

**Government of the District of Columbia**



**Office of the Tenant Advocate**

Testimony of

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Chief Tenant Advocate

**Public Hearing on:**

**B25-639, the “Licensing for Accountability of Management of Properties (LAMP)  
Amendment Act of 2023”**

Committee on Public Works and Operations  
The Honorable Brianne K. Nadeau, Chairperson  
Council of the District of Columbia

on

Wednesday, July 3, 2024  
10:00 a.m.

John A. Wilson Building, Room 412  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004  
and hybrid via Zoom

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## ***Introduction***

As the District’s Chief Tenant Advocate at the Office of the Tenant Advocate (OTA), I thank you – Chairperson Nadeau and members of the Committee on Public Works and Operations – for this opportunity to submit testimony for the record on Bill 25-639, the “Licensing for Accountability of Management of Properties (LAMP) Amendment Act of 2023.”

## ***The bill’s purpose and effect***

Our understanding is that the purpose of this legislation is to provide a new District enforcement avenue against a property management firm where an employee steals funds from a property owner. Specifically, Bill 25-639 would newly require any “firm, franchise, partnership, association, or corporation that provides property management services” to obtain a license in order to lawfully operate in the District.<sup>1</sup> As we understand it, the rationale is that – absent a licensure requirement for firms rather than just individuals<sup>2</sup> – the District cannot currently discipline a property management *firm* that is ultimately responsible for financial misconduct, including an employee’s embezzlement of funds from the ownership. This is the case notwithstanding the clear requirement in the

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<sup>1</sup> Bill 25-639, the “Licensing for Accountability of Management of Properties (LAMP) Amendment Act of 2023” at lines 29-32.

<sup>2</sup> D.C. Official Code Title 47, Chapter 28, Subchapter I-B, Part K.

District’s licensure law that a property manager licensee must “exercise fidelity and good faith to a client in all matters within the scope of the licensee's employment” as a condition of licensure.<sup>3</sup>

We note that District law criminalizes embezzlement and provides for penalties including up to ten years in prison.<sup>4</sup> Regardless, de-licensing a property management firm in this scenario is certainly appropriate.

***A larger public interest consideration: the property manager’s treatment of tenants***

Over the past several years, the OTA has heard from a growing number of tenants and tenant associations throughout the District about chronically poor housing conditions, even in apartment buildings that historically have been very well-maintained.<sup>5</sup> In a significant number of cases, especially in larger buildings within larger portfolios, we have considered whether it could be more effective to de-license the property management firm, in addition to penalizing the owner. A property management firm is often more directly culpable for permitting these poor conditions to arise and for failing to abate them. Moreover, it is presumably

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<sup>3</sup> 17 D.C.M.R. 2609.11 (“Code of Ethics for Real Estate Brokers, Real Estate Salespersons, and Property Managers”).

<sup>4</sup> D.C. Official Code §§ 22–3211, 22–3212.

Title 22, Chapter 32, Subchapter II (Theft; Related Offenses”).

<sup>5</sup> We note that these concerns dovetail with our interest in another bill currently before the Committee: Bill 25-574, the “Do Right by DC Tenants Amendment Act of 2023,” which we are discussing with others and look forward to discussing with the Committee.

easier for an owner to replace a derelict and de-licensed property management firm than it is to replace a derelict and de-licensed housing provider.

Ultimately, a property manager or firm that consistently fails to abate Housing Code or Property Maintenance Code violations – or otherwise abuses tenant rights – should be subject not only to license suspension or revocation, but also should lose the privilege of managing a housing business in the District altogether.

Accordingly, we believe that this measure could have a larger public interest impact by de-licensing a derelict property management firm before they can run the property into the ground, thereby running tenants out of their homes.

Currently, the only explicit obligation property manager licensees have regarding tenants is regarding the treatment of prospective tenants – property managers must deal with prospective tenants honestly and not give them false information (D.C. Official Code § 47–2853.193). Our reading is that there is little in the law by way of explicit obligations property managers owe to current tenants. Thus, in order for this measure to have a greater positive impact vis a vis the quality of life of District residents, the bill would need to be amended to specify

obligations of property manager licensees have with respect to current tenants (rather than just the owner).<sup>6</sup>

### ***Recommendations***

#### Ethical duties that property managers should owe to tenants as a condition of licensure

Thus we ask the Committee to consider amending Title 47's provisions regarding the "Duties of Real Estate Brokers, Salespersons, and Property Managers;"<sup>7</sup> or alternatively the District's regulations establishing a code of ethics for real estate professionals and property managers.<sup>8</sup>

We note that codes of ethics published by two national associations of property managers *do* set forth ethical duties that property managers owe to their residents. The Code of Ethics and Standards of Professionalism published by the National Association of Residential Property Managers (NARPM) requires property managers to make all disclosures to tenants required by federal, state, and local laws; and to respond promptly to tenant maintenance requests.<sup>9</sup> Code of Professional Ethics published by the Institute of Real Estate Management (IREM) requires that property managers perform their roles with "due regard for

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<sup>6</sup> See D.C. Official Code Title 47, Chapter 28, Subchapter I-B, Parts K, O, and P; 17 D.C.M.R. Chapter 26.

<sup>7</sup> D.C. Official Code Title 47, Chapter 28, Subchapter I-B, Part P.

<sup>8</sup> 17 D.C.M.R. 2609.

<sup>9</sup> National Association of Residential Property Managers, *Code of Ethics and Standards of Professionalism*, Article 4 ("Obligations to Tenants"); available at: <https://www.narpm.org/code-of-ethics/>.

the rights, responsibilities, and benefits of the tenants or residents,” and prohibits “any conduct that is in conscious disregard for the safety and health of those persons lawfully on the premises.”<sup>10</sup>

In addition to these general national standards, de-licensure as a penalty against property managers in the District should also specifically include chronic or bad faith violations of tenants’ statutory and regulatory rights, including those pursuant to the Rental Housing Act of 1985,<sup>11</sup> as well as the Housing and Property Maintenance Codes.<sup>12</sup>

Consider possible over-inclusivity of employees who would be subject to the property management license or certification requirement

Finally, we ask the Committee to reconsider the scope of the requirement that any and all individual employees of a property management firm “who will render professional services” must have a property management license or certificate.<sup>13</sup> This request is based on our uncertainty as to what services the term “professional services” may include: does it include security guards?

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<sup>10</sup> Institute of Real Estate Management, *Code of Professional Ethics*, Article 12 (“Duty to Tenants and Others”); available at: <https://www.irem.org/about-irem/ethics/irem-code-of-professional-ethics>.

<sup>11</sup> D.C. Official Code § 42–3501.01 *et seq.*

<sup>12</sup> D.C.M.R. Title 14, Chapters 4-9, 1; D.C.M.R. Title 12, Subtitle G.

<sup>13</sup> Among other prerequisites for licensure of a property management firm, the bill would require “[e]very employee who will render professional services on behalf of the firm” [emphasis added] – rather than only those who are property managers, as under current law – to obtain a license or certificate from the Real Estate Commission. (Lines 40-41.)

concierge services? cleaning crews? other specialized but non-management services?<sup>14</sup>

Our concern here is that imposing *property management* licensing or certification requirements (and the associated costs) excessively on “non-management” employee categories may lead to higher turnover of personnel in those positions – and may dissuade competent people from seeking them out. In our experience, tenants come to know and trust the maintenance workers, concierges, and others who staff the buildings in which they live – even when they distrust the property management “brass.” Sudden or frequent turnover of staff in these non-management positions can be jarring and frustrating for tenants, as they lose the benefits and comfort of long-established relationships they have come to rely on.

In addition, it is not clear to us what obtaining a “certificate” (as opposed to a license) from the REC entails, and to what extent the certificate relates to the performance of these employees’ specific non-management tasks. Within the last couple years, the OTA’s collaborated with the Real Estate Commission (REC)

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<sup>14</sup> Regarding the licensing/certificate requirement for those providing “professional services” in general, neither the statute nor the bill defines “professional services.” This term might be read to include any service (as opposed to goods) that a person provides as part of their profession, when instead the intent may for “professional services” to function as a more specific term of art.

in its revision of the current Guide, and in particular helped to update relevant statutory and regulatory information.<sup>15</sup> Based on our familiarity with the “Study Guide,”<sup>16</sup> we can say it seems excessive to hold a security guard or a concierge responsible for knowing all the information in that document.

### ***Conclusion***

Thank you, Chairperson Nadeau and members of the Committee, for considering this testimony and our recommendations. We would welcome the opportunity to work with the Committee on any relevant amendments to the bill. Please do not hesitate to reach out to me or my staff with any questions or concerns.

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<sup>15</sup> Among the topics that may be tested on the exam are accounting systems, insurance, capital repairs, the rent control law, the security deposit regulations, and a slew of other information that it is essential for property managers to know, but generally not necessary for more specialized employees to know.

<sup>16</sup> D.C. Real Estate Commission, Study Guide for Property Managers Examination (March 2016); available at: <https://dlcp.dc.gov/publication/property-management-study-guide>.