

**Testimony before the Committee on Housing and Economic Development Hearing
Regarding B18-0104 The Tenant Access to Justice Reform Act of 2009**

Monday, November 30, 2009 at 11:00 am

**By Jennafer Dorfman Wagner
Staff Attorney, Affordable Housing Initiative
Washington Legal Clinic for the Homeless**

Good Morning Chairman Barry and esteemed Council members. Thank you for the opportunity to testify today. My name is Jennafer Dorfman Wagner and I am a staff attorney at the Affordable Housing Initiative of the Washington Legal Clinic for the Homeless. The legal clinic has been providing representation and advocacy for the homeless and persons facing homelessness for over 25 years. We are a non-profit organization and operate using entirely private funds. Much of our work is done by leveraging the services of volunteer attorneys who are members of DC's private bar.

Approximately 8 years ago, the Legal Clinic started the Affordable Housing initiative because it became clear that the largest barrier to ending homeless in the District is the dearth of affordable housing opportunities.

Unfortunately, in the years since the affordable housing initiative began the numbers of affordable housing units in the District has continued to decline steeply. Perhaps the greatest contributor to this phenomenon is the issue of poor conditions in buildings. Although we commend DCRA for starting a proactive inspections regime this Fall; without a strong inspection and enforcement regime over the past decades much of the affordable housing stock in the District has been allowed to become decrepit and unlivable. While we cannot undo the deterioration that has already occurred, we can provide today's tenants living in those units a speedy and effective method to prevent future deterioration and receive repairs.

This bill, for the introduction of which I wholeheartedly commend Councilmember Cheh, would correct a long-standing imbalance in the access to justice which has helped perpetuate the deterioration of affordable housing stock. As many of my colleagues who routinely represent tenants in court will confirm, under the current system it is very difficult to get a court order requiring a landlord to make repairs to a building, even when the repairs pose a threat to the health and safety of the tenants – but especially before the conditions get to that point and in order to prevent the conditions from getting that bad.

Without an attorney, prosecuting a civil action is daunting if not impossible. Civil court is not designed to be friendly for non-attorneys to utilize. It is also expensive, filing a civil suit costs \$120, filing a case in landlord and tenant court costs \$15. Getting a fee waiver requires filing the correct paperwork, at the correct time, and presenting your case to a judge – that's if you even know that there is such a process.

As part of my work I connect tenants with groups of attorneys from the best law firms in this city for representation in cases about building conditions. However, even when attorneys are involved getting a court order requiring repairs is not a quick process, like the landlord and tenant court process is quick. To get quick relief requires having grounds for a preliminary injunction –essentially an emergency whose harms can be shown – and knowing that in addition to just filing a claim you must file a motion for a temporary restraining order and make an application for a preliminary injunction to the Judge in Chambers. Otherwise, the civil court process is designed not to result in remedial actions being taken by either party until the end of the entire matter, which is often months or years.

Allowing tenants to bring their cases to landlord and tenant court will enable them to get redress before the problem becomes an emergency. A toilet leaking into a wall for a month results in a high water bill, for a year it becomes an irremediable toxic mold that may already have caused permanent damage to the health of the tenants.

Allowing tenants access to a convenient and user-friendly forum gives them nothing more than access to justice which landlords already receive. If a tenant breaches his promises to the landlord in any way, the landlord has ready access to a cheap, quick and user-friendly forum in which to get back possession of the unit and get compensation from the tenant. This bill would merely give tenants access to the same forum for the purpose of obtaining repairs.

On November 8th and 9th of this year the District had the honor of being visited by the United Nations Special Rapporteur for Housing Rights. As you may have heard, the visit did not go smoothly. I have attached to my testimony an article from The Guardian, one of the premier news outlets in the United Kingdom.

After her visit, the Special Rapporteur made a preliminary report focusing on the appalling conditions in which residents live, and the unnecessary vagaries of homelessness in this, one of the richest countries in the world.

"The housing crisis is invisible for many in the US," she said. "I learned through this visit that real affordable housing and poverty is something that hasn't been dealt with as an issue. Even if we talk about the financial crisis and government stepping in in order to promote economic recovery, there is no such help for the homeless."

She added: "I think those who are suffering the most in this whole situation are the very poor, the low-income population. The burden is disproportionately on them and it's of course disproportionately on

African-Americans, on Latinos and immigrant communities, and on Native Americans." ¹

One step in redressing these concerns is enacting the Tenant Access to Justice Reform Act of 2009. This bill will allow tenants themselves to hold landlords accountable for bad conditions and to quickly obtain relief in the form of a court order requiring their landlords to make repairs. In this way, the existing affordable housing stock can be protected and preserved by the tenants themselves. An incredible preservation effort can be mounted without the District having to undertake the time and expensive of code violation enforcement actions, without having to resort to the use of District funds when a building becomes so bad that routine repairs are no longer feasible, and before the bad conditions deteriorate to the point where families are living in dangerous and unhealthy situations.

Thank you Councilmember Barry for holding this hearing and moving forward this common sense solution to the current imbalance in the justice system. I urge all the members of this committee to vote in favor of this act which would empower District residents to protect their homes and their families.

¹ McGreal, Chris "UN Investigator Accuses US of Shameful Neglect of Homelessness" Guardian Newspaper, November 12, 2009 <http://www.guardian.co.uk/world/2009/nov/12/un-investigator-us-neglect-homeless/print>