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**Government of the District of Columbia**



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

Testimony of

**Johanna Shreve**  
Chief Tenant Advocate

**Public Hearing**

**FY 2021 and FY 2022 Performance Oversight:  
Office of the Tenant Advocate**

Council of the District of Columbia

Committee on Housing and Executive Administration  
The Honorable Anita Bonds, Chairperson

Tuesday, February 22, 2022  
12:00 p.m.

Via Virtual Platform

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Thank you, Chairperson Bonds and members of the Committee on Housing and Executive Administration, for the opportunity to provide testimony on the performance of the DC Office of the Tenant Advocate during Fiscal Year 2021 and Fiscal Year 2022 to date. I am Johanna Shreve, Chief Tenant Advocate and Director of the D.C. Office of the Tenant Advocate.

I want to begin by highlighting a couple of issues that are front and center for the tenant community – and thus for the agency – as the District emerges from the pandemic. However, just to set the stage, I wish to note:

1. The alarming rise in the number of tenants and tenant associations reporting rent increases that are either unlawful or exorbitant, both in the unregulated rental and rent controlled markets;
2. Deferred maintenance and poor building conditions in all parts of the District; and,
3. The ongoing need for rental assistance to address the still looming threat of eviction of tenants who continue to have a hard time paying the rent.

I will discuss each of these matters in more detail when I talk about our policy priorities. First I will discuss the FY 21 and FY 22 performance of each of the agency's four programmatic areas.

## **Policy Branch**

The Policy Branch spearheads the mission of the OTA to “represent the interests of tenants and tenant organizations in legislative, executive, and judicial issues including advocating changes in laws and rules [...]”<sup>1</sup> It does so through legislative drafting; policy consultations; Council testimonies; comments on rulemakings affecting rental housing and tenant rights; filing *amicus curiae* briefs in judicial and administrative cases; and litigation consultations particularly regarding matters of statutory and regulatory interpretation.

### **Policy accomplishments for FY21**

The calamitous effects of the COVID-19 pandemic on renters has driven the OTA’s top priorities for FY21 and FY22. At the outset of the pandemic, the OTA collaborated with both the Mayor’s office and the Committee on a package of tenant protections to include in the District’s pandemic-response legislation. We appreciate the Committee’s advocacy for and the Council’s adoption of a number of the OTA’s recommendations, including:

- A. A moratorium on evictions to protect public health and tenant well-being;
- B. Moratoria on rent increases and late fees to protect tenants in financial turmoil from additional liability and uncertainty;
- C. A pause on tenant deadlines under the Rental Housing Act of 1985

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<sup>1</sup> DC Official Code 42-3531.07(2).

- and TOPA so that tenants can properly effectuate their rights;
- D. A pause on notices of intent to vacate so that tenants whose plans to move changed once the pandemic hit were not forced to do so; and,
- E. A refund of fees for amenities in rent controlled buildings that were eliminated due to the PHE.

The agency has continued to collaborate with the Council and other governmental and community partners during the phase-out of these protections in FY21 and FY22. For example, we appreciate your reinstatement of the tolling of deadlines for the tenant exercise of certain TOPA rights, as Omicron renewed the difficulties for tenant organizers first created by the Coronavirus.

While the pandemic required all of us to refocus our priorities, the OTA did not lose sight of the need for continued efforts to strengthen and expand rent control. Having assisted in some of the legislative drafting and research, the OTA also testified for and provided statistical data in support of a number of measures that the Committee considered early in FY 2021, including:

- A. Act 23-608, the “Voluntary Agreement Moratorium Amendment Act of 2020”;
- B. Act 23-454 and Law 23-173, respectively, the Emergency and Temporary legislation placing a moratorium on Certificates of Assurance;
- C. Bill 23-237, the “Rent Concession Amendment Act of 2019”;
- D. Bill 23-873, the “Rent Stabilization Program Reform and Expansion Amendment Act of 2020”;
- E. Bill 23-877, the “Substantial Rehabilitation Petition Reform

- Amendment Act of 2020”;
- F. Bill 23-879, the “Capital Improvement Petition Reform Amendment Act of 2020,”; and,
  - G. Bill 23-972, the “Hardship Petition Reform Amendment Act of 2020”.

The OTA commends the Committee’s efforts in getting the moratoria on Voluntary Agreements and Certificates of Assurance enacted.

The OTA also collaborated in the development of important non-pandemic tenant protections enacted through emergency and temporary legislation, for which permanent legislation is now pending. If approved, Bill 24-96, the “Eviction Record Sealing and Fairness in Renting Amendment Act of 2022,”<sup>2</sup> would make permanent the prohibition on evicting tenants unless the landlord has a valid rental housing license, or for nonpayment of rent where the unpaid amount is less than \$600; the requirement that the tenant be given a 30-day written notice before the landlord may file an eviction action for nonpayment of rent; and the requirement of photographic evidence if a court summons is posted at the tenant’s unit. The legislation also includes certain tenant screening and record sealing requirements to protect tenants from being unfairly shut out of rental housing opportunities, which can happen on the basis of a single eviction action in the court record regardless of the outcome of the case. The OTA also appreciates

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<sup>2</sup> Approved on first reading Jan. 4, 2022; second reading anticipated March 1, 2022.

the Committee’s inclusion of sensible record sealing carve-outs for tenants themselves, their attorneys, and public interest researchers. I look forward to Bill 24-96 clearing a second Council vote and becoming effective.

## **Regulatory Activity**

### D.C.M.R. Title 14 Rental Housing Regulations

On the regulatory front, the agency’s primary focus in FY21 was the Rental Housing Commission’s (RHC) long-anticipated overhaul of the Rental Housing Act's implementing regulations at Title 14 of the D.C.M.R. Having participated in the RHC’s interagency draft rulemaking process in 2016 and 2017, the OTA also submitted substantive comments on all three proposed rulemakings between 2019 and 2021. The RHC incorporated a number of the OTA’s recommendations, including:

- Prohibiting outright the unlawful landlord practice of preserving rent adjustments that create a “*de facto*” rent ceiling in violation of the statute, and then imposing unconscionable rent increases on the basis of those illegal adjustments;<sup>3</sup>
- Permitting challenges to the landlord’s “selective implementation” of rent

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<sup>3</sup> D.C. Official Code § 42-3502.06(a) (“Rent ceilings abolished”).

adjustments approved through a housing provider petition process, which unfairly forces some tenants to bear the landlord’s “cost recovery” burden more than others; and,

- Permitting challenges to a capital improvement petition (CI) based on “horizontal stacking,” where the landlord files multiple capital improvement (CI) petitions for substantially related work that should be included in a single petition; the effect of which is, when multiple petitions are approved, the landlord may implement corresponding surcharges in successive years, thus evading the one-time 20 percent per unit statutory cap on surcharges pursuant to a single CI.<sup>4</sup>

#### Collaboration with DOEE Around the Building Energy Performance Standards (BEPS) Program

Now that the Department of Energy and Environment (DOEE) has issued Building Energy Performance Standards (BEPS) regulations,<sup>5</sup> many residential housing owners will need to update their building systems in order to comply with the District’s new energy efficiency requirements. As the Green Buildings

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<sup>4</sup> DC Official Code §. 42-3502.10(c)(1).

<sup>5</sup> DCMR Title 20 Chapter 35, effective January 1, 2021.

legislation itself acknowledges,<sup>6</sup> environmental sustainability and housing affordability are *both* important public interest goals and should not be at odds with each other. We appreciate DOEE’s engagement with the OTA and their thoughtful consideration of the OTA’s concerns in this regard.

Having provided recommendations to DOEE on the BEPS rulemaking itself and the supplemental BEPS Guidebook, we are now consulting with DOEE and the Rent Administrator’s office regarding a draft Affordable Housing Covenant that will apply to owners of “naturally occurring affordable housing” (NOAH) – which includes some rent controlled housing. The OTA’s goal is to help ensure that the owner’s affordable housing obligations are as strong and as meaningful as possible.

The agency’s primary concerns are two-fold. We believe that the owner of a rent controlled building should seek available public funds before resorting to a Capital Improvement (CI) petition that would impose the cost burdens on the tenants. Second, we believe it should be made as clear as possible that such an owner is prohibited from “double-dipping.” In other words, they should not be permitted to *both* file a CI petition *and* also receive public funding for the very same purpose.

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<sup>6</sup> Law 22-257, the “CleanEnergy DC Omnibus Amendment Act of 2018” (D.C. Official Code § 8–1772.21 *et seq.*).



## Other Regulatory Comments

The OTA submitted regulatory comments on other matters in FY21 and FY22, including:

- DC Water’s Multifamily Assistance Program to provide utility bill relief to tenants in multifamily buildings; and
- DCRA’s Short-Term Rental regulations to ensure compliance with laws that discourage owners from converting housing into short-term rentals where it might otherwise be rented to District residents long-term.

## **Judicial Advocacy**

The Policy Branch also participates in the agency’s judicial, and especially appellate, advocacy. In July 2021, the Policy Branch filed an *amicus curiae* brief in a statute of limitations case<sup>7</sup> before the RHC on interlocutory appeal from the Office of Administrative Hearings (OAH). The outcome of this case will impact the ability of a tenant in a rent-controlled unit to challenge an exorbitant and unlawful vacancy increase that occurred before the tenant moved in, where the landlord failed to provide the tenant with a “rent basis” disclosure as the Act requires.<sup>8</sup>

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<sup>7</sup> Cambridge House Enterprises v. James Nimri, Case No. 2018-DHCD-TP 30,999 (RHC).

<sup>8</sup> D.C. Official Code § 42-3502.13(d).

## **Policy goals and priorities for FY22**

The agency's top policy priorities for Fiscal Year 2022 are:

### ***1. Rental assistance***

Thanks to both federal and local funding, the District distributed \$249,779,870 in rental assistance through STAY DC, assisting 33,931 District households.<sup>9</sup> Despite the availability of unprecedented levels of rental assistance, as many as 42,700 District households are estimated to be at risk of eviction<sup>10</sup> and approximately 80,600 District households have little or no confidence that they can pay the next month's rent.<sup>11</sup> Based on upon the agency's review of Pulse data

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<sup>9</sup> See: Report by District of Columbia's Department of Human Services. February 4, 2022. Available here: <https://www.brianneknadeau.com/updates/update/february-4-dhs-report-stay-dc-and-covid-19-committee-human-services>.

<sup>10</sup> An estimated 42,753 out of 287,400 of District renters were not caught up on rent payments. See: The United States Census Bureau, "Week 41 Household Pulse Survey: December 29, 2021 through January 10, 2022 (January 19, 2022), available here: [https://www2.census.gov/programs-surveys/demo/tables/hhp/2021/wk41/housing1b\\_week41.xlsx](https://www2.census.gov/programs-surveys/demo/tables/hhp/2021/wk41/housing1b_week41.xlsx).

<sup>11</sup> 80,621 out of 287,400 had no or slight confidence in their ability to make next month's payment. See: The United States Census Bureau, "Week 41 Household Pulse Survey: December 29, 2021 through January 10, 2022 (January 19, 2022), available here: [https://www2.census.gov/programs-surveys/demo/tables/hhp/2021/wk41/housing2b\\_week41.xlsx](https://www2.census.gov/programs-surveys/demo/tables/hhp/2021/wk41/housing2b_week41.xlsx).

and other agency data, we estimate that \$85,385,100<sup>12</sup> to \$97,110,000<sup>13</sup> in rental assistance may be needed to keep those tenants currently in arrears from the brink of homelessness.

This does not include the future rental assistance needed to support District renters, such as those housing insecure tenants that are not currently in arrears but have low confidence in their ability to pay next month's rent. Further, about 11 percent of District households that were not caught up on rent did apply for rental assistance and were denied.<sup>14</sup>

Additionally, an estimated 30 percent of District households with rental arrears have not applied for rental assistance.<sup>15</sup> Although the Department of Human Services (DHS) does work with the Court to get rental assistance to tenants in eviction proceedings, the Council should consider incorporating a

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<sup>12</sup> This number was calculated based on data provided by the U.S. Census Bureau's Pulse Survey and DHS. See: The United States Census Bureau, "Week 41 Household Pulse Survey: December 29, 2021 through January 10, 2022 (January 19, 2022), available here: [https://www2.census.gov/programs-surveys/demo/tables/hhp/2021/wk41/housing1b\\_week41.xlsx](https://www2.census.gov/programs-surveys/demo/tables/hhp/2021/wk41/housing1b_week41.xlsx); Report by DHS. February 4, 2022. Available here: <https://www.brianneknadeau.com/updates/update/february-4-dhs-report-stay-dc-and-covid-19-committee-human-services>; A report that DHS sent to OTA on February 16, 2022.

<sup>13</sup> This number was calculated based on data provided by the U.S. Census Bureau's Pulse Survey and DHS. See: The United States Census Bureau, "Week 41 Household Pulse Survey: December 29, 2021 through January 10, 2022 (January 19, 2022), available here: [https://www2.census.gov/programs-surveys/demo/tables/hhp/2021/wk41/housing1b\\_week41.xlsx](https://www2.census.gov/programs-surveys/demo/tables/hhp/2021/wk41/housing1b_week41.xlsx); A report that DHS sent to OTA on February 16, 2022.

<sup>14</sup> See: The United States Census Bureau, "Week 41 Household Pulse Survey: December 29, 2021 through January 10, 2022 (January 19, 2022), available here: <https://www.census.gov/data/tables/2021/demo/hhp/hhp41.html>; [https://www2.census.gov/programs-surveys/demo/tables/hhp/2021/wk41/housing1b\\_week41.xlsx](https://www2.census.gov/programs-surveys/demo/tables/hhp/2021/wk41/housing1b_week41.xlsx).

<sup>15</sup> See: The United States Census Bureau, "Week 41 Household Pulse Survey: December 29, 2021 through January 10, 2022 (January 19, 2022), available here: <https://www.census.gov/data/tables/2021/demo/hhp/hhp41.html>; [https://www2.census.gov/programs-surveys/demo/tables/hhp/2021/wk41/housing1b\\_week41.xlsx](https://www2.census.gov/programs-surveys/demo/tables/hhp/2021/wk41/housing1b_week41.xlsx).

permanent statutory requirement that ties the rental assistance process to the eviction process for nonpayment of rent. Doing so in combination with increasing ERAP's funding would make sure there is a systemic process in place to help prevent evictions. The long-run this could prove to be an important eviction diversion tool for the District.

More than ever, the scope of the District's rental assistance need is not limited to tenant households that would qualify for ERAP. Thus I would suggest that the Council may want to consider expanding ERAP criteria. As of now, due to recent Council revisions to the ERAP program, households must be at or under 40 percent of the Area Median Income (AMI) in order to qualify for assistance, whereas STAY DC assistance was cut off at 80 percent of AMI. With some exceptions,<sup>16</sup> ERAP also limits assistance awards at five times the respective monthly fair market rent (FMR) based on household size.<sup>17</sup>

## ***2. Strengthening Rent Control***

The OTA continues to support legislative efforts that strengthen rent control – (i) making rent control permanent rather than subject to periodic

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<sup>16</sup> DHS can waive this requirement if a household has seven (7) or more people in it or there are residents with disabilities in the home. In these instances, ERAP could pay seven times the FMR based on household size for back rent.

<sup>17</sup> The FMR is for the Washington-Arlington-Alexandria Metropolitan area based on unit size and zip code, as established by the U.S. Department of Housing and Urban Development.

renewal; (ii) limiting the standard annual rent increase to the CPI only; (iii) right-sizing the 12 percent guaranteed return rate under a hardship petition; (iv) preventing unlawful preservation of rent adjustments; (v) expanding the stock of rent control housing; and, (vi) permanently eliminating both Voluntary Agreements and Certificates of Assurance.

### ***3. Rent increases in unregulated units***

As I mentioned at the start of my testimony, the agency has received an influx of inquiries from tenants in market-rate housing who are alarmed by the magnitude of the rent increases issued since the end of the moratorium. They ask us — how can this be legal? Even owners of unregulated units themselves have noted to the OTA that they are disconcerted by the increases that certain counterparts have imposed on their tenants since the rent increase freeze was lifted at the start of this year.

I would point out that the District already has a retail price anti-gouging law that applies to natural disasters, including public health emergencies (PHEs).<sup>18</sup> I would further point out that (1) we are just emerging from a PHE and in many

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<sup>18</sup> Law 9–80, the “Natural Disaster Consumer Protection Act of 1992,” effective March 20, 1992 (D.C. Official Code § 28-4102(a)).

ways the District remains in the phase-out period; and (2) the D.C. Court of Appeals has acknowledged that an exorbitant rent hike for an unregulated unit can be unlawful in certain circumstances.<sup>19</sup> I believe the time has come for the District to consider expanding this anti-gouging principle to include market-rate rental housing in appropriate circumstances.

**4. Building conditions:** As I also said at the start of my testimony, the OTA is hearing from an increasing number of tenants who are experiencing the impact of deferred maintenance and landlord negligence in the upkeep of their buildings, even in rental accommodations once considered to be luxury buildings in pricier parts of the District. Of course this is merely an unfortunate continuation and expansion of the long-term experience of far too many tenants in other areas of the District.

I believe the Committee and the Council should consider (1) more efficient and more targeted use of DCRA's Nuisance Abatement Fund;<sup>20</sup> and (2) an expansion of DHCD's Small Building Program. The latter is a version of a recommendation I made as a member of the Mayor's 2015 "DC Housing

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<sup>19</sup> Double H Housing Corp. v. David, 947 A.2d 38, 42 (DC 2008)(where the threat of a larger rent increase if the tenant refuses to sign a renewal lease effectively "denies the tenant a meaningful opportunity to (exercise the statutory right to) remain as a month-to-month tenant.")

<sup>20</sup> DC Official Code §. 42-3131.

Preservation Strike Force”<sup>21</sup> and the Mayor’s “2021 Saving DC’s Rental Housing Strike Force.”<sup>22</sup> Additionally, as I have long advocated for, the District should insist that housing providers of rent controlled housing maintain a *replacement reserve account*. This will help ensure that an appropriate portion of rental revenue is reinvested in the property to address anticipated maintenance and replacement needs. To implement this would also require a landlord to undergo a replacement reserve study, which would provide a realistic accounting of both short- and long-term building needs. Given the law’s generous guaranteed profit under the hardship petition, rent control should not be an excuse for a housing provider’s failure to use best business practices regarding building maintenance and the replacement of building systems that have reached the end of their useful life.

### **Other Legislative Priorities for FY22**

Among the OTA’s other legislative priorities over FY 2022 are:

- ***Ongoing pandemic response:*** The OTA continues to advocate for the maintenance and enhancement of pandemic-related tenant protections, whether related to a reoccurrence of the current pandemic or to a future

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<sup>21</sup> <https://dhcd.dc.gov/page/dc-housing-preservation-strike-force>.

<sup>22</sup> <https://dhcd.dc.gov/page/strikeforce>.

pandemic. For example, we hear regularly (1) from tenants about enforcement-related concerns with their rental payment plans; and (2) from students and new hirees in the District regarding their inability to break a lease when pandemic-related circumstances, such as a campus shut-down or a job falling through, negate their reason for moving to the new unit.

- ***Rental Housing Act section 501(f)***: The OTA has provided the Committee with draft legislation to amend section 501(f) of the Rental Housing Act to address the rights of tenants who must vacate their units on an *emergency* basis. Under section 501(f),<sup>23</sup> a landlord cannot evict tenants to make alterations and renovations that can't safely be made while the units are occupied until they have (1) secured government approval; and (2) given each tenant a 120-day notice to vacate. Section 501(f) also provides tenants with a number of other rights. In an emergency situation, however, tenants are forced to relocate without the opportunity for a government review and approval of a landlord application, or for the landlord to provide the tenants with 120-day notices to vacate. Despite DC Court of Appeals case law that is favorable to tenant rights in such emergency circumstances, the

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<sup>23</sup> D.C. Official Code § 42-3507.03(b)(referring to sections 501(f), (g), (h), & (i) of the Rental Housing Act of 1985).



application of other important 501(f) rights remains arguable (such as the absolute right to return to the unit after repairs are completed, and the right to temporary housing within the landlord's portfolio).<sup>24</sup>

Relatedly, the amount of the relocation assistance that the landlord is required to provide to affected tenants under Title VII of the Rental Housing Act has not kept pace with the statutory requirement of a reassessment – at least once every three years – of a tenant's average moving costs.<sup>25</sup> (To be clear, the reassessment has not been done even once.) District law currently only provides \$300 per room, and smaller additional amounts for pantries, etc. This amount pales in comparison to the actual costs of moving, and it has not kept pace with reality. Indeed, we reviewed the federal Uniform Relocation Act's residential moving expenses payment schedule for 2021,<sup>26</sup> and for the District it recommends \$800 for the first room and generally \$200 more dollars for each additional room.

We look forward to discussing these matters further with the Committee.

- ***Further residential lease reform legislation:*** Several years ago the OTA and

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<sup>24</sup> D.C. Official Code § 42-3505.01(f); see *Temple v. DC Rental Housing Commission*, 536 A.2d 1024 (DCCA 1987).

<sup>25</sup> D.C. Official Code § 42-3507.03(b).

<sup>26</sup><https://www.federalregister.gov/documents/2021/07/27/2021-15930/uniform-relocation-assistance-and-real-property-acquisition-for-federal-and-federally-assisted>

the Committee worked together to protect a tenant's reasonable contractual expectations on a range of issues, such as landlord access to the unit in non-emergency circumstances and mitigation of damages when a tenant has to vacate the unit before the initial Lease term is up.<sup>27</sup> The OTA continues to hear tenant complaints on a range of other lease-related matters that we believe warrants further legislation. Examples include (1) perpetual "joint and several liability" for rent and damages that applies to a co-tenant who, after providing timely notice, moves out of a group house; and (2) requiring a minimum of 45 days' notice of a rent increase (or ideally, 60 days) for month-to-month tenants. While the current provision requires a 30-day notice of a rent increase, this fails to provide the month-to-month tenant with sufficient time to consider whether to stay or move in light of the amount of the rent increase.<sup>28</sup> In general, the OTA sees a great variety of outrageous lease terms and renewal lease practices that warrant the Committee's attention.

- ***Changes to OTA's Lien Authority:*** I also want to request a change in the OTA's lien authority statute which relates to the Emergency Housing

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<sup>27</sup> Law 21-0210, the "Residential Lease Amendment Act of 2015," effective February 18, 2017.

<sup>28</sup> Law 21-0210 addressed this issue for tenants during the initial lease term. D.C. Official Code § 42-3505.54.

Assistance Program (EHAP).<sup>29</sup> Currently, in the event that the housing provider fails to pay the OTA's bill for tenant hotel stays, the OTA may impose a tax lien for a maximum of 30 days. Based on the agency's experience, which I am happy to discuss, we would like this changed to 90 days.

### **Legal Branch**

The Legal Branch includes Case Management (3 FTEs), Legal Representation (7 FTEs), and the Tenant Hotline (one paralegal specialist who handles "Ask the Director" (ATD) and "Ask the Mayor" (ATM) inquiries):

In FY 2021 and FY 2022 (Q1):

- In FY 2021, the Branch had a total of 9,456 tenant and tenant association contacts. Of that, 7,527 were handled by attorney advisors and case managers, and 1,929 were handled through the Tenant Hotline. In FY 2022 (Q1), the Branch had a total of 1,874 tenant and tenant association contacts, and 1,328 were handled by attorney advisors and case managers, and 446 were handled through the Tenant Hotline.
- The average number of cases per attorney advisor in FY 2021 was 574. The average number of cases per attorney in FY 2022 (Q1) was 146.
- In FY 2013, OTA began to collect data regarding the legal team's financial returns to tenants, including damage awards, rent rollbacks, and settlement agreements. From FY 2013 to FY 2021, the legal brancy secured the return of a total of \$23,778,874 to the tenant community. In FY 2022 (Q1) that figure is \$385,949.

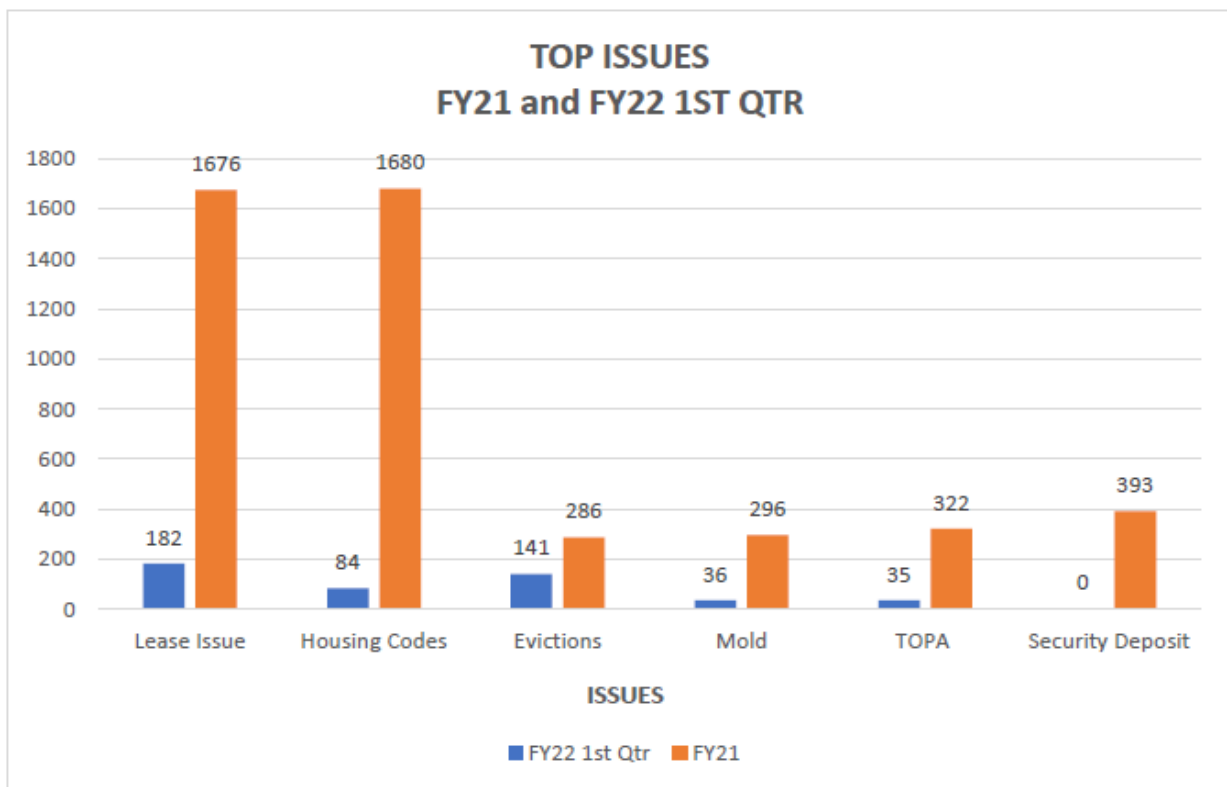
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<sup>29</sup> D.C. Official Code § 42-3531.15.

## Top issues

The top two issues in FY21 were housing conditions matters and lease issues, with 1,680 and 1,676 new intakes respectively. We also received 393 security deposit matters, 322 TOPA questions, and 296 mold complaints to round out the top 5 issues of FY21.

The chart below shows the number of intakes in FY 2021 and FY 2022 for the top intakes issues:



## Single-Family TOPA

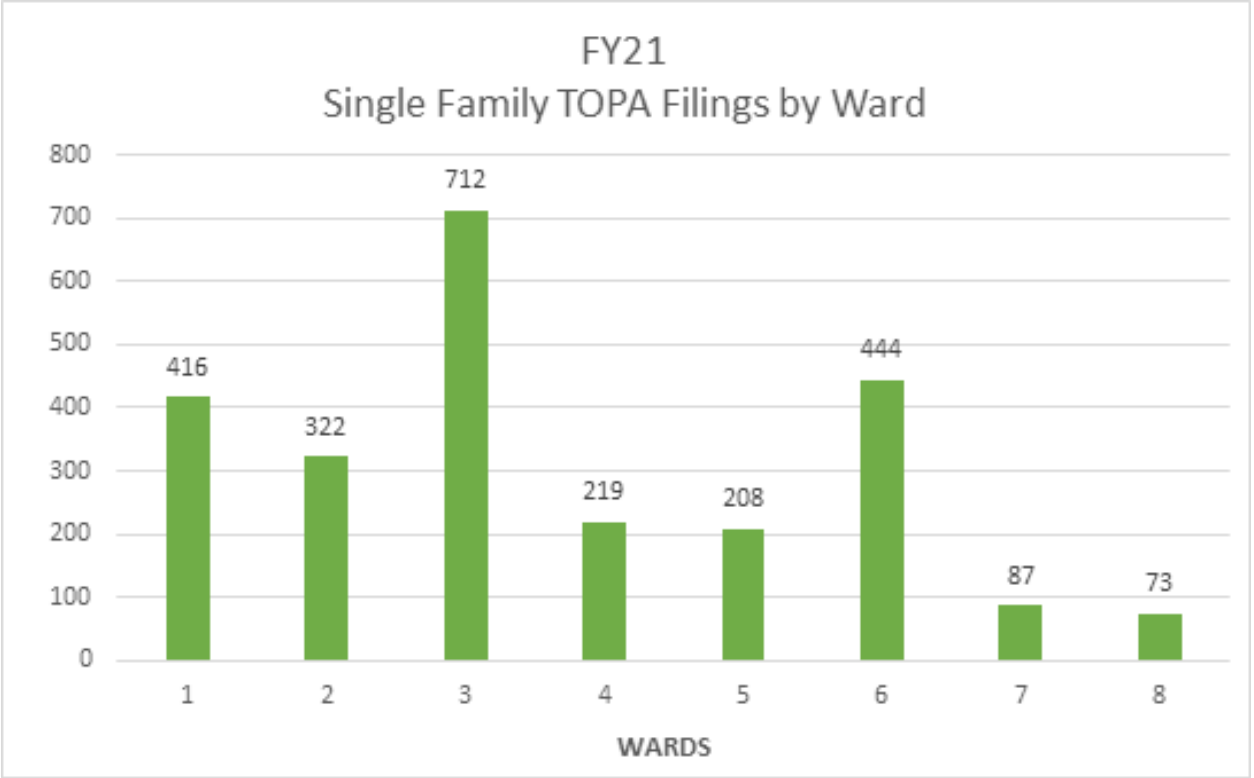
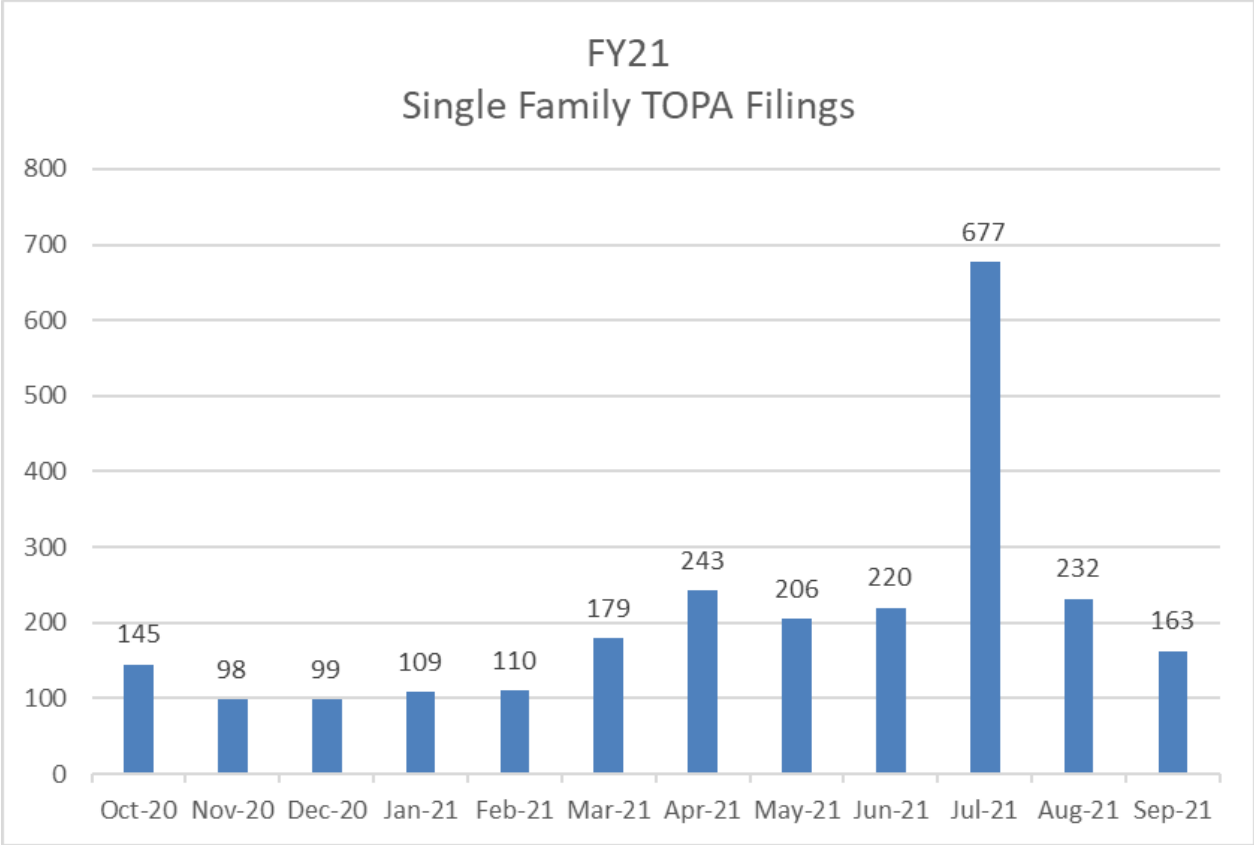
Under Law 22-120,<sup>30</sup> the OTA has the responsibility of receiving copies of any housing provider Notice of Intent to Sell a single-family dwelling. The OTA has the statutory duty to send the tenants a letter detailing their rights. The OTA has also assumed the responsibility to review each notice for legal sufficiency, and to notify DHCD for further action if we identify a problem.<sup>31</sup>

In FY 2021, OTA reviewed 2,481 single-family TOPA Notices. The charts below detail the number of single family TOPA filings by month and by ward in FY 2021. It shows that the total number of single family dwelling TOPA transactions in Wards 1, 2, and 3 alone was 1,450, or about 60 percent of the total number of such transactions throughout the city.

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<sup>30</sup>The "TOPA Single-Family Home Exemption Amendment Act of 2018," effective July 3, 2018.

<sup>31</sup> DC Official Code 42-3404.09(c)(2)(C).



## **US Marshals Service Eviction Data**

At the request of the US Marshals Service (USMS), OTA has been the repository of USMS data related to scheduled evictions since August of 2018. We have shared this data freely with key government agencies upon their request.

## **Vanguard Eviction Diversion Program**

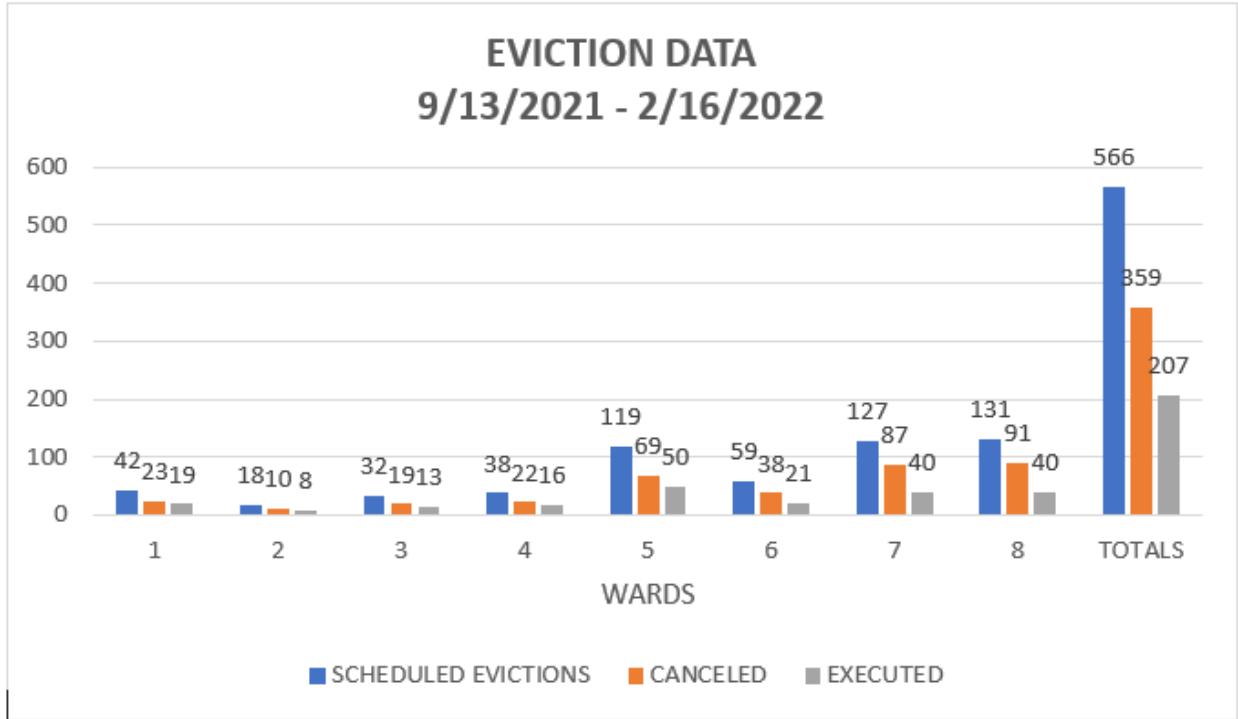
Since the beginning of the pandemic, the OTA discussed with government and community partners the need for an eviction diversion program to staunch a seemingly inevitable avalanche of evictions once the public health emergency was lifted. In the FY 2022 budget as well as the FY 2021 supplemental budget, the Council provided the OTA with funding for nine temporary staff positions to help address the eviction crisis: three litigating attorneys; two paralegals; a triage specialist; and a case administrator, all in the Legal Branch. The two additional FTEs are located in the Education and Outreach Branch. We have interviewed candidates for one of the Litigating Attorney positions, both Paralegal positions, and one Program Specialist position. We expect DCHR to soon be extending offers to the identified candidates.

Additionally, pursuant to a recently executed Memorandum of Agreement (MOA), DC Superior Court now provides the agency with a weekly list of all

eviction filings in the Landlord and Tenant Branch (LTB). Per court requirements, the eviction filing information we receive must be kept confidential, and any personally identifiable information must be destroyed within 30 days. The receipt of this information gives the OTA the opportunity to reach out to tenants who are scheduled for eviction case hearings, and to invite them to contact the OTA for legal assistance. The current status of District evictions is shown in the chart below, which shows US Marshals Service data regarding scheduled evictions for the first three months (mid-September to mid-December 2021) following the lifting of the moratorium on the execution of evictions.

Note that the number of eviction filings at Landlord and Tenant Court has been lower than anticipated. We believe this is due to landlord uncertainty regarding the proper forms to use and the enhanced requirements of the phase-out law itself, including a rather involved process for non-payment of rent cases. Still, the rental assistance data I discussed earlier underscores my point that eviction filings to date likely reflect just the tip of the iceberg.





\*There are two (2) scheduled evictions in Ward 8, one (1) in Ward 4 that were postponed. The information provided are the results of evictions that occurred during the dates indicated above. The chart provides evictions scheduled, executed and stayed based upon results shared with the DC Office of the Tenant Advocate by the US Marshals Office on a weekly basis.

Through a separate MOU, the OTA is now a D.C. Superior Court satellite courtroom, which is operable as of February 1st. Thus, it is now possible for an OTA attorney to represent a Vanguard client from within the OTA's own conference room. We hope to make the Vanguard program an important part of a comprehensive eviction prevention and diversion effort that will help keep District tenants in their homes.

**Emergency Housing Assistance Program**

Through the Emergency Housing Assistance Program (EHAP), the OTA

works alongside government and non-government partners to ensure that families affected by emergencies are given a chance to regain housing stability.

In FY 2021:

- The OTA expended \$524,380 for EHAP in FY 2021;
- The OTA served 298 displaced families; 197 families displaced by fire and 101 families displaced by building closures.

In FY 2022 to date:

- The OTA has expended \$223,227 to date in FY 2022;
- The OTA has served 137 displaced families: 82 families displaced by fire and 69 displaced by building closures.

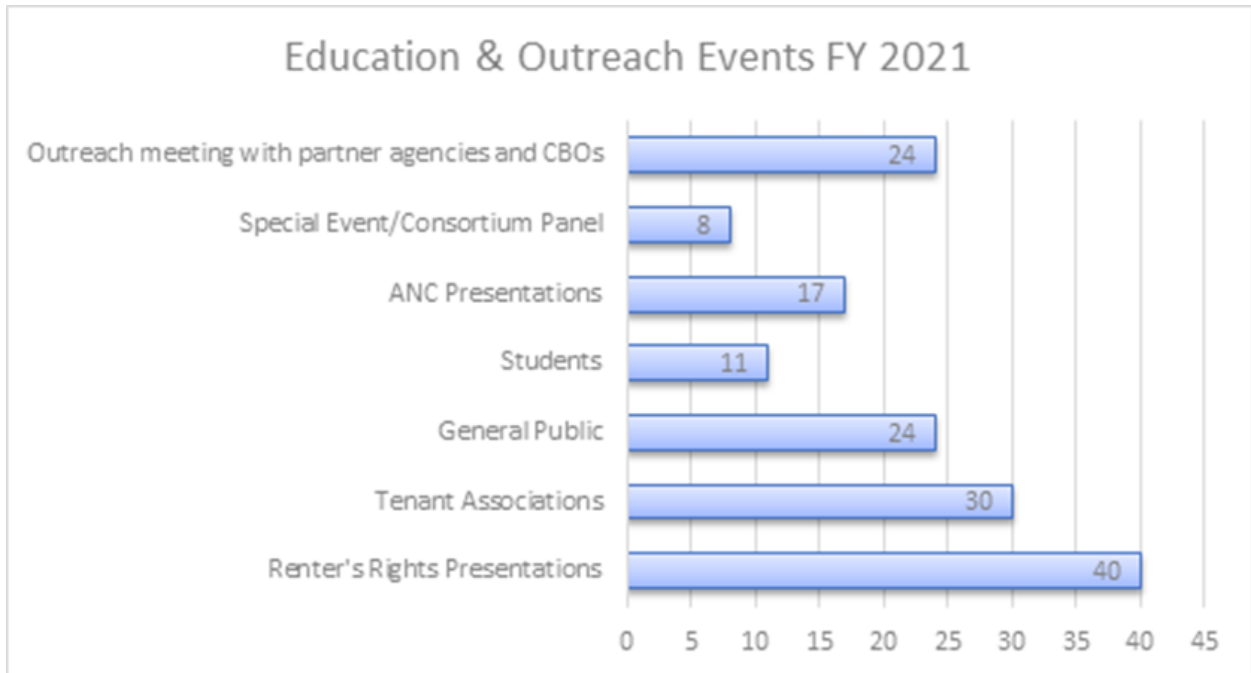
Our emergency housing goals for 2022 include (1) enhancement of its operational policies and procedures to incorporate lessons learned; and, (2) developing a new user-friendly EHAP brochure.

### **Education and Outreach Branch**

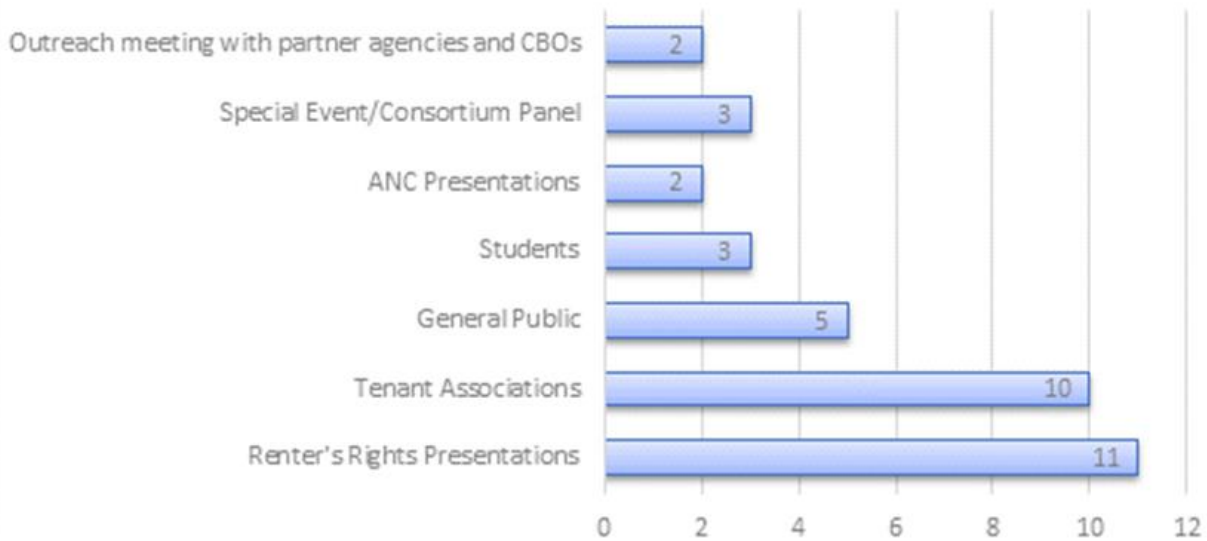
The OTA's Education and Outreach Branch educates and informs the tenant community on tenant protections in the District. Due to the COVID-19 pandemic, the OTA had to cancel all in-person meetings, and we were unable to host in-person stakeholder meetings or our Annual Summit. Nonetheless, we were able to successfully transition our education and outreach efforts to online platforms. The OTA has also continued with virtual monthly Renters' Rights 101 sessions, stakeholder presentations on topics of interest to tenants, development of new

materials to educate the public, and providing TOPA technical advisory consultations.

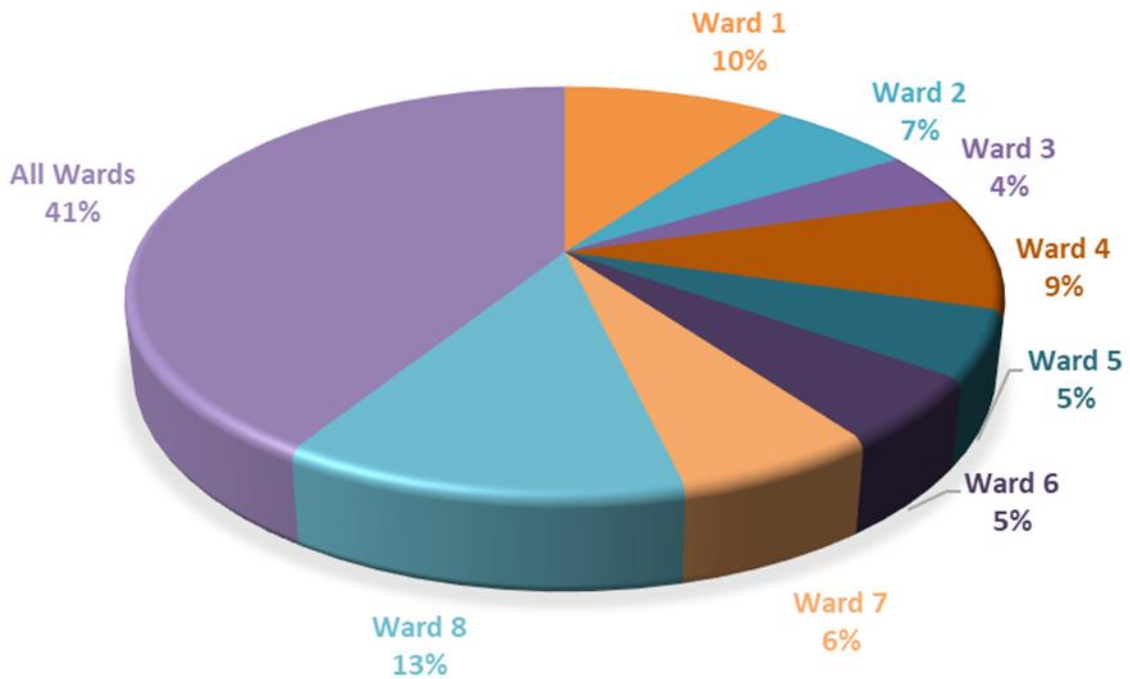
In FY 21 and FY 22 to date, the OTA participated in 190 outreach events and educated 3,855 District attendees on their tenant rights and the services of the OTA. During FY 2022, the Education & Outreach Branch will continue these activities, as well as expand its services to include a Tenant Association Peer Mentorship Program and ultimately expand to a Tenant Association Certification Program.



### Education & Outreach Events FY 2022



### OUTREACH EVENTS BY WARD FY 2021 AND 2022



The agency also continues to explore new outreach endeavors and partnerships. Since 2018 we have partnered with the Community Partnership to

give presentations to inform the organization's cohort about the rights of District tenants and the responsibilities of District landlords and tenants. The agency has also enhanced its relationships with the Mayor's Office on Latino Affairs (MOLA) and Mayor's Office on African Affairs (MOAA), allowing us to partner together in disseminating information to the District's Latino and African residents.

The OTA appreciates the Mayor's budget item and the Council's generous appropriation of funds that created the Vanguard Eviction Diversion Program and provided additional FTEs to the Education and Outreach branch. In order to broaden the agency's outreach efforts in a way that is different from the work done by the Education and Outreach branch, a dedicated Public Relations FTE would expand the agency's ability to (1) promote awareness of its resources for tenants in all parts of the District; (2) maximize the use of social media; and (3) access TV & radio for public service announcements (PSAs) and other purposes.

### **Rent Control Housing Clearinghouse Database**

I will now discuss the Rental Housing Clearinghouse Database. As we have apprised the Committee in recent monthly reports, there are several delay factors not within the OTA's control that have made on-time delivery of the database impossible. OTA, DHCD, and DCRA worked together for much of FY21 with a goal of executing an MOU by October 31, 2021. That date was critical because it left

just enough time for DCRA to deliver the Application Programming Interface (API) keys, and for the vendor to adapt and incorporate them, so that the database could be completed before the statutory deadline. To date, however, DCRA has not yet executed a contract with a vendor to complete the first step in that process. DCRA also reserves the right to refuse data that the OTA has requested pursuant to the law, including data fields critical to meet the statutory requirements and purposes of the database.<sup>32</sup> Unfortunately, we cannot estimate how much time it will take to resolve these matters. Additionally, due to the RHC's recent regulatory revisions, the Rent Administrator will have to revise certain rent control forms, which will require further time-consuming modifications to the database.

Nonetheless, the agency is doing what it can to mitigate such delay factors through further preparatory work that we hope can help jump-start the process once we move beyond the current impasse.

### **Conclusion**

I wish to thank you, Chairperson Bonds and the Committee, for all the support you provide to this agency. This concludes my testimony and I am happy

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<sup>32</sup> D.C. Official Code 42-3502.03c(c)(1)(T) ("The database shall include ... (o)ther information the OTA determines is relevant to tenants seeking and living in rent control accommodations.")

to answer any questions you and members of the Committee may have.