

Written Comments of Parag R. Khandhar, Esq.
Staff Attorney, Asian Pacific American Legal Resource Center (APALRC)
Submitted to the DC Council Committee on Public Services and Consumer Affairs
B18-092 Omnibus Rental Housing Amendment Act of 2009
Submitted on June 11, 2009 (for June 4, 2009 Public Hearing)

I want to first thank the Councilmembers for holding this important hearing. My name is Parag Khandhar, and I am a staff attorney with the Asian Pacific American Legal Resource Center (APALRC), a nonprofit organization that provides free legal advice and representation to low income and limited English proficient (LEP) Asian and other immigrants in the D.C. Metropolitan area. APALRC programs focus on immigration, domestic violence, employment, language access, housing, crime victims' services, advocacy, and organizing. I submit these comments in support of a bill currently before the committee: the Omnibus Rental Housing Amendment Act of 2009 (B18-092).

Overview of Asian Renters in D.C.

A casual review of existing tenant advocacy efforts in the District, in which there is little if any participation by renters of Asian descent, might suggest that the proposed bill is not important to them. I am submitting these comments to assure the Council that the matters before them today concerning enforcement of the Housing Code are just as, if not more, critical to Asian renters in the District, particularly those who are low-income and/or LEP.

The APALRC strives to support the direct engagement of tenants with the Council and other government agencies working to ensure safe, truly affordable housing to the District's diverse population. However there are a number of barriers that make it difficult to have the tenants step forward on their own. These include language access, unyielding work schedules, and the fear of speaking out about unfair and unsafe conditions that the tenants tolerate daily out of necessity.

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There are approximately 25,000 DC residents of Asian descent. Asian residents speak more than a dozen languages and come to the district from Bangladesh, China, Japan, Korea, Nepal, Viet Nam, and many other nations. They vary immensely in socioeconomic status and circumstances, from professionals and students to the service workers in various industries who keep the District functioning. Large segments of the local Asian immigrant population have either moved to the more affordable suburbs of Maryland and Northern Virginia, or emigrated directly into suburban ethnic enclaves rather than live in the District.

However, there are still significant renter populations of low and moderate-income Asian immigrants (many of whom are LEP) in the District. Those who remain are holding onto whatever housing they can find because they need to be close to work, school for their kids, and the social and civic services that they know and utilize. Because many must live in the District, low-income Asian tenants often fall prey to unscrupulous landlords and property owners. The landlords and owners often keep housing in substandard or worse conditions and take advantage of the renters' unfamiliarity with local laws and general mistrust of government. Even if the renters know about the housing code standards, without the measures proposed in the Omnibus Rental Housing Amendment Act and Tenant Protection Act, they have few affirmative steps that they can take to ensure that their housing is safe and habitable.

Examples of Rental Conditions that Asian Immigrant Renters Face

The ongoing housing crisis in the city forces many renters to accept conditions and circumstances that, but for the difficulty of finding other truly affordable housing, they would otherwise reject. Asian immigrant renters face the same – and additional – problems as other

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renters in the District. Many of these problems stem from limited or no information about their rights. Additionally, the inability to take affirmative legal action against landlords who violate the housing code also places renters at a significant disadvantage; tenants currently have to rely on an inconsistent inspection system that is out of their control, and does not have the enforceability or weight of a court judgment.

Example #1: Multiple LEP Asian immigrant families renting in a 6-unit building in Ward 2 lived with exposed electrical wires and open sockets, repeated and severe leaking and water damage, front door and gate locks that were constantly broken, vermin, and a host of other housing code violations while paying above-average rent for small living space. Most of the adults worked close to the building, and the kids attended local schools, so the families did not want to move. Although the tenants occasionally mentioned concerns to services providers, they did not step forward with a list of demands or complaints because they did not know how they were protected by DC law. Also, no one ever picked up the phone at the listed number for the landlord. When they finally resisted a proposal by their landlord to move them temporarily into even smaller space at the same rent for an undisclosed period of time, the landlord told the tenants that they would have to accept the terms, or vacate the premises.

Example #2: The Washington Post reported a story in 2006 in which the landlord of an Adams Morgan (Ward 1) rent-controlled building allowed it to fall into dangerous disrepair.¹ Tenants were very aware of the problems but did not have any option to force the landlord to make the necessary repairs. Eventually, the landlord offered tenants a small lump sum to move,

¹ See Debbie Cenziper and Sarah Cohen, *In One Heated Dispute, Someone Set a Fire: Unsolved Arson Followed Efforts to Move Tenants*, WASHINGTON POST, March 10, 2008, A01, available at <http://www.washingtonpost.com/wp-dyn/content/article/2008/03/09/AR2008030902101.html> (last visited, 6/10/09).

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ostensibly so the owner could renovate the building, but did not inform the tenants that they had a right to return, at the same controlled rent. A number of Bangladeshi families renting in the building did not want to leave, putting up with horrible conditions until they were forced out by a suspicious fire that broke out late one night.

In both of these examples, the tenants did not know their rights under existing District law. This is particularly a concern for new immigrants and LEP renters in the District, who are often unfamiliar with basic American law. For them, finding accurate information about their rights in their native language is still very difficult, despite the fact that D.C. has one of the strongest language access acts in the country. However, even had they known their rights, while landlords can bring a lawsuit to evict a tenant for nonpayment of rent, tenants like those in the examples above do not have the right to sue the landlord for injunctive and/or monetary relief concerning repairs under existing law. Bill B18-92 addresses this unequal playing field by giving tenants the right to bring claims in Landlord and Tenant Court against landlords who do not keep their buildings in good repair.

Regular Mandatory Inspections are Necessary to Ensure Housing is Safe and Affordable

The examples above underscore the need for a mandatory system of periodic housing inspections. The current system relies solely on the initiation of a complaint and request for inspection by the tenant. However, if the tenant does not know of this right, is intimidated by the landlord, or cannot get through to the housing inspectors (due administrative delay, language access issues, or other reasons) there is no inspection of the unit, and housing code violations go unchecked.

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The Omnibus bill would create a mandatory system to ensure that all units are checked regularly. Serious violations would be caught early before they force tenants to vacate their units. Landlords would know that the District will send inspectors periodically, and we hope, would be forced to comply with the housing code before violations are documented. Alternatively, for the limited number of truly bad actors, violations would be documented through inspections, and tenants would have some recourse rather than the false choice of “live with it or leave” that they currently face.

Giving Tenants the Right to Bring Claims Better Balances the Landlord / Tenant Equation

As mentioned earlier, many of the renters that we work with are immigrants and not accustomed to American laws or norms. Often, they trust and enter into leases with landlords who share a common native language or who will accept cash for rental payments. Often, the landlords are more established in the area; they speak and understand English well, and take advantage of the new tenants’ unfamiliarity with their rights.

Conditions in some of these buildings are unacceptable, yet even when the tenants want to take affirmative steps they do not currently have many options, except for requesting a housing inspection or moving out. Immigrant tenants often fear reprisals from the landlords, stating to us on a number of occasions that the landlords “have the power,” and can throw the tenants out on the street. Some of the tenants believe that they owe an obligation to the landlord for helping them with settling in the U.S., regardless of the condition of the housing.

However, once tenants understand their rights, most are upset that they have been taken advantage of and want to know what they can do about the conditions of their homes. As

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mentioned above, giving tenants the right to initiate a legal complaint against bad landlords will help to equal the playing field. Over time, the rights conferred by B18-92 may also serve as a deterrent for landlords who are deciding whether they should keep their buildings in good repair and in compliance with the housing code; the threat of a renter bringing a claim in Landlord and Tenant Court might dissuade a landlord from neglecting repair obligations and facilitate negotiation and settlement about building conditions before going to litigation.

Thank you for your time and consideration.