, the OTA helped draft or provided the Council and/or the Mayor's Office with testimony or recommendations regarding rental housing-related legislation in a broad range of issue areas – some of which has become the law of the land. As of July 3, 2015, Law 20-147, the "Tenant Bill of Rights Amendment Act of 2013," requires the housing provider to give each rental applicant a copy of the OTA's "Tenant Bill of Rights" document. A current tenant is entitled to receive a copy upon request.

Thanks to emergency and temporary rent control legislation that became effective in FY 2015, there is a five (5) percent cap on so-called "conditional hardship rent increases." Previously, these "conditional" rent increases could be 50% or 100% of the rent charged or more, and they lasted indefinitely until the issuance of a final order on the landlord's petition.

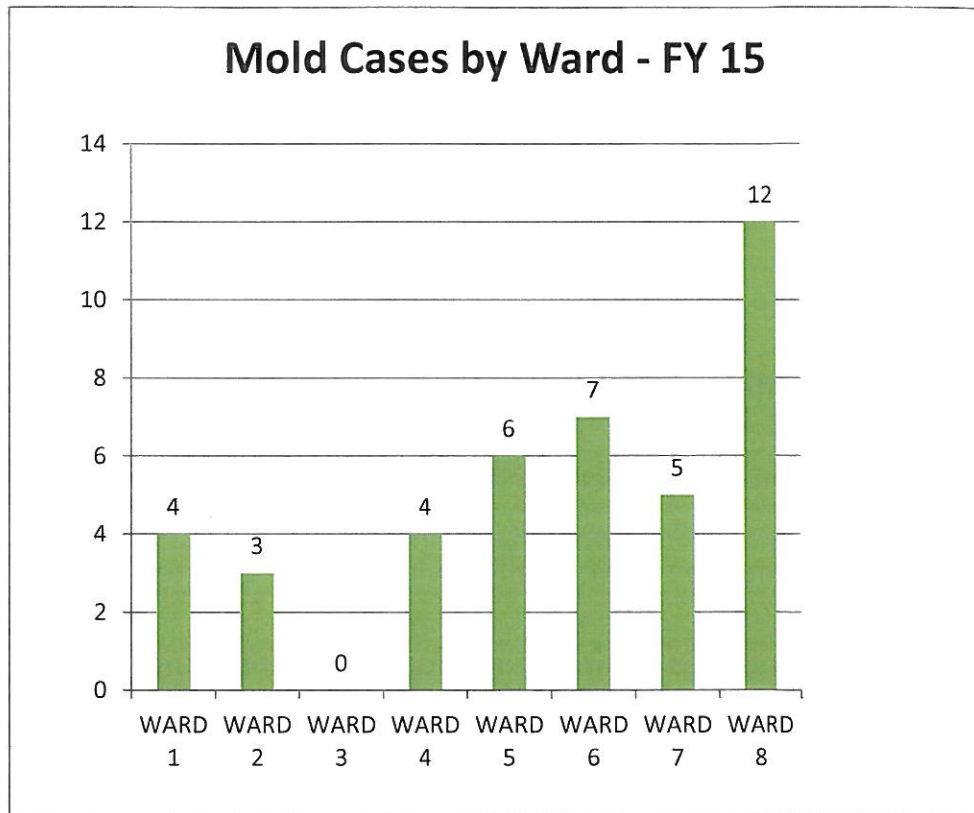
In March 2014, as you will recall, Chairperson Orange, the OTA submitted to this Committee a report on housing provider petitions, and

their impact on the affordability of rent control units in the District. We also provided updated “fiscal year-end” data in October 2014. We will soon submit an updated report for FY 2015. It will include the fact that – as a nine (9)-year average – more than 979 rent control units have been impacted by newly filed housing provider petitions annually. It is my hope that this report will help to inform the “affordable housing preservation” discussions that are being held by the Mayor and the Council, particularly within the Committee on Housing and Community Development. If rent control is to remain the District’s bedrock affordable housing tool, the rent control law itself must be periodically reviewed and updated.

The OTA continues to sit on the Property Maintenance Technical Advisory Group (PM-TAG), a part of the structure of the Construction Code Coordinating Board (CCCB). As such the OTA pays close attention to the regulations that most impact District renters, and we work collaboratively with government and non-government colleagues to make the regulations work better for District residents.

In FY 2015, pursuant to Law 20-135, the “Air Quality Amendment Act of 2013,” which became effective in FY 2015, the OTA contributed to Department of Energy and the Environment (DOEE) rule-making regarding

indoor mold. This rule-making (now pending) will establish clearer legal standards, thus making it easier for tenants to go to court for the redress of indoor mold.



**Figure 3**

In the judicial sphere, the Policy Division reviews relevant decisions by judicial and administrative courts; regularly consults with the Legal Division and outside attorneys on a wide range of pertinent issues; helps to identify legal issues, particularly those involving statutory or regulatory interpretation; and helps develop the legal arguments for purposes of litigation.

### Future considerations

Legislatively, rent control reform remains one of the Agency's key policy challenges. We have worked closely with the Council and with Chairperson Bonds of the Housing Committee on legislation to make rent control work better for elderly tenants and tenants with disabilities. Bill 21-173, the "Elderly and Tenants with Disabilities Protection Amendment Act of 2015," has had a hearing and a series of good post-hearing stakeholder discussions. We are hopeful that the Council will approve this legislation, which promotes housing affordability for the District's most vulnerable populations. And once again we are focusing on the problematic issues regarding housing provider petitions and vacancy rent increases, which are causing unacceptable rent escalation in high-turnover units.

Last year, the Council enacted legislation championed by Chairperson Bonds directing DHCD to create a modernized rent control database, and to do so "in close collaboration with the OTA." We are now talking with DHCD and the Rent Administrator's office about the key elements of this project, and we expect the process to be well underway before the end of FY 2016.

We also look forward to working with the Rental Housing Commission and others to update the Rental Housing Act regulations. I am informed that this process will start soon.

## **EDUCATION AND OUTREACH**

### **Statutory mandate**

The OTA's first statutory duty is to "[p]rovide education and outreach to tenants and the community about laws, rules, and other policy matters involving rental housing, including tenant rights under the petition process and formation of tenant organizations."<sup>6</sup>

### **Functions and activities**

Education and outreach about tenant rights takes many forms. Through the Tenant Educational Institute, we collect and maintain key legal materials for the Agency's Resource Center; we developed a curriculum on basic tenant rights in various educational forums; we helped to establish tenant associations and tutor them about board governance; and we create informational brochures. The Education and Outreach Division works in tandem with the Policy Division regarding regular stakeholder updates and meetings. Each fall we hold the Tenant and Tenant Association Summit to

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<sup>6</sup>D.C. Official Code § 42-3531.07(1)

connect all parts of the tenant community with policy experts and elected officials.

### **Accomplishments**

During FY 2015 the OTA continued to expand its outreach and educational activities. OTA participated in over 40 outreach events that were attended by over 5,400 people. The agency continues to respond to requests from tenants interested in forming a tenant association and sustaining their organization. These presentations included information on how to file Articles of Incorporation and how to draft and secure approval of an Association's By-Laws. A ten-point curriculum is being developed for tenant associations to enhance leadership skill-sets.

We continue to regularly appear in the Washington Post's Friday "Ready to Rent" section, both as a "go-to" source for feature articles, and in a separate periodic column called "Ask the Advocate," in which the OTA responds to rental housing questions that tenants commonly ask.

Additionally, we have entered into a contract with Albritton's Channels 7 & 8 for four (4) PSAs and four (4) live interviews. The first PSA began running earlier this month, and we appeared on the "Let's Talk Live"

program this past Friday, February 26<sup>th</sup>. The goal is to educate DC viewers about the OTA and extend our outreach into more parts of the community.

### **Future considerations**

Ever expanding the Agency's outreach into all parts of the tenant community is the Division's most significant goal and challenge. Plans for FY 2016 include producing a PSA about off-campus student housing; a webinar to be spun off from the existing "Tenant Rights 101" curriculum; and collaboration with more area universities.

## **EMERGENCY HOUSING ASSISTANCE**

### **Statutory mission**

The OTA has a statutory duty to "provide emergency housing and relocation assistance to qualified tenants, as determined by the Office."<sup>7</sup>

### **Functions and activities**

The Agency fulfills this mandate through the Emergency Housing Assistance Program (EHAP), generally in collaboration with others including DHS Strong Families, DCHA, and the Red Cross. EHAP assistance is provided primarily to those tenants who are displaced by fires and government building closures. Over the past several years, the average annual

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<sup>7</sup>D.C. Official Code § 42-3531.07(3)



expenditure on this program has been \$417,000. Benefits may include: (1) the short-term relocation of tenants to hotels, motels, or other appropriate accommodations, generally up to fourteen (14) days; (2) the moving and storage of personal property; and (3) payment of rental application fees, security deposits, and utility deposits. In FY 2015, the Agency provided EHAP services to 143 households and 347 individuals.

### **Future Considerations**

As I stated last year, despite generally tight limits on the duration of hotel stays for a particular tenant or household, the program usually runs out of funding well before the end of the fiscal year. Thus, the Agency has relied on reprogramming and intra-District transfers to continue providing critical emergency housing services.

I have also spoken often of the need for OTA lien authority. Lien authority would allow the Agency to recoup emergency housing expenditures directly caused by an owner's failure to properly maintain a rental accommodation. At least four (4) other agencies – DCRA, DDOE, DPW, and DC Water – currently have such lien authority. I wish to thank Councilmember Nadeau in particular for helping to move us towards making that goal a reality. Finally, we will work with FEMS and others to

help ensure that every rental unit in the District has a functioning smoke alarm and carbon monoxide detector.

**Conclusion**

Thank you, Mr. Chairperson, for your leadership and for this opportunity to testify about the performance of the OTA. This concludes my testimony and I am happy to answer any questions you may have.

