Testimony of

The Hon. Kathy Patterson

D.C. Auditor

Before the

Council of the District of Columbia
Committee of the Whole

Oversight Roundtable on
The Department of Consumer and Regulatory Affairs:
Management of the Vacant and Blighted Property Program

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10:30 a.m.

Room 412
The John A. Wilson Building
1350 Pennsylvania Avenue NW
Washington DC 20004

Good morning Mr. Chairman. I am Kathy Patterson, D.C. Auditor, and I am joined by Ingrid Drake, senior analyst, and Julie Lebowitz, supervisory auditor. We appreciate the opportunity to appear before you for this oversight roundtable on the Department of Consumer and Regulatory Affairs and its management of the vacant and blighted property program.

In 2015 the Office of the D.C. Auditor initiated what was for us an unusual kind of risk assessment to help develop our work plan for the following year. We surveyed all of the Advisory Neighborhood Commissioners, asking them to "describe any risks that you believe should be examined by the D.C. Auditor" and "state the name of the relevant program or activity and the nature of the risk of program deficiency."

The agency named most often by the commissioners was the Department of Consumer and Regulatory Affairs (DCRA), and the program most often cited was the "vacant and blighted property" program in which DCRA identifies properties that meet one of the two problem categories, and refers properties to the Office of Tax and Revenue to significantly increase property taxes. D.C. Code defines a vacant building as real property with a building that has not been continuously occupied and that the Mayor has determined does not have a resident with intent to return and occupy the building.[1] D.C. Code defines a "blighted vacant" building as a vacant building that is unsafe, unsanitary, or threatens the health, safety, or general welfare of the community.[2] Vacant properties are to have the tax go from 85 cents per $100 in assessed value to $5, and blighted vacant property, to $10 per $100 in assessed value. The agency's goal is to "bring buildings back to productive use through enforcement of the law and abatement of nuisance properties."

One Commissioner explained the issue this way: "We have several buildings that have sat empty and dormant for 5-plus years. The usually cited risks of crime, rodent infestation, trash and dumping, and general unsanitary conditions associated with vacant and blighted properties are clearly visible to us. But there is also long-term risk to the community's economic development because retail merchants cannot be attracted to an area they perceive as blighted. Vacant and blighted properties also hold property values down."

On September 21 we published a report that resulted from the ANC risk assessment titled *Significant Improvements Needed in DCRA Management of Vacant and Blighted Property Program.* The audit focused on Fiscal Year 2015 and used a sample of 31 properties including some of those identified as major neighborhood eyesores by ANCs and Council staff. Our report acknowledged that the Bowser Administration had made improvements since 2015. We nevertheless recounted a long series of weaknesses in the management of the program, including improper granting of exemptions, not following legal requirements, errors with communication with OTR and weaknesses related to occupied status. These resulted in almost $1 million in lost revenue from just the sample of 31 properties from a universe of between 1,000 and 3,000 vacant and blighted properties. We were not able to be more precise in providing a total number of vacant of blighted vacant properties because we found DCRA's data to be unreliable.

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[1] Mayor's Order 2002-33 delegated all authority vested in the Mayor to DCRA related to the abatement and condemnation of nuisance properties.

[2] *See* D.C. Code § 42-3131.05.

What I would like to do with my testimony today, Mr. Chairman, is provide an update on our recommendations and indicate where I believe the Committee of the Whole can follow up to confirm that progress is being made in reforming this important program.

- We recommended that DCRA issue detailed regulations based on the D.C. Code for the vacant and blighted program. The agency agreed with this recommendation, and said they will begin drafting regulations in the new fiscal year. We are now a month and a half into the new fiscal year, so I encourage you to ask the Director whether that drafting has begun.

- Similarly, we recommended that DCRA adopt and train staff on Standard Operating Procedures for the program including supervisory approvals, timeliness of actions, data quality controls, internal deadlines to ensure that statutory deadlines are met, and other procedures to ensure that all complaints are addressed and the status can be readily known. During the course of the audit, DCRA officials said they were in the process of drafting SOPs, and in their written response to our draft report, the agency said they had implemented revised SOPs, and would implement any remaining SOP revisions in FY2018. They noted that the new Vacant Building Enforcement manager holds monthly team meetings that address employee training. Please ask if they have, in fact, issued new SOPs covering all the relevant program areas, and the status of training for DCRA enforcement staff on the newly revised SOPs.

- In their response DCRA also said they had updated the website, correspondence, and forms, but we do not find this to be consistently the case. For example, as of last week the DCRA website still refers property owners to a Vacant Property Response Form that allows them to apply for a "Special Exemption." Our audit found that there was no such exemption in the D.C. Code, and that there were weak controls over granting the economic hardship exemption and other exemptions.

- We recommended that the agency update or replace its management information system, known as Accela, and I note that the Committee in its FY18 budget report also highlighted IT as a major ongoing challenge. The committee asked the agency for an IT needs assessment that provides a timeline, price and priority for all of the information technology needs. I recommend you ask for an update including the status of replacing or updating Accela.

- We recommended that the agency produce vacant property program performance reports that supervisors could assess for completeness and accuracy, and the agency said such information is now tracked, and leadership receives weekly updates. I urge you to ask for a sample of the recent weekly updates on program performance. Further, DCRA said that the VBE manager conducts "ongoing assessments of the efficiency and accuracy of the program," and I encourage you to ask for a copy of the most recent assessment.

- DCRA committed to working with the Office of Tax and Revenue on a Memorandum of Understanding and/or written procedures that detail the roles and responsibilities of each agency including timelines and reporting requirements for the vacant and blighted property program. They wrote that "DCRA leadership will reach out to OTR to schedule a meeting in FY18." You might ask if that meeting has been scheduled.

The scope for our audit was FY 2015. Because that was the case, we noted -- but did not report on -- the implementation of the Vacant Property Enforcement Amendment Act of 2016 which took effect this past February 18. That law requires DCRA to publish a list of vacant and blighted buildings twice a year, including the date the building was determined to be vacant or blighted, when it was registered as vacant, and when it was granted an exemption. Currently, though, DCRA's website only contains a list of vacant and blighted buildings. It does not include the date the buildings were determined to be vacant or blighted, nor does it include the date a property is registered as vacant, or whether a property has been granted an exemption or the date of application.

As mentioned, our audit found exemptions to be an area of great risk. Without a list of the exempted properties, the D.C. Council and the public cannot adequately monitor the granting of these exemptions. For example, if the list was published as now required by the 2016 law, D.C. Council staff could request that DCRA provide the documents supporting the exemption for a specific property or providing proof that a specific registered property owner paid the required fee.[3]

I recommend that you ask the director about this transparency requirement, and when the department will come into compliance with the requirements of the new law.

Mr. Chairman, one issue we did not address in our audit was staffing at DCRA and, specifically, staffing for the vacant and blighted properties program. According to the FY 2018 budget submission to the Congress, the Mayor's proposed FY2018 budget for DCRA included an increase of $1.2 million and 14 full time equivalent employees "to facilitate the agency's ability to complete additional abatement activities throughout the District for vacant and blighted properties in the Enforcement/Abatement division." The final budget for the agency that was submitted to Congress included an overall agency increase to $60.1 million, which was less than the total proposed by the mayor ($61.2m) and by this Committee in its agency markup ($61.4m). It appears that the mayor's proposal to add staff for the vacant and blighted program was not approved which might turn out to be penny wise but pound foolish. An increase in staff allocated to the program could arguably bring in additional funds if the fines and higher property tax rate yielded additional revenue for the District. In addition, one of five strategic objectives for FY18, as laid out in the proposed budget, is to, "Provide effective enforcement of vacant and blighted properties, thereby encouraging increased housing stock for productive use, including affordable housing."

Mr. Chairman, that concludes my testimony. My staff and I would be happy to answer any questions you or colleagues may have.

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[3] § 42–3131.18. Publication of list by the Department of Consumer and Regulatory Affairs.
The Department of Consumer and Regulatory Affairs shall maintain and publish at least semiannually a list of buildings that are registered as, or have been determined to be, vacant buildings or blighted vacant buildings, or which would have been but for an exemption provided pursuant to § 42-3131.06(b), that specifies for each building, as applicable:
(1) Beginning on or after February 18, 2017, the date that the building was determined to be a vacant building or blighted vacant building or registered as a vacant building pursuant to § 42-3131.06; and
(2) The exemptions, if any, applied to a building pursuant to § 42-3131.06(b) or (c), and the dates during which each exemption applied.