

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the City Administrator



Public Hearing on Bill 22-669
“Department of Buildings Establishment Act of 2018”

Testimony of
Rashad M. Young
City Administrator

Before the
Committee of the Whole
Chairman Phil Mendelson

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Room 123
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

FINAL – DELIBERATIVE

Testimony of City Administrator Rashad Young

Before the Committee of the Whole, April 19, 2018

Regarding Bill 22-669, the Department of Buildings Establishment Act of 2018

Good afternoon, Chairman Mendelson, Councilmembers. For the record, my name is Rashad Young, and I serve as the City Administrator for the District of Columbia.

I am here to present the Executive’s testimony on Bill 22-669, the “Department of Buildings Establishment Act of 2018.” More broadly, I believe our conversation today should focus on how we can best serve District residents and businesses through consumer regulations and licensing in the District.

The Department of Consumer and Regulatory Affairs (DCRA) is a consumer protection agency and key facilitator of our economic development as the administrator and registrar for the District’s business community and residents.

They promote safety and ensure that the amazing economic growth that the District has been fortunate to experience proceeds in an orderly and effective manner.

First, I believe we share the goal of ensuring the District’s licensing and permitting operations function effectively for Washington, DC residents and businesses.

Chairman Mendelson, we recognize that your bill was put forward with the goal of addressing the challenges constituents have raised with you and your colleagues at the Council -- particularly in the areas of building code enforcement, business and professional licensing, and the provision of habitable and safe housing for all –

which are under the purview of the Department of Consumer Regulatory Affairs (DCRA).

I want to take this moment to thank you Mr. Chairman for your leadership and thank your Committee for prompting what I hope will be a productive conversation about ensuring that the District's licensing and building-related functions and enforcement work for all stakeholders. I recognize we have the opportunity to act with an increased sense of urgency for which you, and the witnesses in recent performance oversight hearings, have clearly articulated the need. We recognize the challenges presented by the growth of the District, the increased volume of building, and the aging housing stock in our city, can be better addressed.

I am here to state firmly: we want the same outcomes. We want to make sure that every District resident has a safe, code-compliant home in which to live. We want to prevent illegal construction. We want to make sure that vacant and blighted properties in our neighborhoods are abated quickly and effectively. We want all of these functions to be supported by best-in-class customer service – specifically to make sure we are communicating clearly, effectively, and proactively with residents, businesses and homeowners.

Our shared vision encompasses a more responsive agency; more certainty for people engaging in construction projects in the District; more safeguards for homeowners, residents, and neighbors; and a more efficient and user-oriented approach to serving customers.

However, we do not believe that splitting DCRA into two distinct agencies would address the underlying issues that we seek to resolve. So, I am here today to propose alternative paths that will achieve our shared vision for DCRA and better address the short-term and long-term needs of residents and businesses in the District.

Since the start of Mayor Bowser's Administration, we have focused our efforts on improving government effectiveness and efficiency. Our focus on DCRA was heightened after the Mayor spent a week at the agency reviewing its operations. She charged the agency, Deputy Mayor, and my office with finding ways to improve the customer experience for DCRA users. To that end, we have already begun targeted reforms to drive better outcomes for DCRA's customers. For example, we've built upon the success of past DCRA abatements to create the Abatement Lite Team, which has already performed abatements at 74 properties, many with multiple issues, since their deployment in November 2017. These

abatements help ensure neighborhood safety around vacant units and spaces, and ensure habitability while reducing the need to condemn and empty occupied buildings, which can cause stressful moves for residents. The Mayor put resources in the Fiscal Year 2019 Budget for the Abatement Lite Team to continue their work. In addition, this year DCRA has also worked with sister agencies to make it much simpler for residents to request a vacant property inspection and report illegal construction via 311.

DCRA has also implemented improvements to the inspection process, including hiring and training 10 new inspectors, performing Ward-based inspection blitzes with illegal construction inspector teams; combining the proactive and reactive inspection teams for better coverage and efficiency; and implementing -- with the help of The Lab @ DC -- an innovative algorithm-based proactive inspection management system that frees up staff time to focus on where they are most needed. The proactive, risk-based algorithm, we believe, will assist DCRA in detecting problem units and will make the agency's inspection selection process less subjective.

Recently, DCRA implemented the Velocity and Expedition programs to address complex projects that have often gotten caught in an extended cycle of permit

reviews. This not only caused delays for the complex projects, but also consumed reviewers' time and created backlogs for projects large and small. By providing a self-sustaining approach for these reviews we have improved outcomes for Velocity and Expedition users as well as the typical DCRA customer. Since the inception of the programs, over fifty larger and the more complex (surpassing 10,000 sq.ft) projects have been taken out of the regular permitting queue, and 90% of the smaller projects have been initially reviewed within 30 days.

In 2016, Mayor Bowser implemented a Process Improvement Team – a Tiger Team - at DCRA to diagnose and address critical issues. This fiscal year, the Tiger Team's priorities are to standardize Notice of Infraction workflows for better consistency, streamline permit tracking, and improve the agency's internal customer service tool to further enhance external communication.

And to address the structural issues behind unsafe and unlivable rental housing conditions, the Mayor created the Department of Housing and Community Development's Small Landlord Fund. Undercapitalized building owners now have a place to turn to fund critical building repairs, and we are working to improve the program to make it more accessible and get the word out so landlords can take advantage of this innovative program.

[Arguments against the bill]

Before I present to you our alternative approach, I also want to address a few provisions of this bill. We understand the desire to make a fundamental change to the agency. But we respectfully disagree that a wholesale breakup of the agency's functions and creation of a whole new bureaucracy is the best route to our shared goals. In fact, we believe the proposal will create unintended challenges and consequences that we believe will impede our path to improvement and may lead to worse outcomes.

If the proposed bill were to take effect, we foresee residents and businesses encountering a whole new set of issues with our District government's licensing and building functions.

- Creating staff-level term appointments for certain positions, could reduce the accountability around improved outcomes and continuous improvement.
- Separating licensing functions from building functions weakens the District's enforcement capabilities. It would hamper the District's ability to use professional licensure as an enforcement mechanism for contractors, building owners, and others on the building and housing code enforcement side.

- The bill does not address the underlying IT needs. By creating two agencies, the IT needs and overhead increase while reducing opportunities to streamline. Operating two agencies instead of one will also create expensive redundancies, including requiring more operational, support, and legal staff.
- Dealing with two agencies that handle buildings and licensing muddies the user experience instead of creating a single, improved place to address all regulatory issues. For example, someone who wants to open a restaurant would have to coordinate with both a buildings agency and licensing agency.

We want to work with the Council to identify the best ways to advance the ideal outcomes for District residents and businesses. However, we believe the better path forward is to *target* remedies based specifically on our desired outcomes for DCRA customers. To that end, we offer a suite of reforms that better address our challenges. Some have already commenced. Some of these we will propose for Council consideration in the coming months.

The policy proposals target two primary categories: better enforcement of the housing code and prevention and enforcement of illegal construction.

Toward the goal of improving housing code inspections and enforcement in the District, we would like to work with the Council to authorize expedited rent

receivership for DCRA. This proposal would allow landlords 30 days to cure a housing code violation, with an additional 10-day notice of receivership. Rents collected through receivership would be used by DCRA to quickly abate housing code violations at a property and to allow DCRA to recoup funds expended for said abatement.

Second, to most effectively abate conditions impacting safety and habitability, we propose to infuse the Nuisance Abatement Fund with additional resources from the rent receivership and direct a portion of the fine revenue to the nuisance abatement fund. We also will allow rent receivership to be used to satisfy fines leveled. This also serves to further incentivize proactive private abatement.

In parallel, we recognize the need to build capacity in the pool of contracting firms available to perform nuisance abatement work. DCRA will partner with sister agencies to target outreach to larger pools of contractors and potentially create city-wide preferences for contractors who perform nuisance abatement work. By attracting more contractors to DCRA work, the agency can deliver faster and higher quality abatement results to tenants.

Lastly, we would like to consider investing additional resources to increase the total number of housing inspectors within DCRA. This will ensure that Housing

Code violations are identified early, re-inspected on a timely basis, and cited frequently. This would allow DCRA to conduct more inspections and be more responsive to tenant complaints.

With respect to illegal construction, we have heard from Council, residents, and businesses who abide by the law that the status quo is not working.

First, we would like to work with the Council to introduce legislation to give DCRA the authority for summary suspension of licenses as an enforcement mechanism, similar to the enforcement authority DCRA may use to take action against sellers of synthetic marijuana, or the process that enables MPD to temporarily suspend liquor licenses when they find evidence of violations. This would allow DCRA to quickly suspend the trade license of bad actor contractors who are performing illegal construction work.

And to address the hardships of some residents who have been harmed by illegal construction, we propose to increase opportunities for redress. This can be achieved by closing an existing loophole that allows LLCs to act as their own general contractor and allows these LLCs to legally perform unlicensed construction work. Instead, if LLCs were required to bring on licensed GCs,

residents would have a clear path to address any harms with parties who are licensed, bonded general contractors.

Another issue for ongoing illegal construction disputes is inconsistent communication on what activity is, in fact, permitted. So, we propose providing good-neighbor notices for all substantial construction activity permitted to neighbors who may be impacted, and notifications regarding dust, water, electrical, and obstructions to neighbors within an established radius. DCRA would mail notices to adjacent neighbors regarding certain classes of planned construction activity that might directly impact the structure of the neighbor's home with instructions on how access the related permits for online review. We believe this will decrease the DCRA staff time devoted to handling illegal construction inquiries and resolution.

In addition, we propose to realign existing DCRA FTEs to create a Community Engagement Team. A team like this will have a cross-cutting mandate across agency functions to do proactive outreach and respond to community concerns. This would better utilize existing staff to proactively explain construction code and zoning issues to neighborhood groups and be more responsive to specific constituent complaints with responses at regular intervals until complex issues are

resolved. We have seen this function work well in other agencies -- DDOT's Community Engagement Team, for example, has increased the number of focused neighborhood walks with residents, attends ANC meetings regularly, and conducts ongoing community engagement.

We would also like to consider increasing DCRA's staff who are dedicated to after-hours and weekend illegal construction and enforcement. These new illegal construction inspectors will increase DCRA's presence throughout the city. This would allow DCRA to be more responsive to constituent complaints about illegal construction outside of traditional business hours.

In closing, I want to reiterate our shared goals and willingness to partner with the Council.

Challenges with enforcement of the housing code, illegal construction, vacant and blighted properties, and consistent customer service experiences across the city have been made more acute by the pace of development and growth across the District. We appreciate the sense of urgency expressed by Council and residents on these challenges. We are committed to working with you to achieve our shared vision for the future for a higher performing, consistently responsive, best-in-class consumer and regulatory enforcement agency.

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That concludes my testimony. I am happy to answer any questions you may have.