Council of the District of Columbia
Committee on Consumer and Regulatory Affairs
Report on FY 2005 Budget Request of 2004
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004

The Committee on Consumer and Regulatory Affairs ("Committee") presents its report and recommendations on the Mayor's proposed Budget for Fiscal Year ("FY") 2005, for the budgets of the agencies under the Committee, and recommends Committee of the Whole ("COW") approval of the report.

The Committee exercises oversight of District agencies responsible for the comprehensive regulation of businesses to ensure the protection of the public's health and safety, land and building uses, occupations and professions, rental housing, condominiums, banking and financial institutions, and insurance and securities regulation. These agencies include the Alcoholic Beverage Regulatory Administration ("ABRA"), the Department of Consumer and Regulatory Affairs ("DCRA"), the Department of Banking and Financial Institutions ("DBFI"), and the Department of Insurance and Securities Regulation ("DISR"). The latter two agencies have recently been merged into one financial services agency called the Department of Insurance, Securities, and Banking ("DISB").

Also, while not a line item in the District's budget, the Committee also exercises oversight over the District of Columbia Housing Authority ("DCHA" or "Housing Authority"), which had been under a court-ordered receivership for 5 years that came to an end during Council Period XIII. Based on enabling legislation passed by the Council at the end of calendar year 2000, the DCHA is a newly constituted Housing Authority that has a new Executive Director and is governed by a newly formed Board of Commissioners who took office during FY 2001.

The Committee on Consumer and Regulatory Affairs held a total of 3 hearings on the FY 2005 Budget Request, including the FY 2005 to FY 2010 Capital Spending Plan and the FY 2005 Budget Support Act, as well as the Spending Plan for FY 2004 and oversight of the performance of the agencies under its jurisdiction.

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II. SUMMARY TABLES.

1. **Department of Consumer and Regulatory Affairs**

Agency Operating Budget FY 2003 to FY 2005 (Dollars in Thousands)

Object Class	FY 2003 Actuals	FY 2004 Approved Budget	Mayor's FY 2005 Proposed	CRA Cmte. Proposed FY 2005	Transfers	Variance
Subtotal for Personal Services	20,029	20,957	20,694	23,676	666	2,982
Subtotal for Non-personal Services	10,583	9,984	11,258	13,158		1,900
Total Expenditures	30,612	30,941	31,952	36,834	666	4,882
Intra-District FTEs	- 0 -	1	1	1		0
Local FTEs	335	336	275	278	8	3
Federal FTEs	- 0 -	- 0 -	- 0 -	- 0 -		0
Special Purpose Revenue FTEs	4	53	70	89		19
Total FTEs	339	389	345	367	8	22

Note:
Increases:
1. $ 192K - 3 FTEs in local funding (1 tenant ombudsman, 1 housing provider ombudsman, 1 ANC liaison). New revenue from $1 fee increase in rental accommodation fee is $612K in General Fund.

2. $ 4.69m – 19 FTE increase (6 FTEs for construction compliance, 9 FTEs for building and land & zoning, 2 FTEs for zoning administration, and 2 FTEs for Basic Business Licensing) – includes Fund Balance Transfers below and $ 550K new revenue in Construction and Zoning Compliance fund.

Fund Balance Transfers –

1. $ 1m – FY03 Real Estate Guarantee and Education Fund
2. $ 600K – FY03 Basic Business License
3. $ 2m – FY04 Nuisance Abatement
4. $ 300K – Occupations & Professions Licensing Special fund
5. $ 100K – Professional Engineers Fund
6. $ 139.7K – Basic Business License (2 FTEs)

2. **Alcoholic Beverage Regulation Administration**

Alcoholic Beverage Regulation Administration
Agency Operating Budget FY 2003 to FY 2005
(Dollars in Thousands)

Object Class	FY 2003 Actual	FY 2004 Budgeted	Mayor's FY 2005 Proposed	CRA Cmte. Proposed FY 2005	Variance
Subtotal for Personal Services	1852	2313	2451	2866	415
Subtotal for Non personal Services	860	1213	1082	2010	929
Total Expenditures	2712	3526	3533	4877	1344
Other FTEs	0	0	0	0	0
Total FTEs	32.2	42	42	47	5

Note: $1.344m increase in ABRA to cover $544,000 for 5 FTEs and $800,000 for one-time cost for office space at 941 N. Capitol Street, NE.

3. **Department of Insurance, Securities, and Banking**

Department of Insurance, Securities, and Banking
Agency Operating Budget FY 2002 to FY 2005
(Dollars in Thousands)

Object Class	FY 2002 Actual	FY 2003 Actual	FY 2004 Budgeted	Mayor's FY 2005 Proposed	CRA Cmte. Proposed FY 2005	Variance
Subtotal for Personal Services	6415	7158	8028	10283	10549	266
Subtotal Nonpersonal Services	1931	2191	2217	2865	2926	61
Total Expenditures	8346	9349	10244	13148	13475	327
Other FTEs	91	98.7	107	129	132	3
Total FTEs	91	98.7	107	129	132	3

Note: $327,000 and 3 FTEs increase in DISB to cover additional personnel costs for 2 attorneys and 1 insurance examiners. The fund balance at DISB is sufficient to cover this additional expenditure.

Note: This chart does not reflect that subsequent to the Committee on Consumer and Regulatory Affairs' mark up on the FY 2005 budget, the Committee on Public Services voted to transfer $200,000 in local funds to DISB for the purpose of funding the Opportunity Account program. The Committee on Consumer and Regulatory Affairs wishes to acknowledge this transfer herein, although the vote on the transfer will not occur until the Council votes on the budget as a whole.

III. Department of Consumer and Regulatory Affairs

1. Agency Overview – DCRA was established by Reorganization Plan No. 1 of 1983 to consolidate various government regulatory and consumer-protection functions into one entity. Since its establishment, DCRA has been charged with regulating most business activities, construction and construction safety, building code enforcement and development, and the licensing and regulation of most occupations and professions in the District of Columbia.

Over the years changes have been made in the scope of DCRA's regulatory oversight. In 1997 functions related to insurance and securities regulation were reorganized and transferred into a separate Department of Insurance and Securities Regulation. In 1998 all services and functions related to health and environmental regulation were transferred to the D.C. Department of Health, although DCRA remains the lead agency in regulating enforcement and compliance monitoring activities for businesses such as solid waste facilities which have environmental implications and the coordination of the review of projects under the District's Environmental Policy Act. Furthermore, health-related professions are licensed and regulated by the Department of Health.

In 2000 the historic preservation division was transferred, together with personnel, to the Office of Planning. A new Alcoholic Beverage Regulatory Administration, or "ABRA," was formed in 2001 when the law went into effect that enacts Title 25 of the D.C. Code and that both formed this new regulatory agency and revised the District's Alcoholic Beverage Control law. Also, in 2001 functions related to the regulation of mortgage brokers and lenders were transferred to the Department of Banking and Financial Institutions. The FY 2002 Budget Support Act of 2001 contained a title regarding Consumer Credit and Money Lender Reorganization that transferred the regulation of businesses loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia, from DCRA to DBFI.[1]

In FY 2004 we transferred the Educational Licensure Commission from DCRA to the State Education Office.

In FY 2005 the Mayor is proposing to transfer FTE authority for 15 FTEs who handle adjudication of civil infractions as well as rental housing hearings to the newly established Office of Administrative Hearings (OAH). There will be further discussion about these transfers later in this report.

[1] Just recently – on February 3, 2004 – the Council passed, both as a permanent bill and on an emergency basis, the Consolidation of Financial Services Amendment Act of 2004. The emergency bill is now law. That legislation merges the Department of Banking and Financial Institutions into the Department of Insurance and Securities Regulation and creates a new Department of Insurance, Securities, and Banking. This budget report will reflect this change and will review the newly merged department's budget.

2. *DCRA FY 2005 Budget Chart:*

Department of Consumer and Regulatory Affairs
Agency Operating Budget FY 2003 to FY 2005
(Dollars in Thousands)

Object Class	FY 2003 Actuals	FY 2004 Approved Budget	Mayor's FY 2005 Proposed	CRA Cmte. Proposed FY 2005	Transfers	Variance
Subtotal for Personal Services	20,029	20,957	20,694	23,676 [2]	666	2,982
Subtotal for Non-personal Services	10,583	9,984	11,258	13,158		1,900
Total Expenditures	30,612	30,941	31,952	36,834 [3]	666	4,882
Intra-District FTEs	- 0 -	1	1	1		0
Local FTEs	335	336	275	278	8	3
Federal FTEs	- 0 -	- 0 -	- 0 -	- 0 -		0
Special Purpose Revenue FTEs	4	53	70	89		19
Total FTEs	339	389	345	367 [4]	8[5]	22

[2] This new number represents approximately $2,982,000 more in PS funding. This would come from the new Construction and Zoning Compliance Management fund which will be made up of an estimated $550,000 in new revenue from fines and penalties together with $1 million from the Real Estate Guarantee and Education Fund and $600,000 from the Basic Business License Fund balances from FY 2003, per title 6, subtitle F of the Budget Support Act; from the four technical "O" funds adjustments: 25% of the $2 million in nuisance abatement funds for overtime, re-inspections, and contract management and $139,709 from the Basic Business License Fund for 2 additional FTEs; and through increasing the rental accommodation fee by $1.00 to pay for 3 FTEs – ombudsman positions for tenants and housing providers and an ANC liaison.

[3] This new total represents approximately $4,882,000 more in overall funding ($192,000 in new local revenue and $4,689,700 in a combination of new O-type revenue and various balance transfers in Special Purpose funds). The funding would come from the funds noted under the PS number discussed in footnote 2 together with the additional 75% of the Nuisance Abatement funding ($1,500,000) and additional spending authority from the balances from the OPLA fund ($300,000) and from the Board of Professional Engineers fund ($100,000). An additional $192,000 in spending authority would come from increasing the rental accommodation fee from $15 to $16 to pay for 3 FTE positions – a tenant and a housing provider ombudsman at DCRA's Housing Regulation Administration and an ANC liaison in the customer service department at DCRA. The fiscal impact of the $1 increase in that fee would generate approximately $612,000 in additional local funds revenue. By expending $192,000, there would be $420,000 additional revenue for the General Fund. The question of the transfer of 8 FTEs and $666,000 from the Office of Administrative Hearings back to DCRA is listed separately.

[4] This new total number of authorized FTEs represents an additional 22 FTEs. These FTEs include 11 FTEs discussed below, 9 of which are in either building and land or zoning positions; 2 new Zoning Administration positions; 6 FTEs for a new Construction Compliance Management program; and a tenant ombudsman and a housing provider ombudsman position and an ANC liaison. The 9 positions

3. Executive Summary – DCRA

The Committee on Consumer and Regulatory Affairs is recommending a total FY 2005 budget of $36,834 million and 367 FTEs for DCRA, which represents a variance of $4,882 million and 22 FTEs from the Mayor's proposed FY 2005 budget. There is also an issue of whether authority for 8 FTEs and $666,000 should be transferred back to DCRA from the new Office of Administrative Hearings.

This new total budget figure for DCRA represents approximately $4,882,000 more in overall funding and an increase of 22 FTEs. Of the 22 FTEs, 3 (a tenant ombudsman, a housing provider ombudsman, and an ANC liaison) are to be paid from $192,000 in new local funds raised by increasing the rental accommodation fee by $1 and the rest are to be paid from various Special Purpose funds – $139,700 from the Basic Business License fund would fund 2 additional FTEs and a new Construction and Zoning Compliance Management Fund would help fund 17 other FTEs in BLRA and the Zoning Administrator's office. The Construction and Zoning Compliance fund and the rise in rental accommodation fees would be accomplished through titles in the Budget Support Act.

As mentioned, the additional spending includes $192,000 in new local revenue and $4,689,700 in a combination of new O-type revenue and various balance transfers in Special Purpose funds. PS spending would be increased by $2,982,000. There is both a local revenue increase and Special Purpose Revenue Fund increases that account for this amount. First, a new Construction and Zoning Compliance Management fund will be established to fund 17 additional FTEs handling building and land and zoning compliance activities. This Fund balance will be made up of an estimated $550,000 in new revenue from construction and zoning infraction fines and penalties together with transfers of $1 million from the Real Estate Guarantee and Education Fund and $600,000 from the Basic Business License Fund balances from FY 2003, per title 6, subtitle F of the Budget Support Act. Also, at the OCFO and agency's requests, the Committee called for four technical "O" funds adjustments: (1) $2 million in nuisance abatement funds for overtime, re-inspections, and contract management; (2) the already-mentioned $139,700 from the Basic Business License Fund for 2 additional FTEs; (3) additional spending authority from the balances from the OPLA fund ($300,000) and (4) from the Board of Professional Engineers fund ($100,000). All the fund balances are sufficient for these transfers to occur.

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listed below along with the 2 new Zoning Administration positions, plus upgrades for the Zoning Administrator and overtime would all be paid for through a new Construction and Zoning Compliance Fund. That new fund would be "seeded" with $1.6 million from FY 2003 fund balances from the Basic Business License fund ($600,000) and the Real Estate Guarantee and Education fund ($1 million) along with $550,000 in new revenue from construction and zoning fines. This new fund would be non-lapsing and the fund balance transfers will be sufficient to help fund these positions into the out-years. The ANC liaison and tenant and housing provider ombudsman positions would be paid for through use of an increase in the Rental Accommodations fees.

[5] This represents the total number of FTEs that need to be transferred back from the Office of Administrative Hearings to DCRA. Four of these positions from the Office of the Rent Administrator were mistakenly transferred, but are not engaged in adjudicatory functions. The other four positions, also from the Office of the Rent Administrator, are 3 hearing examiners and a scheduler. The Committee has recommended delaying the transfer of these positions for a year and letting them remain at DCRA in FY 2005.

The additional $192,000 in spending authority would come from increasing the rental accommodation fee from $15 to $16 to pay for 3 new FTEs – a tenant and a housing provider ombudsman at DCRA's Housing Regulation Administration and an ANC liaison in the customer service department at DCRA. The fiscal impact of the $1 increase in that fee is anticipated to generate approximately $612,000 in additional local funds revenue. By expending $192,000, there would be $420,000 additional revenue for the General Fund.

Although DCRA generates about $4 million more than it expends and will be generating still more revenue based on 3 proposed revenue enhancements offered by the Mayor in the FY 2005 budget, the Mayor's proposal for DCRA's FY 2005 budget had authority for 44 fewer FTEs than in FY 2004 in DCRA. The Mayor has planned to eliminate authority for 28 FTEs[6], many of which were crucial Building and Land and Zoning positions along with other law enforcement and compliance areas, like Business Licensing – the need for which we heard from many public witnesses. The Committee asked the agency Director for a list of the most important 11 positions that need to be preserved. The list of 11 positions is below. To fill these 11 positions (salary plus benefits) DCRA's overall budget authority would be increased by $724,083. Nine of these 11 positions are in BLRA or Zoning and would be covered by a new Construction and Zoning Compliance Management Fund established in the Budget Support Act. The other two are in Business Licensing and would be covered by the Basic Business Licensing Fund. The Committee's proposal would reinstate authority for the 11 FTEs.[7] One position is in the Development Ambassador program. While that FTE is listed as number 11, the Committee is directing that this be the first position filled. The positions that would be re-authorized would be:

Rank	POSITION	Pay Plan	Grade	Proposed Salaries	Proposed Salaries + Benefits	Cumulative Salaries + Benefits
1	Chief Zoning Inspection Branch	MS	12	$52,363	$61,055	$61,055
2	Mgr Technical Plan	MS	14	$72,582	$85,797	$146,852
3	Structural Engineer	DS	12	$51,620	$60,189	$207,041
4	Structural Engineer	DS	12	$51,620	$60,189	$267,229
5	Supv Electrical Inspector	MS	13	$62,268	$72,604	$339,834
6	Electrical Engineer	DS	12	$51,620	$60,189	$400,023
7	Inspection Program	DS	12	$51,620	$60,189	$460,212

[6] A chart (in priority order) listing these 28 positions is on page 45 of this report.

[7] The 9th and 10th positions (investigators) would be more closely associated with business licensing operations. The Basic Business License fund is sufficient to cover the requested level of expenses. The Committee will be authorizing the filling of these two positions from that fund. See below technical adjustments to that effect.

8	Enforcement Branch	MS	13	$62,268	$72,604	$532,816
9	Investigator	DS	9	$68,322	$40,046	$572,863
10	Investigator	MS	12	$68,322	$79,663	$652,526
11	Program Specialist	DS	13	$61,370	$71,557	$724,083

Note: a) The positions listed above are ranked by agency's priority & importance
b) The "Cumulative Salaries" column indicates the cumulative cost for the combine ranked positions
(Example: If DCRA could only hire the top 3 positions, positions #1, #2, and #3, it would cost $207,041)

The balance (but for one CFO position) of the 44 lost DCRA positions represent adjudication and rental housing hearing examiners and related adjudication staff that are scheduled to be transferred to the new centralized Office of Administrative Hearings at the start of FY 2005. The total to be transferred to OAH from DCRA in the Mayor's proposed budget was $1,058,650 and 15 FTEs. Of this amount, 4 FTEs and $332,960 were for the Rent Administrator's *office staff* – which was a mistake, according to the OCFO, since these were FTEs whose responsibilities did not include adjudication. The Committee anticipates the return of those non-adjudicatory positions and funding to DCRA's FY 2005 budget.[8] Further, the Committee has some reservations about some of the other adjudicatory transfers to OAH, most notably the 3 rental housing hearing examiners and scheduler ($332,959 and 4 FTEs). The Committee recommends that these transfers be delayed for a year and would reinstate these 4 FTEs and the attendant budget authority back to DCRA, at least for FY 2005 with the caveat that we would require a clearer vision and plan to be in place before the transfer would occur.[9]

And the Committee calls for the creation of 3 new positions: two ombudsmen, one for tenants and one for housing providers, to be placed under the Housing Regulation Administrator, and an ANC liaison to be placed in the customer service division of the agency, paid for from the rental housing registration fees collected by HRA which would be raised by $1.00. We will propose this in a new title in the Budget Support Act.

The Committee also has addressed an issue surrounding the Zoning Administration position and that office. We heard considerable testimony about the critical need to fill the Zoning Administrator's position with a qualified person. This is a risk management issue, since we are seeing increases in Board of Zoning Adjustment reversals of initial zoning determinations. The District has had difficulty in recruiting and filling this position for over a year and we learned that part of the difficulty lay in the salary level being offered and the impact of some of our personnel rules. The Committee would propose reclassifying and upgrading this position as an Excepted Service, grade 16. The agency's FY

[8] The Committee spoke with the OAH chief administrative officer and held a joint meeting with he and his deputy together with DCRA's Director and CFO to ensure a smooth transition. Among the topics discussed was this mistake so OAH would be on notice for what budget authority and FTEs to expect.

[9] These transfers back to DCRA would come from the OAH budget authority and would have no net effect on the District's overall budget. The Committee has some directives later in this report for both DCRA and OAH to ensure that when the transition occurs, it is a smooth one.

2005 budget should reflect that upgrade. The Committee also had asked the agency for how the Mayor would restructure the Zoning Administration office. The agency submitted a plan[10], which would have upgraded the positions already in this office and which also added 2 FTEs beyond the FTE authority currently authorized in the Mayor's proposed FY 2005 budget for DCRA. The Committee would approve the agency's plan, including the authority for adding 2 FTE's and further upgrade the Zoning Administrator to an Excepted Service, grade 16. These enhancements would be paid from the newly established Construction and Zoning Compliance Management Fund that is contained in title 6, subtitle F, of the FY 2005 Budget Support Act, which is discussed below and again in the Budget Support Act section of this report.

The FY 2005 Budget Support Act has several provisions applicable to this agency, to increase revenues and address other issues raised by the Committee. The introduced version of the FY 2005 Budget Support Act included two titles applicable to DCRA. One (title 6, subtitle F) would establish a Construction Compliance Management Fund. The Committee's version of this provision would expand that fund to include zoning. The fund would be used for an illegal construction unit (requiring an additional 6 FTEs), a Homeowners' Center, and re-authorized and new FTEs in BLRA and Zoning. The fiscal implications are estimated to be $550,000 in new yearly revenue.[11]

The other introduced title (title 12) would create a new revenue enhancement creating a registration and annual inspection fee for weighing and measuring devices. This new revenue is estimated to be $367,000. This is new local revenue that would go to the General Fund. Other titles that would be added to the Budget Support Act would: (1) improve the operations and funding for the Board of Condemnation and Insanitary Buildings ("BCIB"); (2) create both a Tenant Ombudsman and Housing Provider Ombudsman position in the Housing Regulation Administrator's office as well as an

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[10] The agency's plan to upgrade and add to the positions in this office is on page 42 of this report. The Committee Chair has discussed this plan and the Committee's upgrade for the Zoning Administrator's salary level and classification with the Deputy Mayor for Planning and Economic Development and he is in agreement with the need to do this. The Committee agrees with the plan, except that the Committee has recommended further upgrades to the Zoning Administrator's position and would require that much more expertise in the subject matter.

[11] It is anticipated that the new, enhanced civil infractions fines will be in place in final rulemaking by the time the new fiscal year begins and this fund is established. The Committee has reason to believe that while the estimated revenue to be collected was kept conservatively low, the government may be able to obtain a better collection rate because once illegal construction or a zoning infraction is found, the Clean Hands law will prevent any permit applicants if they owe money to the government to get a permit or approval. **Nonetheless, to ensure that the new "O" fund is sufficient to pay for all the uses earmarked for this fund and continues in the out-years to have sufficient funding, the Committee will be adding a provision to the law that would pull $1 million from the FY 2003 fund balance in the Real Estate Guarantee and Education fund and $600,000 from the Basic Business License fund for this new restricted, non-lapsing fund. It is expected that the funding will be sufficient to continue to pay for these functions and positions in the out-years. The Committee would require the funding to be used in the following order; that is, for an illegal construction unit of 6 FTEs, the Development Ambassador position (#11), the Zoning Administrator's upgrade, and then in the agency's priority order, the rest of the 9 building and land and zoning positions and the 2 new zoning positions, and finally the Homeowners Center.**.

ANC liaison position in the customer service division of DCRA, all three funded by a $1 increase in the Rental Accommodations fees (D.C. Official Code § 42-3504.01); and (3) re-authorize the Condo Conversion fund created at D.C. Official Code § 42-3403.07.

The Committee remains concerned about all the vacancies at DCRA, especially in positions like inspectors and investigators. We do not want to lost the momentum of the last few years in improving compliance and enforcement activities, but we shall if we keep undercutting resources in this key regulatory agency that affects virtually every resident, business, property owner, and visitor. The Committee recommends that the Council attempt to find 25% of the $4 additional revenue this agency generates at present beyond its current expenditures in the FY 2005 budget to pay for the balance of the 28 positions the Mayor has not funded or authorized – despite their necessity and add this amount to the agency's budget authority.

At the agency CFO's request, the Committee will be making four technical adjustments for the mark-up process to increase budget authority by $2,539,709 for four of DCRA's O-Type Funds in FY 2005, namely:

1) Nuisance Abatement (6006) – increase from $2,707,230 to $4,707,230, an increase of $2.0 million. Higher than anticipated collection levels in FY 2004 have created a large projected FY 2004 ending fund balance that will be available for the agency's use in FY 2005. The funding will be used for one-time expenses in FY 2005, namely the abatement of nuisance and vacant properties. (The coding for the increase is as follows: Fund-6006, Index-100NA, PCA-IAC50, Object Class-0041.)[12]

2) Occupations and Professions Licensing Special Account (6010) – increase from $1,292,884 to $1,592,884, an increase of $300,000. The funding will be used for conducting examinations and to cover the costs of supporting various licensing Boards and Commissions. (The coding for the increase is as follows: Fund-6010, Index-6010o, PCA-OPS95, Object Class-0040.)

3) Professional Engineers' Fund (6020) – Increase from $71,155 to $171,155, an increase of $100,000. The funding will be used to cover the costs of producing and mailing the legislatively required roster of professionally licensed engineers and for supporting other costs of the Board. (The coding for the increase is as follows: Fund-6020, Index-6020o, PCA-OPS95, Object Class-0040.)

4) Basic Business License – BBL (6013) – increase from $3,100,000 to $3,239,709, an increase of $139,709 and 2 O-type funded FTEs.[13] The Business and Professional Licensing Administration's higher-than-projected revenues for FY 2004 have created a large funding balance that will be used for the agency for FY 2005 and beyond. The funding will be used for 2 investigators, operating out of the Office of Investigations, Weights and Measures, one at a DS-9 level, and one at a MS-12 level, with $20,000 overtime. The purpose is to increase investigations and licensing compliance with those businesses that require a BBL, and continue to flagrantly operate without one, threatening the safety and welfare of countless consumers and District residents. (The coding for the increase is as follows: Fund-6013, Index-10MBL, PCA-

[12] The agency estimates that approximately 25% of this would be PS funding to allow for overtime, re-inspections, and contractor management in this critical program.

[13] These are the two previously-mentioned positions out of the 11 re-authorized FTEs.

IAC10, Object Class-0040.)

Fund balances in each of these funds is sufficient to cover the requested level of expenses in FY 2005. The request was also forwarded to the Office of Budget and Planning and they are aware of it.

4. *FY 2005 Budget and FY 2004 Performance Oversight Hearings (DCRA)*

The Committee on Consumer and Regulatory Affairs held two separate hearings on DCRA: one on February 12, 2004 on FY 2004 Performance Oversight and the other on March 31, 2004 on the FY 2005 Budget proposal for DCRA (and other agencies).[14] Almost all of the public testimony taken at these two hearings pertained to DCRA. A list of witnesses and their written testimony is in appendix A. The testimony that was taken at these hearings is discussed in the context of the particular topic or program to which it referred.

Further, the Committee of the Whole held a hearing on April 19, 2004, on the FY 2005 Budget Support Act, at which DCRA provided testimony on provisions in the FY 2005 Budget Support Act applicable to the agency.

The Committee on Consumer and Regulatory Affairs also has held regular meetings with DCRA's director and senior staff to discuss programs and specific concerns throughout the year. Moreover, the Committee sent over extensive interrogatories before each of these hearings. The interrogatories together with DCRA's replies and its replies to questions posed orally at the hearings are in appendix B. The questions asked and DCRA's responses are discussed in the context of the particular program or topic later in this report.

5. *FY 2005 DCRA Budget Analyses*

The Department of Consumer and Regulatory Affairs proposes to spend $31,952,019 in FY 2005, an increase of $1,012,067 or 3.3% from the FY 2004 approved budget of $30,940,952. Of this budget, $20,694,000 is for Personal Services, a decrease of $263,000 (-1.3%) from the FY 2004 approved budget, and $11,258,000 is for Nonpersonal Services, an increase of $1,274,000 (12.8%) from the FY 2004 approved budget. The proposed FY 2005 budget calls for 346 full-time equivalents ("FTEs") – a decrease of 44 FTEs or -11.3% from the approved FY 2004 level. The total proposed FY 2005 budget contains expenses $1,426,601 less than the agency's scrubbed baseline budget for FY 2005, despite that it is $1,011,000 or 3.3% more than the FY 2004 approved budget level.

At the March 31, 2004, FY 2005 Budget Hearing, the Director of DCRA, David Clark, indicated that DCRA's proposed FY 2005 budget is $23,526,829 in local funds, representing a decrease of $199,000 (-0.8%) from the FY 2004 approved budget of $23,726,069. Out of the local funds, 275 FTEs are paid, a decrease of 61 or -18.2% from the FY 2004 approved budget. The proposed budget for Special Purpose Revenue Funds or "O-type" funds is $8,332,073, representing an increase of $1,209,000 (17%) from the FY 2004 current budget of $7,123,350. The Special Purpose Revenue

[14] The Committee also held a Performance Oversight Hearing in December 2003 on the D.C. Housing Authority.

funds pay for 70 FTEs, an increase of 17 FTEs or 32.1% from the FY 2004 approved budget.[15] The proposed Intra-District budget is $93,117 which includes one FTE and is essentially unchanged from FY 2004.

As Director Clark noted, the agency's overall proposed budget is essentially at the same level as it was for FY 2004. The FY 2005 increase of 3.3% is meant to cover salary increases required by union contracts. Nonetheless, instead of growing during this time of increased service demand, this agency is expected to decrease by 44 FTEs or -11.3% of its personal services.[16]

The Committee on Consumer and Regulatory Affairs is recommending a total FY 2005 budget of $36,834 million and 367 FTEs for DCRA, which represents a variance of $4,882 million and 22 FTEs from the Mayor's proposed FY 2005 budget. There is also an issue of whether authority for 8 FTEs and $666,000 should be transferred back to DCRA from the new Office of Administrative Hearings. More details are discussed in the Executive Summary and below in the rest of this part of the report.

The Director shared that from a staffing perspective, the agency is currently operating with 28 unfunded positions. In FY 2005 the Mayor proposes to remove the agency's authority for these 28 positions. In addition to these 28 positions, there is currently a reduction in 15 positions that are being transferred to the new centralized Office of Administrative Hearings. One position is being abolished in DCRA's Office of the Chief Financial Officer. The total reduction is 44 positions. **The Committee has recommended not accepting this reduction of FTE authority, both with respect to at least 11 of the 28 unauthorized and unfunded positions as well as the transfer to the OAH of 4 FTEs who hear or schedule rental housing cases and 4 others who do not adjudicate. The Committee's recommendations and funding mechanism with respect to the 28 FTEs are more fully discussed under Operations programs, while the OAH transfers are discussed under the Inspections and Compliance programs section of the report.**

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[15] The Mayor's proposed language in title VI, subtitle F of the FY 2005 Budget Support Act would create a Construction Compliance Management Fund which would add funding for staffing as well as nonpersonal services funding. Later in this report the Committee will be proposing additional Special Purpose Revenue funding to allow for a more realistic salary structure for the Zoning Administrator and that office. Some other proposals are being discussed to improve funding of the Board of Condemnation's operations.

[16] **The Committee is troubled by this trend insofar as it does not match a decrease in a call for services. The budget needs to be responsive to changes in service requirements levels without decreasing performance. For example, while development projects abound and the real estate market is extremely active, there is a need for a corresponding maintenance (and even growth) in the government's ability to carry out plan reviews and inspections. To do otherwise would be penny-wise but pound foolish. Also, without adequate staffing levels in many areas in this agency, the potential risk of liability for the District expands to uncomfortable levels. There will be discussion later in this report of what the Committee perceives as understaffing issues that need to be addressed, particularly in Zoning and Building and Land operations**.

Baseline Budget –

The Committee reviewed DCRA's FY 2005 baseline budget and asked for an explanation of how the baseline budget was crafted. We asked that the explanation describe any apparent increase in overall agency budget for FY 2005 from FY 2004 and whether there were any enhancements. The agency's response stated: "Like that of other District agencies, the FY 2005 DCRA budget was based on the current FY 2004 local funds budget, taking into consideration scheduled and unscheduled promotions and step increases for current staff. Approximately $808,000 in additional funding was added to the baseline request to fund across-the-board union and non-union wage increases. The FY 2005 proposed budget also includes an increase of $376,587 for fixed costs items such as rent, utilities, and security.

"After the baseline budget was formulated, several other adjustments were made. These include:

1) The transfer of 15 adjudication-related FTE and associated NPS funding, totaling approximately $1,058,000, to the newly established Office of Administrative Hearings.
2) Local Fund budget reduction of $280,000, to be absorbed within the agency's FY 2005 O-Type budget request.
3) The abolishment of one locally funded accounting FTE.

"No program enhancements were included in the agency's FY 2005 baseline budget request."

Local Funds – The Mayor's total requested FY 2005 budget of $31,952,019 represents $23,526,829 in local funding; that is, from the General Fund. However, the FY 2005 local funds budget is $199,000 less than the local funds budget for FY 2004, or a 0.8% decrease. According to the FY 2005 budget book, there are 275 FTEs funded by Local sources, representing a decrease of 61 from FY 2004. **The Committee is recommending approval of a local funds budget increase by $192,000 and authority for 3 FTEs. The revenue would come from an increase of $1 in the rental accommodation fees. The FTEs would be a tenant ombudsman, a housing provider ombudsman, and an ANC liaison. This is discussed in further detail in the Budget Support Act discussion in this report.**

Special Purpose Revenue Funds – The Mayor's Budget book indicated that DCRA's FY 2005 budget for Special Purpose or "O-type" funds is $8,332,073, which represents an increase of $1,208,723 or 17% from the FY 2004 approved budget of $7,123,350. According to the Budget book, there are 70 FTEs funded by Special Purpose sources, representing an increase of 17 or 32.1% over FY 2004.

The Committee is recommending an increase in Special Purpose Funds authority for DCRA of $4,689,700. The majority of this increase is made up of transfers of fund balances in already-existing O-type funds. The Committee has recommended passage of title 6, subtitle F of the Budget Support Act which would establish a new Construction and Zoning Compliance Management fund. That new fund would be established to pay for additional FTEs and upgrades in certain positions handling building and land and zoning compliance activities. This Fund balance will consist of an estimated $550,000 in new revenue from construction and zoning infraction fines and penalties together with transfers of $1 million from the Real Estate Guarantee and Education Fund and $600,000 from the Basic Business License Fund balances.

Also, at the OCFO and agency's requests, the Committee called for four technical "O" funds adjustments: (1) $2 million in nuisance abatement funds for overtime, re-inspections, and contract management; (2) another $139,700 from the Basic Business License Fund for 2 additional FTEs; (3) additional spending authority from the balances from the OPLA fund ($300,000) and (4) from the Board of Professional Engineers fund ($100,000). All the fund balances are sufficient for these transfers to occur.

The Committee requested information about the allocation of the 70 positions the agency plans to pay for with O-type funds. The allocation of the 70 FTEs within the Special Purpose Revenue Funds by Fund Type.

Basic Business License	41 FTEs
Nuisance Abatement	13 FTEs
Occupational and Professional Licensing Administration	14 FTEs
Real Estate Guaranty & Education Fund	2 FTEs
Total	70 FTEs

At the Committee's request, the agency and the OCFO for the Economic Cluster shared a report on the Balance Availability for Special Purpose Funds. DCRA utilizes 14 O-Type special purpose revenue funds. Of these, five are "designated funds" (wherein unutilized balances are made available to be spent in later years for specific purposes) and nine are "unreserved funds" (wherein unutilized balances revert to the District's General Fund at year's end). The latest OCFO report indicates that the following *designated* Special Purpose Revenue Funds with their respective balances are at DCRA:

Fund Name	**FY2003 Closing Fund Balance**	**FY2004 YTD Revenue**
Nuisance Abatement	$ 3,959,535	$ 3,218,630
Real Estate Guar. & Ed.	$ 2,122,232	$ 202,022
OPLA	$ 848,352	$ 501,548
Basic Business License[17]	$ 4,896,283	$ 3,483,149
Board of Engineers	$ 196,124	$ 30,133
Subtotals	**$12,022,526**	**$ 7,435,482**

[17] The FY 2003 BBL revenues do not reflect transfer of approximately $575,000 in revenue for the Department of Health.

There are also the following *unreserved* Special Purpose Revenue Funds at DCRA:

Fund Name	FY2003 Closing Fund Balance	FY2004 YTD Revenue
Misc. Other Charges	$ 0	$ 121
Business Coin Copying	$ 0	$ 0
Consumer Claims	$ 0	$ 0
Condominium Conversion[18]	$ 0	$ 0
Site Evaluation (ELC)	$ 0	$ 0
Real Estate Appraisal	$ 0	$ 60,925
Special Events	$ 0	$ 17,534
Boxing & Wrestling	$ 0	$ 22,143
Fire Protection	$ 0	$ 39,480
Subtotals	$ 0	$ 140,203
O-type Revenue Subtotal	$12,022,526	$ 7,575,685

The Committee has inserted language into title 6, subtitle F of the FY 2005 Budget Support Act that would transfer $1 million from the FY 2003 fund balance in the Real Estate Guarantee and Education fund and $600,000 from the Basic Business License fund and place it into a new "O type" non-lapsing fund for Construction and Zoning Compliance Management to be used for the purposes for which that new fund has been set up.

At the agency CFO's request, the Committee will be making four technical adjustments for the mark-up process to increase budget authority by $2,539,709 for four of DCRA's O-Type Funds in FY 2005, namely:

1) **Nuisance Abatement (6006) – increase from $2,707,230 to $4,707,230, an increase of $2.0 million. Higher than anticipated collection levels in FY 2004 have created a large projected FY 2004 ending fund balance that will be available for the agency's use in FY 2005. The funding will be used for one-time expenses in FY 2005, namely the abatement of nuisance and vacant properties. (The coding for the increase is as follows: Fund-6006, Index-100NA, PCA-IAC50, Object Class-0041.)**

2) **Occupations and Professions Licensing Special Account (6010) – increase from $1,292,884 to $1,592,884, an increase of $300,000. The funding will be used for conducting examinations and to cover the costs of supporting various licensing Boards and Commissions. (The coding for the increase is as follows: Fund-6010, Index-6010o, PCA-OPS95, Object Class-0040.)**

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[18] **The agency shared (see the later discussion under the Inspection and Compliance program) that there were 89 condominium conversions in FY 2003 and 43 in FY 2004. Nonetheless, there is a zero balance in this fund because the law needs to re-authorize this fund. A provision to re-authorize the Condo Conversion fund is included in the FY 2005 Budget Support Act.**

3) **Professional Engineers' Fund (6020) – Increase from $71,155 to $171,155, an increase of $100,000. The funding will be used to cover the costs of producing and mailing the legislatively required roster of professionally licensed engineers and for supporting other costs of the Board. (The coding for the increase is as follows: Fund-6020, Index-6020o, PCA-OPS95, Object Class-0040.)**

4) **Basic Business License – BBL (6013) – increase from $3,100,000 to $3,239,709, an increase of $139,709 and 2 O-type funded FTEs.[19] The Business and Professional Licensing Administration's higher-than-projected revenues for FY 2004 have created a large funding balance that will be used for the agency for FY 2005 and beyond. The funding will be used for 2 investigators, operating out of the Office of Investigations, Weights and Measures, one at a DS-9 level, and one at a MS-12 level, with $20,000 overtime. The purpose is to increase investigations and licensing compliance with those businesses that require a BBL, and continue to flagrantly operate without one, threatening the safety and welfare of countless consumers and District residents. (The coding for the increase is as follows: Fund-6013, Index-10MBL, PCA-IAC10, Object Class-0040.)**

Fund balances in each of these funds is sufficient to cover the requested level of expenses in FY 2005. The request was also forwarded to the Office of Budget and Planning and they are aware of it.

The Committee approves these 4 technical changes in budget authority.

Later in this report the Committee would recommend the establishment through an expanded provision in the FY 2005 Budget Support Act of a new "O type" fund for construction and zoning compliance management. This new fund would help fund some Operations program activities in building and land and zoning. This is more fully discussed below in that part of the report.

Condo Conversion Fund –

The Committee asked the agency Director about the status of the Condo Conversion Fund. The Director and agency CFO provided the following response:

> "According to (James) Aldridge and Linda Harried, Condo Conversion fund revenues have declined to almost zero in the past several years because developers have found clever ways to avoid the condo conversion requirements (by buying-out tenants in advance, by converting vacant buildings, etc.). Condo Conversion fund revenues in FY 2002 totaled approximately $67,000. In FY03, revenues declined even further to just over $8,000 (Almost all of which was paid back to the single individual currently receiving housing assistance). The ending FY03 Condo Conversion fund balance of $671,078 was swept into the City's general fund at the end of last year, leaving a fund balance of $0. While the revenues in the fund need to remain available in following years to pay program participants, the collections portion was apparently automatically repealed in 1996 because the statue wasn't reauthorized 16 years after its 1980 effective date. This has created a short-term problem with how to pay the current recipient of housing assistance. To fix this, legislative action will be required to reauthorize the fund."

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[19] These are the two BBL positions out of the 11 re-authorized FTEs further discussed herein.

The agency also shared (*see* the later discussion under the Inspection and Compliance program) that there were 89 condominium conversions in FY 2003 and 43 in FY 2004. Nonetheless, there is a zero balance in this fund, because first the law needs to be amended to re-authorize this fund. A provision to re-authorize the Condo Conversion fund is included in the FY 2005 Budget Support Act.

Intra-District Funds – DCRA's proposed FY 2005 budget for Intra-District funds is $93,117. This is an increase of 1.7% from the FY 2004 approved Intra-District funds budget of $91,533. There is one FTE for the agency – which is unchanged from FY 2004.

Capital Budget – The Mayor's FY 2005 capital budget request for DCRA funds several projects: (1) a Digitization of the Office of the Surveyor and (2) a Real Property Database. In addition, a third capital project for "Neighborhood Revitalization" is part of the budget for the Deputy Mayor of Planning and Economic Development, with DCRA listed as the implementing agency. This is part of the agency's Nuisance Abatement funding.

Nuisance Abatement funding – As mentioned heretofore, in the FY 2005 Budget, the Mayor continues to place capital funding for nuisance abatement activities (Project Code EB3) under the Deputy Mayor for Economic Development and Planning – with DCRA as the implementing agency. There is $8 million in capital funding in FY 2005 for this project.

This project involves the securing, barricading, and demolishing of nuisance properties, usually performed by contractors previously selected by the agency.[20] The project promotes the preservation of residential neighborhoods, encourages neighborhood investment, improves commercial centers to better serve area residents, and develops and improves community facilities that provide valuable services to District residents.

Managing the barricading, securing, and demolition of nuisance properties is the responsibility of DCRA's Housing Regulation Administration. The Housing Regulation Administration has the responsibility of abating code violations in properties where the owner fails to abate after receiving reasonable notice. Many of these violations are life and/or health threatening situations that require an immediate response. Emergency violations require abatement at various times throughout the day, night and/or weekends. The management of the contracts to perform these abatement activities need to be flexible enough to allow for often unpredictable requests for service. The current methodology of granting these contracts is not as flexible and responsive as it was in the recent past and is discussed later in this report with the Inspection and Compliance programs discussion.

In addition to the capital funding just mentioned, the Operating Budget's Special Fund for Nuisance Abatement (6006) currently has a carry-over balance of $3.9 million from FY 2003 and has collected $3.2 million thus far in FY 2004.

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[20] There is an issue involving the contracting and procurement for Nuisance Abatement that is funded with this money which is discussed later in this report with the agency's Inspection and Compliance programs.

It remains the belief of the Committee on Consumer and Regulatory Affairs that having adequate resources as a result of proper capital funding over the last few years was a major reason for the agency's success in more effectively addressing nuisance properties. Without this additional funding source, the agency would be forced to revert to its pre-1999 strategy of only undertaking the most basic repairs of substandard conditions that have plagued our neighborhoods and served as a catalyst for crime and further deterioration. The Committee approves the $8 million capital funding for this project.

The Committee on Consumer and Regulatory Affairs happily recognizes the new $8 million and is pleased to see that the Mayor has focused additional funding on this project, given the need. Nevertheless, we continue to have some concerns about the Mayor's long-range plan for funding this ongoing need. We just note for the record that the capital funding is needed since the operating budget for this part of the agency's responsibilities fund is a revolving fund – and while DCRA has improved its ability and capacity to collect on liens it has placed on violators – collecting the full amount due is arduous and not always successful against deadbeat property owners. Further, the Committee is pleased that the Mayor is poised to issue proposed rulemaking that would double certain civil infraction fines and hopes that once these are finalized, that the new rules might act as the deterrent that the fine structure is meant to be. The Committee understands that it is the Mayor's intent to promulgate these changes to the civil infractions regulations in time to take effect by the start of FY 2005 and the Committee would recommend that the executive make this so.

At the Committee's urging the agency has also begun to make some suggestions for how to reconfigure the Board of Condemnation and Insanitary Buildings to improve that Board's processes and results. The Committee is pleased with the direction that the agency is going in and looks forward to hearing more about this in time for this year's Budget Support Act. The legislation is more fully discussed in the analysis of the Inspections and Compliance programs discussion.

Nonetheless, the collection of fines and penalties from civil infractions like housing code violations and accounting for the revenue in the proper funds could become vastly more complicated once DCRA's civil infractions hearings are heard by the newly established Office of Administrative Hearings. The OAH will have to keep clear financial records so that the District government will be able to account for which funds belong in which Special Fund, per the law governing these transfers. The Committee directs that the agency and Deputy Mayor continue to watch the need for funding in the Nuisance Abatement fund and plan for FY 2006 and the out-years. The Committee further directs OAH and DCRA and the respective Deputy Mayors and cluster or agency Chief Financial Officers work together to develop a protocol to track and account for any funds recovered due to civil infractions cited by DCRA's inspectors and investigators so that DCRA's revolving funds for its operations are not adversely impacted by the transfer of administrative hearings and the positions associated with them. The Committee would appreciate receiving a report of the nature of this protocol by August 15, 2004.

Real Property database – The Real Property database project (PRD), originally approved in 2001, had $250,000 budgeted for FY 2004. This project is not funded in DCRA's capital projects for FY 2005. DCRA has been the implementing agency listed in the Budget Book. The project is

described as a new state-of-the-art Real Property database. Ultimately, this database will allow the District to electronically share and combine Real Property data across agencies and programs, between citizens and with external entities. This is expected to improve customer service improvement by enhancing record accuracy and retrieval speed. By doing so, it is expected to aid in the identification and validation of resident information, promote economic development, and help sustain current neighborhoods. It is also expected to standardize and coordinate real property information to provide land, structural and mineral data.

The Committee asked about this project. We asked: "It is our understanding that a Request for Proposal (RFP) was released last January for the development of a Real Property database. Please fully describe the RFP process and its results and provide an accounting of all monies encumbered or spent to date with regard to this project. What is the plan for going forward with this project?" DCRA responded:

> "DCRA worked closely with the Office of Contracting and Procurement (OCP), the Office of the Chief Technology Officer (OCTO), and the Office of Tax and Revenue (OTR) and coordinated with a number of other DC government agencies during the procurement process for the Real Property Database (RPD). Before actually publishing the RFP, DCRA staff met with 13 government agencies to explain the nature of the RPD project and to identify ways that participating organizations could benefit from the effort.
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> "In addition to these users of RPD, DCRA staff met with OCTO management to obtain their technical guidance on the project. Because of the complexity of the technical solution, OCTO management recommended to DCRA that we perform a "fly-off." The rational behind this novel approach for the DC Government is that two contractors would simultaneously collect business and technical requirements and then each would develop a working prototype for RPD. The increased competition enhances the creativity and diligence of each company, and the caliber of individuals they use to staff the project. Ultimately one of the two competitors would be selected to build RPD. In addition to recommending the fly-off, OCTO required that DCRA prepare and submit a Project Initiation Form (PIF) as the means to ensure the DCRA technology investments adhere to the larger DC Government technical architecture. DCRA completed the forms and obtained approval from OCTO.
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> "With the fly-off concept in mind, DCRA engaged OCP to implement the procurement process, an effort that became protracted as a series of five OCP staff from three different agencies filled the contracting officer role to DCRA, requiring that we spend time to educate each successive contracting officer and to modify the procurement approach based on his or her different perspective on how to adhere to procurement regulations. Despite the personnel changes and that DC procurement regulations are largely discordant with this procurement approach, OCP applied its procurement process to the fly-off concept, forming an evaluation committee with representation from DCRA, OCTO, and OTR. The evaluation committee first selected two competitors (selected from an initial field of nine proposals) to define requirements and build prototypes, then select one of the competitors to build RPD. The evaluation committee selected IBM and Computer Sciences Corporation (CSC) to develop the user requirements and prototypes.
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> "Both contractors worked for five months to collect user requirements and build a prototype. As expected the level of effort delivered by both companies was impressive, and we believe far

greater than had only one company performed the same task. After both companies completed and submitted all deliverables and before the evaluation committee could select one of the companies to build RPD, OCTO mandated that DCRA terminate the contract for governmental convenience, stalling the procurement process.

"To continue to move forward on this effort, DCRA is utilizing in-house staff and contract employees standardize and cleanse property data in databases across DCRA – an effort we call Database Address Cleansing and Standardization (DACS). This four-month effort will create a single repository of property data that will serve as a single source for agencies across the DC Government. Additionally we will create a mechanism (often called a portal in Web parlance) where authorized individuals and agencies can create reports on any data in DACS. The system will provide real-time or near-real-time access to any data in the system.

"DCRA was allocated approximately $5.250 million to develop RPD. Phase1 expenses covered activities for the fly-off, project management, and support (costing $1,784,280), and hardware and software acquisitions (totaling $850,000). Phase 2 expenses for FY 2004 will include system build-out, implementation, and project management activities, totaling $2,617,720."

The Committee had previously approved this capital project at DCRA to establish a real property database. It is our understanding that after the "fly-off" was called off, the agency has focused its efforts on cleaning up its own database, and that OCTO intends to coordinate the overall database across District government agencies. <u>The main thing is to get this project accomplished</u>. The Committee is disappointed that the fly-off was not permitted to reach completion, but looks forward to completion of this project – hopefully in the near future.

As it did last year and the year before that, it directs DCRA (and any other District agencies involved in this project) to work on making sure that when the District government prepares this database that attention is paid to truly standardizing the method by which the District government, across all departments, refers to a particular address to avoid the inconsistencies that have occurred in the past. The Committee directs the agency in developing its plan for this database to continue to work with the Chief Technology Officer, the Office of Tax and Revenue, and other executive offices to ensure that a systematic check is regularly made to prevent the misuse of tax exemptions and reductions meant for qualified taxpayers but which could inadvertently be provided to owners of real property (and taxpayers) who no longer qualify for the exemption or reduction when the property is vacant.

In addition, the Committee urges DCRA to ensure that development of this real property database takes into account the needs for record keeping improvements in both the Housing Regulation Administration, particularly the Rent Administrator's office, and the Building and Land Administration and in the Office of the Zoning Administrator. The Committee approves completion of this capital budget project.

<u>Digitization of Surveyor's plats maps</u> – The other capital project funded in the Mayor's DCRA capital budget is the digitization of the surveyor's plats maps and field survey records (CO3). The project is budgeted at $1,928,000 over a two-year development schedule with an initial start-up budget of $1,174,000 for FY 2004 and a second year budget of $754,000 for FY 2005. The implementing agency is the Office of the Chief Technology Officer (OCTO). For the project, a computerized catalog

with searching and reporting capabilities will be developed. It is expected to have printing capabilities for full size images from each survey document duplicated for archival back-up storage. **The Committee approves the capital funding for this project**.

6. *DCRA's Proposed Revenue Enhancements* –

DCRA's Director testified at the Committee's March 31, 2004 Budget Hearing that the Mayor, when faced with a projected citywide deficit of close to $200 million, chose not to reduce DCRA's proposed budget, but instead accepted DCRA's recommended strategies to increase revenues. The revenue increases these plans are expected to generate are estimated to be $2.6 million annually.

The three proposed revenue enhancements and their estimated additional annual revenue include:

(1) An increase in civil infractions fines ($600,000)[21];
(2) A registration and annual inspection fee for weighing and measuring devices ($367,000)[22]; and
(3) Implementation of re-inspection fees for housing code violations ($1,655,000)[23].

It should be noted that the Executive is not suggesting that any of these additional proposed revenues be used specifically for DCRA's programs and services, although it did articulate several proposed enhancements to its budget during the Mayor's budget review process.

The Mayor has current authority to do the first and third of the enhancements. The Committee is aware that proposed changes to the civil infractions rules are drafted and will soon be published in the *D.C. Register* so they will be in effect in time for the start of the new fiscal year. The second revenue enhancement will require legislation and a provision is contained in the Budget Support Act to accomplish this. **The Committee accepts the need for these revenue enhancements and approves them. The Committee would like to see the agency benefit more from the revenues it generates.**

Director Clark indicated that the agency had planned to undertake several initiatives in FY 2005. One of these would include doing a complete study and re-engineering of the Certificate of Occupancy process. This project's budget enhancement was NOT approved by the Mayor, but the Department plans to continue to plan for this initiative and use in-house resources. **The Committee agrees that this is a useful project, but has no additional resources to add. Hopefully, the agency can accomplish this initiative without additional budgetary support.**

The Director also focused on the need for additional vehicles for the agency's inspectors and investigators. He mentioned that many of the field staff have to use their own personal vehicles or public transportation and this impact on productivity adversely. The agency did not receive approval for these additional vehicles and the agency is looking for alternative ways to address this issue. They

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[21] **The Committee notes that this is a matter for the Mayor's rulemaking, the timing for which has already been discussed. The Committee supports these changes**.

[22] **The FY 2005 Budget Support Act contains a provision (title 12) to authorize these fees. The Committee supports passage of this provision.**

[23] **The Mayor has the authority to charge these fees. The Committee supports this enhancement.**

have included DCRA's Labor-Management Partnership Council to help find a solution. **The Committee agrees that this is needed, but again has no additional resources to add to the agency's budget.**

Also, the Mayor's Budget Office disapproved DCRA's request for funding to conduct a survey of the city for street vending. However, the agency, together with the Deputy Mayor for Planning and Economic Development and the Downtown Business Improvement District, will be implementing a pilot project on vending. **The Committee looks forward to the results of the pilot project which will explore new ideas for street vending and the management of public space and is discussed later herein in discussion of the Operations programs.**

Finally, DCRA is seeking approval to establish a "Construction Compliance Management Fund' to provide needed resources to address aggressively the problems caused by illegal construction by using the fees from stop work orders and also zoning infractions. Some of the problems Director Clark mentioned include lost revenue as a result of unaccounted-for property improvements; unsafe conditions resulting from unskilled laborers; and financial losses on the part of unsuspecting homeowners. He promised that the Council would soon see proposed legislation to establish this fund.[24]

Staffing and FTEs – The Director of DCRA, Mr. David Clark, at the Committee's March 31st budget hearing, testified that the agency's proposed FY 2005 budget would reduce staffing at the agency by 44 FTEs, 28 of whom were the unfunded vacancies from FY 2004 and (but for one position lost in the CFO's office in DCRA), the balance of 15 of which come from the transfer of FTEs to the new, centralized Office of Administrative Hearings (OAH). The total transferred to OAH from DCRA was $1,058,650 and 15 FTEs. Of this amount, 7 FTEs and $463,413 (for salaries and benefits) would be transferred from the current Office of Adjudication at DCRA. **The Committee approves this transfer.**

Also, out of the total shown in the budget proposal as being transferred to OAH are 4 FTEs and $332,960 which was for the Rent Administrator's office staff – the transfer of which was a mistake, according to the OCFO. **The Committee plans to return those non-adjudicatory positions and funding to DCRA's FY 2005 budget.[25] The Committee feels that these positions and budget**

[24] The FY 2005 Budget Support Act contains a provision (Title VI, Subtitle F) that would establish this Construction Compliance Management fund. The Committee will be adding zoning compliance to this provision. The new fund would be "seeded" with $1.6 million in funds transferred from the FY 2003 fund balances of the Real Estate Guarantee and Education($1 million) and the Basic Business License ($600,000) funds, respectively. In addition, the annual revenues to be generated by this new fund would be approximately $550,000. This new Construction and Zoning Compliance Management fund would be used to pay for PS and NPS expenditures to enforce the building codes and zoning codes, a new Homeowners's Center, and for some of the FTEs that the budget proposal would have lost as well as 2 additional FTEs in the zoning office and an upgrade for the Zoning Administrator – because these positions, in whole or in part, have a direct bearing on the purposes of the fund. This fund and the programs and FTEs it is envisioned that it would support are discussed later in this section of the report.

[25] The Committee spoke with the OAH chief administrative officer and held a joint meeting with he and his deputy together with DCRA's Director and CFO to ensure a smooth

authority should not be transferred to OAH and should be returned to DCRA. Furthermore, the Committee is not entirely convinced that 4 other FTEs (representing one scheduler and 3 hearing examiners) ($332,959) from the Rent Administrator's office should be transferred to OAH in FY 2005. Later in the report we more fully discuss the Committee's desire for a more complete transition plan before this transfer occurs. This rental housing issue is more fully discussed in the section of this report dealing with Inspection and Compliance programs.

The Committee requested, and DCRA has provided, a list of the 28 unauthorized and unfunded vacancies at the agency – in a priority order. Many (about 19) of these FTEs are in critical Building and Land positions, several are in the Neighborhood Stabilization Program (NSP), and others are in investigations, compliance, and enforcement. None of these positions should be lost, but unless money is both found and focused on these issues, they will be. These are key functions at this agency – development and enforcement activities depend on them. **The Committee directs the agency to work with the rest of the Executive to determine how to save these positions in light of the fact that DCRA generates far more revenue than it expends and these are mainly key law enforcement positions that would be lost. DCRA needs to preserve all the inspectors and investigators positions it can.**

The Committee has made a proposal to return the agency's authority for at least 11 of these positions – which are absolutely critical for operations. Title 6, Subtitle F in the Budget Support Act (with amendments adding in zoning) would establish a Construction and Zoning Compliance Management fund that would help fund these positions, starting with replacing the lost Development Ambassador position. The Development Ambassador program is one that works well at the agency – it needs to keep that program and improve it. The rest of the Building and Land positions in the Operations programs as well as zoning administration in the agency (also discussed in Operations) need further analysis to better manage these crucial functions. The Committee has made a proposal to upgrade the Zoning Administrator's position (to Excepted Service, grade 16), upgrade the rest of the positions in that office, and add 2 new positions to the office. The Committee would move the Zoning Administrator's office so that the Zoning Administrator would report directly to the agency Director as a deputy. This is discussed in greater detail in the discussion of Operations programs.

The Committee has also made a proposal to increase DCRA's FTE authority by 3. These FTEs would be a tenant ombudsman, a housing provider ombudsman, and an ANC liaison. The positions would be funded by a $1 increase in the rental accommodation fee. This is discussed in more detail in the Inspections and Compliance program and Budget Support Act sections of this report.

The Committee remains concerned about all the vacancies at DCRA, especially in positions like inspectors and investigators. We do not want to lost the momentum of the last few years in improving compliance and enforcement activities, but we shall if we keep undercutting resources in this key regulatory agency that affects virtually every resident, business, property owner, and visitor.

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transition. Among the topics discussed was this mistake so OAH would be on notice for what budget authority and FTEs to expect.

7. *Summary of DCRA's Programs and Activities* –

Performance Oversight – In FY 2005, DCRA will be moving toward Performance-Based Budgeting (PBB), which focuses on programs and performance measures and goals by program.[26] Because of the change to PBB in FY 2005, the agency's performance results for the current budget year do not match the measures in the FY 2005 Budget Book for FY 2004 through FY 2006. And the new measures do not as yet show results associated with these measures. As the performance measures are discussed, the Committee's recommendations and directions with respect to how specific measures are being formulated is discussed.

FY 2003 Performance Accountability Reports – In January 2004 the Committee received the agencies' FY 2003 Performance Accountability Reports, including one for DCRA. DCRA had 5 goals with several measures under each goal. In all instances, the agency met or exceeded its goals. The 5 goals and the agency's results were as follows:

1) *Maintain an efficient and effective system for issuing building and occupancy permits*. The agency "met expectations". It exceeded in one target and met 3 other targets for the 4 performance measures for this goal. DCRA reviewed 97.2% of complex building plans within 30 days, slightly exceeded the 95% target rate. The agency reviewed 95.6% of non-complex building plans within 7 days, slightly exceeding the 95% target. The agency issued walk-in building permits in an average of 30 minutes, which exceeds the target of 35 minutes. The agency processed 97.1% of all building inspections within 48 hours, slightly exceeding the 95% target rate.

2) *Develop a streamlined and enhanced process to issue professional licenses*. DCRA "exceeded expectations" with respect to this goal. It exceeded one target for the single performance measure for this goal. The agency processed 98.7% of occupational and professional license renewals within 4 days, thereby exceeding the target of 85%.

3) *Streamline inspection processes and eliminate duplicative and sequential inspections*. The agency "met expectations" for this goal. DCRA met one target for the single performance measure for this goal. It responded to 98.1% emergency complaints of sub-standard housing within 48 hours, slightly exceeding the target of 95%.

4) *Identify troubled housing units as candidates for nuisance property abatement*. The agency "significantly exceeded expectations" for this goal. DCRA significantly exceeded both targets for the 2 performance measures for this goal. It secured and brought 2,009 vacant housing units into compliance with the housing code, which is significantly more than the 1,200 unit target that was set. The agency demolished 279 vacant and abandoned housing units, thereby significantly exceeding the target set of 150 units.

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[26] While the Committee will discuss most of DCRA's programs later in this report, any omission of a particular program in the detailed discussion should not be taken to mean that it lacks importance, or is thereby failing or succeeding in its mission. The thrust of the review is upon those parts of DCRA's operation that the Committee and the public has commented on during this performance oversight and budget process and at other times in the current (and prior) fiscal years. It also is focused on those programs in which the Committee sees the need for some change in organization or results to occur.

5) *DCRA will ensure compliance with the Master Business Program requirements (which is now named "Basic Business License").* DCRA "met expectations" for this goal. It met the single target, by ensuring that 80.8% of businesses operating in the District had a BBL. Thus, DCRA met its target of 80%.

February 12th Performance Oversight Hearing – At the Committee's February 12, 2004, Performance Oversight Hearing, DCRA's Director, David Clark, testified that, for FY 2003, the Department again had met or exceeded all of its scorecard performance measures and goals. He noted that DCRA is the major regulatory agency in the District of Columbia, touching the lives of every resident and everyone who works or visits here. He reported on the achievement of initiatives first identified at the prior year's hearing, demonstrating the agency's performance during this period.

He shared that DCRA had created a unique "Executive Information System (EIS)" which provides DCRA's managers with information about the progress of agency goals, allows managers to track their individual program's budgets, monitor whether employees are attending required training sessions, track and monitor program productivity, and monitor the agency's progress with its strategic plan. Mr. Clark reviewed the results of the performance goals and measures from FY 2003, which are noted above.

Mr. Clark mentioned that a second agency initiative was to establish an illegal construction project to address the growing concern about illegal construction and the adverse impact it is having in the neighborhoods. DCRA reported that for the 8-month period between May and December 2003, four BLRA inspectors formed an illegal construction unit, conducted inspections and monitored District neighborhoods after normal working hours and on weekends. He noted that this effort was endorsed by the labor-management partnership committee. As a result of their efforts, the four inspectors issued 938 stop-work orders with fines assessed at over $694,000. The results of this successful pilot project demonstrate clearly the need for such a program. The agency is currently seeking a funding source to formally establish the unit.[27] **The Committee is very supportive of the idea of better law enforcement and was very pleased with the success of the illegal construction pilot. The Mayor has submitted language in the FY 2005 Budget Support Act to fund this compliance program in the future. The Committee supports this legislative provision and the funding for this important and vital function at the agency.**

Mr. Clark also mentioned that at last year's oversight hearing, the agency had acknowledged that it needed to improve communications with residents and to educate them on the services the agency provided. He reported this year that much had been done. For example, DCRA had participated in 46 community events; brought out its specially outfitted "CTB" service vans to distribute informational brochures, to accept, process, and issue business licenses right there; and demonstrated how to obtain building permits. The agency conducted 21 seminars on how to obtain a business license; 12 seminars on rent control; and held 4 demonstrations on how to build a deck and select a home improvement

[27] The Mayor submitted a provision (Title VI, subtitle F) in the FY 2005 Budget Support Act for establishment of a Construction Compliance Management Fund which could fund this activity.

contractor in conjunction with Home Depot.[28]

The Director claimed that the agency's outreach also included providing additional information and services on its website, such as:

1) Residents, concerned about a particular housing code violation, can now view a list of property that is pending violation abatement, including those scheduled to be razed or those that have been abated or razed.

2) Those persons who are concerned about whether a particular vacant property is registered can now view a list of vacant property.

3) Organizations (such as Advisory Neighborhood Commissions) can now request DCRA's participation in their events by registering on-line at the website's "Community Calendar" – upon request, DCRA will dispatch staff and vans to participate.

4) Residents can submit complaints about substandard housing conditions, including nuisance properties, by using the on-line RAPIDS system which automatically schedules inspections as well as tracks and monitors actions taken.

Mr. Clark noted that during FY 2003, DCRA completed a major task of adopting the International Building Codes (ICC Codes). The new ICC Codes were published in the January 9th and January 30th, 2004 editions of the *D.C. Register*. Also, on February 19th, 2004, DCRA with the D.C. Building Industry Association (DCBIA), Apartment and Office Building Association (AOBA), and the Washington Building Congress conducted a seminar for the development community on the new ICC Codes.[29]

DCRA also successfully completed a very difficult project in FY 2003 by completing the implementation of the Master Business License program, which in mid-stride, was changed to the Basic Business License program. In order to fully implement the new BBL program, over 150 forms, applications, and licensing fact sheets were revised to reflect the changes in the law. Also, the on-line system was revised to assist business owners in determining whether a BBL is required or not and to provide them with the necessary forms and applications. A working group of representatives from all of the agencies responsible for issuing licenses was established to develop the process and procedures for approving endorsements and interfacing with DCRA to issue the BBL, to identify Information Technology support systems, and to develop licensing regulations. The first set of proposed regulations is expected for publication in mid-April 2004. The agency developed an educational

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[28] **Later on in the budget process, the agency's Director shared his ideas for how to achieve better communications at the agency, especially in the Building and Land Administration (BLRA). DCRA's Director indicated that he wanted a position at BLRA dedicated to improving communications in this administration. Upon the Committee's questioning, we learned that there is sufficient funding and FTE authorization and the agency has already begun recruiting for this person. The Committee is fully supportive of this and hopes that when we hear from the agency next year communications are improved at BLRA.**

[29] **The Committee agrees that this was an important project and looks forward to receiving amendments after the budget is completed to the new ICC Codes for the Council's review.**

marketing campaign to educate the business community about the changes in the licensing requirements. Finally, DCRA together with the Office of Local Business Development is maintaining monthly office hours at the Enhanced Business Information Center (E-BIC) to give small business owners an opportunity to obtain information about business licensing and other DCRA services.[30]

For FY 2004, Mr. Clark noted that a major goal of DCRA is to complete Phase II of the Real Property Database (RPD) to fully expand the agency's ability to track and monitor activity from one program to another. The Committee asked about this on-going capital project in its interrogatories to the agency. This project is discussed under the capital budget discussion above.[31]

Mr. Clark explained that another major goal of DCRA in FY 2004 is to complete development of an on-line tracking system for building permits. The Director alluded to complaints that come to Council offices that the agency is withholding the issuance of permits, causing costly delays in construction. DCRA's experience has been that many of these complaints are unfounded and that delays are often caused by errors found in the building plans and further delays caused by permit processors who delay returning the plans for re-review. The on-line tracking system will allow property owners and developers to monitor the progress of their building permits in real time, 24/7. As of February 12th, the Director was expecting the new system to be implemented in 30 days.[32]

Then, Mr. Clark stated that the most difficult task for FY 2004 is to identify a qualified Zoning Administrator. The agency recognizes that zoning is a highly sensitive issue in many neighborhoods in the District. Although a Zoning Administrator was hired at the beginning of FY 2003, he resigned. When the agency tried to recruit another candidate for this position, the selected candidate changed his mind about accepting the position after several months tied up in negotiations. The task of recruiting and hiring a qualified Zoning Administrator is made more difficult due to an antiquated personnel system and low pay.[33] The Director stated that Denzil Noble, the current BLRA Administrator, would

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[30] **The Committee notes its gratitude to the agency's staff and Director for all their work to streamline the business licensing process and bring the Basic Business License program on-line.**

[31] **The Committee continues to believe that this is an important initiative and anticipates many improvements once the project is completed and on-line.**

[32] **The Committee thoroughly supports this initiative and looks forward to its completion.**

[33] **The Committee is very concerned about the prolonged vacancy and difficulty in recruiting for this position. The Committee not only heard from many witnesses about this issue, but also has been pressing the agency to hire a qualified Zoning Administrator for some time. We asked DCRA's Director for a plan to increase salary levels for this position and the rest of the ZA office staff. The Committee Chair also spoke with the Deputy Mayor for Planning and Economic Development about the issue and he was to find funding for these increases. DCRA submitted a plan which is discussed later in this report where the Operations programs, including the Zoning Administrator's office, are discussed. Suffice it to say, the Committee Chair has made it very clear that the current status quo cannot remain. The District faces far too great a risk of liability and loss for bad zoning decisions at the level of DCRA to allow this position to stay as it is. The Committee will make its directives in the later discussion**.

continue to act as the Zoning Administrator as well until a qualified candidate can be found. Luckily, he noted, DCRA has managed to hire a qualified Chief Building Inspector and a Deputy Administrator, so that Mr. Noble can pay more attention in the interim to Zoning Administrator matters.

As mentioned, the agency will be moving into Performance-Based Budgeting for the FY 2005 budget. In past years, DCRA had improved its ability to quantify "outcomes" while also focusing on areas of concern: such as zoning, building inspections, neighborhood stabilization, and the Rent Administrator's office. **The Committee is pleased that its guidance has been instrumental in moving the agency forward so it is better situated strategically to accomplish its mission without additional cost to taxpayers. Notwithstanding, the Committee remains concerned about keeping a close focus on the resolution of the necessary balance between the desire to obtain cost savings while maintaining appropriate levels of risk, particularly given the high cost of any failures in several of DCRA's programs – and, most particularly, <u>where this agency produces several millions of dollars more in revenues than it expends</u>. The Committee believes that added focus will be needed in the years to come on programs involving building and land permitting activities, zoning issues, communications, rental and other housing concerns, nuisance property abatement activities and the management of vacant property, business licensing and registration operations, and cost of risk.**

<u>Performance-Based Budgeting</u> – In FY 2005, DCRA is one of the District's agencies which is moving toward Performance-Based Budgeting or "PBB" – which is supposed "to align resources with results, benchmarking, performance measurements, strategic business planning and service level budgeting," according to the Budget Book. It reflects expenditures by program so it is important to understand the way in which a PBB-budgeted agency has organized and funded its programs. To understand DCRA's FY 2005 Performance-Based Budget, one must review the 5 areas into which the Programs at DCRA fall organizationally: 1) Operations, 2) Inspections and Compliance, 3) Rental Housing Commission, 4) Agency Management, and 5) Agency Financial Operations.

<u>Operations Program</u> – Within **Operations** are the following 10 separate component programs:

1) Zoning Administration
2) Building Plan Review
3) Development Ambassador
4) Building Inspection
5) Permit Service
6) Surveyor Office
7) Business Service Center
8) Corporation Office
9) Basic Business License
10) Occupational and Professional Licensing

Programs (1) through (6) have been in the Building and Land Administration (BLRA), while programs (7) through (10) have been in the Business and Professional Licensing Administration (BPLA).

The specific programs within Operations are more fully described in the DCRA section in the Budget Book. Overall, the Operations programs provide inspections and code enforcement for contractors, developers, property owners, and licenses for businesses, and professional and occupational licenses for individuals working in the District so as to have compliance with the District's laws and regulations. Operations has a gross funds budget of $12,219,459 – which is an increase of $1,089,947 or 9.8% over the FY 2004 approved budget of $11,129,512. Even so, this includes a Local Funds *decrease* of $325,501 which is offset by a Special Purpose Revenue Funds increase of $1,415,448. The change is primarily due to approved pay raises in FY 2004 and FY 2005 and increases in contractual services related to the Occupational and Licensing Administration. The Operations gross budget supports 160 FTEs, a decrease of 9 FTEs from the FY 2004 approved level.

The Mayor's budget removes FTE authority in FY 2005 for 28 FTEs, at least 19 of whom would be in Operations, specifically BLRA. These were positions that were left unfunded in FY 2004, despite great need for the services those positions would provide. On page 45 of this report is a priority listing of these positions, in the order in which the agency would most like to see them re-authorized. There will be more on these positions and other concerns about understaffing in certain programs in the Specific Operations Program Issues section of this report.

There are 9 performance measures for programs in Operations.[34] These are:

1) Percent compliance with zoning regulations – the target for FY 2004 through FY 2006 is 100%.

2) Percent compliance with zoning regulations – Certificate of Occupancy – the target for FY 2004 through FY 2006 is 100%.

3) Percent compliance with zoning regulations – HOP (Home Occupation Permits) – the target for FY 2004 through FY 2006 is 100%.

4) Percent of complex building permit plans reviewed within 30 days – the target for FY 2004 through FY 2006 is 95%.

5) Percent of non-complex building permit plans reviewed within 7 days – the target for FY 2004 through FY 2006 is 95%.

6) Percent of walk-in building permit plans reviewed within 28 minutes – the target for FY 2004 through FY 2006 is 95%.

7) Percent of all building inspections completed within 48 hours of the request – the target for FY 2004 through FY 2006 is 95%.

8) Percent of permits issued that meet the code – the target for FY 2004 through FY 2006 is 100%.

9) Number of businesses operating in the District of Columbia with a Basic Business License – the target for FY 2004 is 47,500 & for both FY 2005 & FY 2006, the target is 52,500.[35]

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[34] None of the performance measures presented in this year's budget show any actual results for FY 2003 or FY 2004, as the agency is shifting to PBB this year and these are new measures.

[35] The Committee recommends that the agency develop performance measures to reflect

Specific Operations Program Issues –

Generally – **The Committee notes that DCRA is a "profit center," meaning that it generates about $ 4 million more in revenues than it expends, but the agency is not benefitting from its revenue generation in some key aspects.** Several public witnesses, including Jim Smith ("Mr. Permit"), multiple Advisory Neighborhood Commissioners from ANCs throughout the city, and D.C. BIA, commented on this fact and voiced concern that the Mayor has failed sufficiently to fund the programs in DCRA, especially in Operations (BLRA), to meet the need for service. **The Committee agrees that certain aspects of DCRA's Operations programs are stretched so thin in staffing and salary levels – particularly in Zoning and BLRA – that the District may be left in an unacceptably risky stance with regard to these areas.**

In response to the testimony it received about the obvious need for additional resources in Operations programs at DCRA, the Committee is making several recommendations and directives. The Committee is seeking additional funds to replace funding for some, if not all, 28 positions that the Mayor has left unfunded and, in the FY 2005 Budget, not even authorized.

The Committee is seeking additional funds for a far higher salary level to attract and properly pay a qualified Zoning Administrator – a key government position that has not been filled for several years. The Committee believes that not only are some District personnel rules interfering with getting the best and the brightest from among District employees, but also the salary levels currently set for this position is not sufficient to compete for talent with neighboring counties and the federal government. Filling this position with a talented FTE is extremely important to maintain the District's economic vitality and growth, especially while there is a construction and development boom the likes of which the District has never seen before. And where mistakes are very costly.

The Committee agrees with the Director and supports the creation and funding of a specific position that is devoted to significantly improving communications at BLRA, both across the agency and with the public. It is our understanding that recruitment has already begun for this. As we have already said, the agency needs more resources to allow it to do a better job of providing information without having to require citizens, including tenants in apartment buildings trying to determine their landlord's renovation plans; citizen associations; and possibly even ANCs, make FOIA requests for basic information that should be available. Part of this problem has to do with simple understaffing. There are simply not enough counter staff, "war room" staff, and engineers and inspectors to go around. Again, the upfront costs of having residents' questions and concerns at BLRA answered appropriately and information flowing properly would be more than offset by the savings from creating fewer opportunities for mistakes and litigation. Also, if someone was better tracking and analyzing the communications BLRA was generating, the agency should be better able to spot and answer difficult zoning and land use issues earlier in the process.

The Committee is distressed to learn that the funding for one of the Development Ambassador positions had to be used for another need at the agency; the Development Ambassador program was one of those "tapped" because it is not legally mandated – no matter that it is one of the key reasons BLRA is at all successful in keeping up with the building boom

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services in its Corporations office as well as its Professional and Occupational Licensing office.

the District is currently experiencing. The Committee directs that the funding for this position be restored and the position filled.

The Committee has firmly encouraged and supports the Director's call for an increased effort to enforce the construction and zoning codes, along with formation of a Home Improvement Center, that should be funded by a Construction Compliance fund. The Committee supports the legislative language in the FY 2005 Budget Support Act that would fund a Construction Compliance unit in BLRA – to follow up on the extremely successful illegal construction pilot begun by the agency. The Committee, with the agency's input, will be adding language to this provision that would expand this fund's sources of revenue to include zoning infractions as well. And the Committee will support raising civil infraction fines twofold when the Mayor's proposed regulations are published, hopefully in the near future. We cannot stay with the status quo – and keeping this agency underfunded and understaffed in key positions is unacceptable.

The Committee received considerable public testimony – both at the Committee's Performance Oversight and Budget Hearings – on the Operations programs. The agency also was extremely responsive to the Committee's large numbers of requests for information. Several themes and recurrent issues came up during the hearings and budget discussions. Topics include:

1) *Need for overall improvements to DCRA's Operations programs – testimony taken*

At the Committee's March 31, 2004, FY 2005 Budget Hearing testimony was heard about building and land administration programs from a number of witnesses. The discussion involved building permits, plan reviews, building code development and enforcement, zoning administration, communications and information flow, the Development Ambassador program (which came in for universal praise). The consensus from the Committee's own observations and the public testimony is that while much improvement has occurred recently at DCRA, much of that momentum is likely to be lost if more resources and staff is not provided to this agency – especially in the critical area of Building and Land Administration.

The first witnesses were from the D.C. Building Industry Association (DCBIA), an organization which has a clear interest in a functioning DCRA, especially its BLRA activities. Cary Majeski, Vice President, DRI Partners, Inc. and Roger Trone, President, Regency Commercial Construction, testified on behalf of DCBIA.

They stated that DCBIA has sought to work constructively with DCRA's management to improve the building permit and inspections processes which had become cumbersome, unpredictable, and even adversarial. Nonetheless, progress has been slow and uneven, impeded by management and staff turnover. Last year progress at BLRA had been reported – most notably, with respect to the building plan review process having more predictable turnaround schedules. Likewise, the on-site inspection process was improving, mainly because of a more responsive third-party inspection program. DCBIA continues to support third-party inspection programs, even though they add new costs on development, as they also augment BLRA's capabilities.

DCBIA commended DCRA for the professional rollout of the International Building Codes and the D.C. Supplement. They applaud the Development Ambassador program that has assisted processing of more complex development projects – even with limited staff. **The Committee agrees that both of these have been important achievements.**

Nevertheless, DCBIA emphasized that more needed to be done to enhance organizational capacity at DCRA and BLRA to create a more "contemporary – and more competitive – regulatory environment." Problems that they want to see addressed include finding a qualified individual to serve as Zoning Administrator. DCBIA pointed out that in the last year and a half, three people have either held or tried to hold that position. They complained that this vacancy is creating a "serious bottleneck in the building permit process." **The Committee wholeheartedly agrees that the District must hire a qualified Zoning Administrator and later in this section discusses one plan for doing so.**

DCBIA expressed disappointed that DCRA's budget is effectively being reduced. They noted that the Mayor's proposed FY 2005 budget for DCRA is at the same level as FY 2004, but for union contract salary increases, and that the agency is proposing to generate an additional $2.6 million in revenues through increases in fees and fines for infractions to help address the budget gap. Even so, the agency is due to lose authorization for 28 FTEs (15 of which are in BLRA) that had already been left unfunded in FY 2004. They object to the reduction of FTEs at DCRA in the Mayor's proposed budget, particularly when so many of these positions are in BLRA, where increased manpower is needed. **The Committee is also disappointed about the loss of authority for these 28 FTEs, mostly in BLRA. The Chair of the Committee has spoken plainly about how the District can ill-afford to lose any inspection, investigation, or other BLRA positions at this time. Moreover, it does not make sense to hinder an agency that not only protects public health and safety, but also generates more revenue than it expends. The Committee will recommend the dedication of some funds to rectify this problem and return authority to the agency for at least some of these positions, if not all.**

To address the need for continued progress at DCRA in light of the budget gap, DCBIA suggested that DCRA and BLRA undertake a more aggressive third-party re-engineering of agency functions, although they recognize that this is not easy, given personnel rules and other regulations. DCBIA testified that they do not want to see the progress that has been made in the last few years at DCRA wiped out by ill-advised personnel cuts. They do not want to see regression.

Councilmember Ambrose replied to the witnesses' statements by sharing that in the early 1990's when the District was experiencing financial difficulties, she witnessed DCRA's large reduction in staffing and thereby its effectiveness. She agreed with DCBIA that not having a qualified individual in place for the Zoning Administrator position is a terrible problem, since mistakes in that office can create a huge amount of liability for the city. She mentioned that she had discussed the salary level for this position with the Deputy Mayor for Planning and Economic Development. She voiced her belief that an increased salary level is necessary to attract the right candidates for that job. She shared that the Deputy Mayor had said that he would support an increase for this salary. Councilmember Ambrose also indicated how pleased she was that the DCBIA finds the Development Ambassador Program effective and stated that she would like to see this program replicated for homeowners.

ANC Commissioner Bill Starrels, ANC 2E Vice-Chair, spoke at both the February and March hearings. He indicated that he served on DCRA's neighborhood advisory panel as the Ward 2 representative. The panel meets once a month to discuss what is happening throughout the city and at DCRA. He noted that DCRA is in a unique position, since any enhancements to the agency should generate additional revenues for the agency and ultimately the District. He requested the following enhancements:

1) Enhancements to the number of inspectors and the hours they are available;
2) Increasing the number of housing inspectors;
3) Strengthening the Certificate of Occupancy process to avoid crowding, particularly in restaurants and bars;
4) Basic transportation to enable inspectors to respond to requests for service, particularly after traditional business hours;
5) More attention to and funding for vending issues – a persistent problem in Georgetown which is one of the areas he represents; and
6) Development of a Homeowner Center at DCRA – he believes that this is an excellent idea when home sales and renovations are at unprecedented levels. **The Committee also believes that development of a Homeowner Center at DCRA is a good idea.**

Commissioner Starrels stated that without adequate inspectors, the integrity of Georgetown could become jeopardized. When there is not enough inspections, buildings have been illegally demolished; while other structures, including signs, have been erected without regard to code enforcement; and group homes are overcrowded and have no regard for basic licensing standards. He called for more law enforcement. He concluded: "Any enhancement of the functions of DCRA that can be provided in these days of tight resources should pay dividends for the City as a whole." Councilmember Ambrose replied that the budget as presented did not contain much in the way of enhancement for DCRA. She agreed that it is not in the District's best interest to curtail DCRA's ability to enforce the law and suggested that she wanted to see more enforcement. Commissioner Starrels said that there are good staff at DCRA, but that they are just over-loaded. Contractors know this and take advantage of the agency's limited manpower.

ANC Commissioner Alan Z. Aiches, Chair of the Palisades Citizens Association's Zoning Committee and the ANC-3D Task Force on Zoning, submitted testimony. He stated that he felt frustration and anger, because he has not seen any improvement at DCRA since he testified last year. He described a climate that perpetuates itself at DCRA that is non-responsive to zoning, building code, overlay, and tree violations. He emphasized that enforcement seems non-existent, particularly in connection with residential development.

With respect to law enforcement, he complained that the BZA cannot get the DCRA to enforce its own orders; that stop work orders are inconsistently issued, lifted, posted or not posted; that the government is transferring the task of enforcement to residents who must use their own money to file appeals where enforcement was lacking or DCRA decisions were incorrect; that violations of zoning, building, tree and overlay ordinances are at epidemic proportions; that getting inspections is nearly impossible; that permit lists are not generated and disbursed in a timely manner; that communication with several Councilmembers has been non-responsive; and that DCRA has not been held sufficiently accountable. He suggested that fines be imposed that add teeth to current law enforcement so as to get

the attention of violators.[36]

Commissioner Aiches stated that given the gravity of the current situation at the agency, he wanted the Investigator General to investigate why the laws are not being enforced, how violations have risen to epidemic proportions, and what the District is going to do to correct the mismanagement. He suggested that at the very least, BLRA should be spun off as a separate regulatory agency from consumer affairs.[37]

Commissioner Aiches focused his remarks on zoning and land use issues and included several examples, particularly a lack of enforcement of a tree and slope overlay. He accused developers of changing the context and scale of neighborhoods by stretching the limits of an antiquated (from 1958) and incomprehensible zoning code, whose language is inconsistent and whose interpretation is subject to the individual understanding and whims of the city's inspectors, of which there are too few. Commissioner Aiches stated that much of the older housing stock from the early 20th century that has given the District's neighborhoods their unique character is being bought, demolished, and replaced with over-height, over-massed houses that are radically changing the context, scale, existing streetscapes, and character of our neighborhoods. He emphasized that this overdevelopment threatens the environment's ability to withstand such an onslaught.

He made several suggestions:

1) The current zoning code should be amended (by the Zoning Commission) and should allow some type of plan review by residents who are immediately impacted by proposed construction because of its proximity to their homes.

2) DCRA should conduct more thorough plan reviews and make site inspections where "mounding" is suspected, to assure that developers are not intentionally creating berms that artificially raise the height of houses under construction.

3) The current process for remedies needs improvement as it is cumbersome, daunting, and long. Many residents do not know their rights to review plans or where to find assistance. DCRA adds to this problem by contending that until building permits are let, anything contained in a prospective project file remains the property of those who filed it with the Department. This means that residents impacted by such projects cannot obtain important information bearing on construction until the appeals periods have lapsed because the permit lists are not generated before the file period is over.

4) Enforce the laws. Some of Commissioner Aiches' examples prove illustrative. He mentioned a project where the location of a retaining wall was in dispute and a stop work order was never enforced. Eventually, surveys proved that the wall was constructed nearly one foot further over than shown on plans approved by the city. DCRA issued a stop work order after meeting with the complainant, but it was never posted and work continued inside the building.

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[36] The Commissioner and other residents should be pleased when new doubled civil infractions fine structure is rolled out in proposed regulations shortly.

[37] The Committee Chair first suggested this spin off to improve BLRA performance.

5) Train the staff. In one instance where problems occurred over the felling of "special trees" under the District's new law enacted last year, the city office set up to enforce this law provided contradictory information to the developer. The developer had called the Urban Forest Administrator's office and spoke with the receptionist who told him – in direct opposition to a writing from that office's head – that there was nothing to stop the developer from taking down the trees. The city is responsible when erroneous information is provided by untrained, unknowledgeable employees.

6) Provide timely permit lists. Commissioner Aiches raised the issue of raze permits that do not appear on the permit lists in a timely fashion. He illustrated the point with one example where the ANC did not receive lists in one instance for nearly 12 weeks, despite promises from DCRA and when these lists are supposed to be issued every two weeks. He further noted that despite this lack of timely permit lists, BZA has rendered its decisions assuming the lists were published – creating an illogical Catch-22 for residents who object to a project.

7) Update the maps to show the overlays. Commissioner Aiches emphasized although the ANC's Zoning Task Force and the civic association have made every effort to get DCRA to alert the ANC about pending demolitions so the ANC can review them to ensure historic and other culturally important structures are not being torn down by mistake, there have been instances where buildings have been razed and trees taken down in violation of the law. He described one property, along with all others lying within a tree and slope overlay, that had never been flagged in the city's system as being protected, thereby allowing for a permit to be mistakenly issued.

8) Lengthen the filing deadlines at BZA in certain cases. He suggested that where disagreements are with the foundation, the BZA's filing deadlines should be lengthened from 60 to 90 days so that affected neighbors have enough time to file.

9) Add requirements to builders and let neighbors and ANCs see building plans. He suggested that builders be required to include topographical maps, grading plans, and contextual elevations with the plans they file for a building permit so DCRA can see how height and massing of existing structures will be affected by new ones. Plans are public filings and people, especially neighbors whose properties abut building sites, should have a right to see them. ANCs should be notified of these and other situations such as demolitions of older, especially historic, structures.

10) Develop a standard of reasonableness to curb overgrowth. He called for some "standards of reasonableness" to curb the excesses seen in residential areas within the city over the past several years. Some limits on size, massing, set backs, scale and other site considerations are in order and consideration should be given to addressing these issues on an interim basis until such time as code amendments can be put in place. If height and massing continue to increase at the current rate through demolition and new construction, the scale of existing neighborhoods will be irrevocably changed.

Some of the enforcement problems could be overcome with adequate training the permit division staff and Commissioner Aiches urged the city to undertake this. The use of overlays to protect portions of the city helps serve the interests of residents by making the city a more humane place to live and work. Yet the city fails to inspect building sites to corroborate information supplied by permit applicants. And residents are left to spend thousands of dollars of their own money to do the city's job while the environment is unable to withstand the onslaught of this development. In Commissioner

Aiches' opinion, the fact remains that until DCRA enforces the current laws, residents' interests are protected, and developers are fined in amounts that will get their attention, nothing will change.

2) Zoning Administration – As described above, DCRA's Operations program provides inspections and code enforcement for contractors, developers, property owners, and licensing for businesses and individuals in certain (non-health) professions and occupations who work in the District. Currently, the Operations program includes Zoning Administration, which currently exists within the Building and Land Administration. The Office of the Zoning Administrator is responsible for providing zoning interpretation, inspections, and enforcement services to contractors, developers, and property owners so they remain in compliance with zoning ordinances. This is the first line in zoning compliance in the District. When the Zoning Administration Office at DCRA makes mistakes, the results can be very costly.

The Committee heard considerable amounts of testimony over the last budget cycles about this part of DCRA's operation. The agency has had considerable difficulty, given the personnel rules and salary level set for this position, in recruiting and keeping a qualified Zoning Administrator. The Chair of the Committee has suggested many times that one solution could be to spin off the Zoning Administration program or the entire BLRA from DCRA itself and fund the new agency with application fees for such services as building plan reviews and permits and Certificates of Occupancy and the fines that are generated when inspectors cite for non-compliance.

Others who testified have said similar things. **We have thought about where a spun-off Zoning Administration program could be placed in the government, were it removed from BLRA or DCRA completely. If we placed it into a uber-Zoning Office, it might not sufficiently separate the *initial* zoning review process from the *appellate* process at the Board of Zoning Adjustment (BZA). Short of completely spinning the Zoning Administration program out of DCRA, one possibility that the Committee has explored with the agency is how to upgrade the Zoning Administrator's position so the salary level is sufficient for the city to aggressively recruit qualified candidates and even develop some competition for this position. A problem may exist with respect to leaving the Zoning Administrator position under the BLRA Administrator because of the relative salary levels.** The DCBIA had spoken about salary levels as had the Committee Chair.

Another witness, Jim Smith, "Mr. Permit," spoke to this issue as well as others at BLRA. He noted that there was $683,000 budgeted for the Zoning Administrator's office with a request for an increase of $41,000. Mr. Smith complained that even this would not be enough. He noted that the District spends tens of millions of dollars on securing authority over zoning, but then does not expend a sufficient amount to staff the workload.

Mr. Smith praised the Development Ambassador Program, calling it critical. He noted that when a customer cannot get in touch with any other official in BLRA, the Development Ambassador employees somehow manage to get through. He called Chris Flack and Loraine Bennett saints. He emphasized that these positions should not be cut and instead need to be increased. He warned that the Mayor has already cut one of the three slots there and that doing so is ludicrous.

Mr. Smith also noted that the operations in BLRA are an information business. He stated that DCRA had promised that they would get a copy machine from a vendor so that people could make copies, but they have failed to do so and the agency cannot seem to keep a functioning copy machine around for even their own employees to use. He complained about excessive charges for copying as well.

Mr. Smith pointed out that the Zoning Administration Office has to sign on every third-party application, but this requirement can cause a backlog when, as is often the case, there is no staff available. It is imperative that there be sufficient staff so someone is available to sign off on these third-party applications.

Mr. Smith argued for more operating funds for the Building and Land (and Zoning) operations at DCRA. He presented his own mark-up for what he believed would be more appropriate funding. He strongly argued that Zoning and Plan Review programs each be increased by at least $100,000. He emphasized that the agency needs at least four structural engineers and that the District needs to get serious about zoning. He shared that, in his opinion, the ANCs are not aware to what extent this part of the agency is being gutted. He stated that, in his opinion, additional resources needed to be expended for better management and improvements in building plan review up front.

Councilmember Ambrose explained to Mr. Smith that he was "preaching to the choir." She expressed the hope that she can convince her colleagues not to cut DCRA's budget. Mr. Smith said that he believes that, even if everyone has to pay more for permits, it would be worth it if improvements would occur. Councilmember Ambrose said that the District should only charge more for construction permits if better, more timely, service resulted. Mr. Smith criticized that some in the Mayor's office are not sufficiently aware of how complicated the permitting process is and suggested that they come on a tour with him to better appreciate it. Councilmember Ambrose replied that she was also not pleased that the Mayor's budget would cut inspector and investigator FTEs from this agency's budget. She repeated her prior threat to look at the possibility to separate BLRA out from DCRA to be a stand-alone agency.

ANC Commissioner John Finney (ANC-3D) presented testimony at the February 12, 2004, Performance Oversight hearing. He complained that DCRA staff do not return telephone calls. Commissioner Finney said that it would be wonderful to have a Home Center to help home owners with building projects at their homes, but he warned that would not solve the problems people face when they are faced with the "maze" at DCRA. He stated that DCRA's Office of Zoning Administration is disorganized and lax in enforcing the zoning code. He complained that the zoning operations of the city are in a mess. He suggested that we form a task force to examine what is wrong with our zoning process and what can be done to fix it. He recommended that the Inspector General (IG) be involved. He said he has spent too much time in efforts to get competence out of DCRA.

The Chairperson responded to Commissioner Finney by stating that zoning was a subject near and dear to her heart. She recounted the process by which ABRA was separated from DCRA and was created as a stand-alone agency. She reported that ABRA is working much better now.
She said that she has threatened many times to spin off the Building and Land Regulation Administration from DCRA. The fees that people pay for construction permits and other things would carry the operations of the new organization.

While not actually spinning off a separate agency in this budget, the Committee is making several recommendations herein that would start correcting the understaffing and underfunding of this part of the agency.

The Committee Chairperson further noted that it has proven difficult to hire and retain a Zoning Administrator – a difficulty that has led to other problems. The position has been a revolving door. However, Councilmember Ambrose warned that bad zoning decisions result in potential litigation and liability which can be very costly, more costly than spending the money up front on qualified decision makers. She suggested that the Committee look at this issue during the current budget process and suggested that we might put together a working group, including the ANC Commissioners who testified, to look into this.

At the Committee's February 12th hearing, Steve Wolf, MD, who is a Ward 3 resident, also complained that BLRA had repeatedly failed to properly interpret and enforce the zoning regulations. He specifically cited the instance of a developer who is violating a Tree and Slope Overlay. Dr. Wolf claimed that the Zoning Administrator's Office has assisted the developer by making errors.[38]

Another part of the Zoning Administration program involves the review Certificate of Occupancy applications. At the Committee's budget hearing on March 31st Commissioner Starrels pleaded for attention to reform of the Certificate of Occupancy process.

At the Committee's February 12th hearing testimony about how problems with the issuance of a Certificate of Occupancy can adversely affect an entire neighborhood was presented by Gary Ridley, a Ward 2 resident who lives near a dog boarding and grooming business called Wag Time. Mr Ridley indicated that at first Wag Time opened its establishment before it obtained a Certificate of Occupancy. As a result, Wag Time was cited by DCRA and fined $3,000. However, despite the fact that Wag Time had failed to pay their fines, DCRA granted them a temporary Certificate of Occupancy and, subsequently, granted them a permanent Certificate of Occupancy, even though they still had not paid the fines. Mr. Ridley complained that DCRA is not enforcing the "Clean Hands" law when it issued a permanent Certificate of Occupancy to a business that had not paid all fines and tax owed to the District. He charged that DCRA is allowing this problem to persist. Also, he complained that the barking of 20-plus dogs causes a lot of noise. It has been measured[39] on 54 occasions and those measures have shown that the noise level exceeded the allowable 60 decibels on at least 10 occasions. DCRA said they would monitor noise levels, but nothing has been done. Mr. Ridley noted that, for example, Wag Time operated for 23 days in violation of a cease and desist order last July.

DCRA shared some information about this case after the hearing. They said:

"According to the Certificates of Service from DCRA's Office of Adjudication (OAD), cases # 03-OAD-2373E and 03-OAD-2798E were issued by OAD to the owner of Wagtime on August

[38] It is the Committee's understanding that this matter is currently in litigation.

[39] The nearby residents could not get DCRA to conduct measurements of the noise even after complaining so they went out and obtained measurements from a private firm. The Committee has amendments to the Noise Control law before it and will be looking at whether this issue needs to be addressed in the legislation.

20, 2003. The original Certificate of Occupancy (CofO) issued on July 22, 2003, and the Clean Hand Form signed on July 8, 2003, pre-date the infractions cited by OAD. Regarding the current CofO issued on ½8/04, there is a hearing scheduled in OAD on March 10, 2004 to address the alleged violation of the Clean Hands certification by the applicant."

At the Committee's Performance Oversight hearing, Morton Shussheim presented testimony about what occurred after a fire at a group home at 1617 21st Street, NW, that resulted in one fatality, several injuries, and destroyed the home. Mr. Shussheim's home next door was made uninhabitable. Among other issues Mr. Shussheim raised about DCRA's handling of this group home, he mentioned that the damaged property had been owned by an absentee landlord who had never obtained a Certificate of Occupancy. He noted that DCRA had never checked on this violation and had allowed it to continue for a number of years. Furthermore, the group home had no working fire extinguishers or smoke detectors. The burned-out hulk was allowed to sit for 6 months, while the facade was tottering, before DCRA had steel girders erected to keep the facade from falling down. It could not be demolished entirely per the Office of Historic Preservation. Until the facade was shored up, Mr. Shussheim complained that his sidewalk and roof were exposed to rain and his efforts to begin restoration of his home were delayed. While complimenting several DCRA employees who helped get restoration work begun, he questioned whether there was some way to improve the overall process in the cases like this. He did not get relief until he involved Councilmembers. Before "1617" was code compliant, the house was sold to someone new. Mr. Shussheim asked how a property owner who rented the house out could be allowed to sell the property with building code violations. He wanted to understand whether the District government had an obligation to determine if the former owner should be held accountable when there still were code violations. He wanted to know whether any demands had been made to improve the property on the new owner. Mr. Shussheim shared his opinion that some DCRA employees were helpful, but he believes that DCRA needs better methods to govern operations in cases like these. In this case it took several Councilmembers to get involved and some time for the fire inspection to be completed before progress could occur.

After the hearing DCRA replied to the witness' questions whether the prior building owner of 1617 21st Street, NW, allowed to sell the house with code violations and whether the new owner would be required to comply with the code. They stated: "There is no prohibition against selling a house with code violations. A new owner can only be required to comply with the code if the house is rental property or if the violations affect the health and safety of the inhabitants or surrounding property."

To better conduct its analysis the Committee asked DCRA for its current staffing in the Zoning Administration Office, including the background and training of the staff and the reason for the difficulties in recruiting a Zoning Administrator. They replied:

"The Zoning Division is staffed with 11 positions, of which two are currently vacant. The Zoning Division's operating budget for FY 2004 is $406,627. The difficulty in adequately staffing the Division is the antiquated personnel system limiting the geographical area in which an administrator can be selected and low salary associated to the position."

The background and training of the existing staff are as follows:

Chief, Zoning Review Branch – incumbent has been a technical plan reviewer with

BLRA for 2 years. She has over 17 years of experience with developers and architectural firms. She has a B.A. in Architecture and B.S. in Mechanical Engineering Administration.

Zoning Technician – incumbent has been a technical plan reviewer with BLRA for 8 years. She has a B.A. in Architectural Engineering and a M.A. in City Planning. She has a total of 23 years of employment with D.C. government.

Zoning Technician – incumbent has been technical plan reviewer with BLRA for 4 years. He has a B.S. in Urban Planning and a M.A. in City Planning.

Zoning Assistant – incumbent has a B.S. in Business Management. He has a total of 17 years of employment with D.C. government.

Zoning Assistant – incumbent has been with BLRA for 21 years. She has a total of 26 years of employment with D.C. government.

During this FY 2005 Budget hearing and beforehand, the Committee asked the agency for a new staffing plan for the Zoning Administrator's office to correct the problem. DCRA proposed the following plan:

OFFICE OF THE ZONING ADMINISTRATOR				
CURRENT POSITION	**CURRENT GRADE**	**PROPOSED POSITION**	**PROPOSED GRADE**	
Zoning Administrator	MSS-14	Zoning Administrator	MSS-15	$ 86,974
Chief, Zoning Review	MSS-12	Deputy Zoning Administrator, Chief of Zoning Review & Inspections	MSS-13/14	$ 73,582
Zoning Technician	DS-11	Zoning Technician	DS-11	$ 44,129
Zoning Technician	DS-10	Zoning Technician	DS-11	$ 44,129
Zoning Technician(vacant)	DS-11	Zoning Technician	DS- 11	$ 44,129
Zoning Technician (vacant)	DS-11	Zoning Technician	DS- 11	$ 44,129
Zoning Inspector	DS-09	Lead Zoning Inspector	DS-10	$ 40,176
Zoning Inspector	DS-08	Zoning Inspector	DS-09	$ 38,958
Zoning Inspector	DS-08	Zoning Inspector	DS-09	$ 38,958
Zoning Assistant	DS-07	Zoning Assistant	DS-08	$ 33,290
Grants Management Assistant	DS-11	Zoning Assistant	DS-11	$ 44,129
		Zoning Assistant (intake counter)	DS-07/08	$ 33,290
		Chief Zoning Inspection Branch	MSS-13	$ 66,060

While this is an improvement and a step in the right direction, the Committee believes that the District needs to be even bolder in its tactics to improve the Zoning Administration office at DCRA. The Committee directs the agency to reclassify the Zoning Administrator (ZA) position so that the incumbent would report directly to the Director and the position would be classified as are other Deputies, as a Excepted Service employee, grade 16. In addition, the Committee believes that the position description for this position should include legal training and land use or urban planning experience as requirements in addition to the other skills, knowledge, and abilities noted therein. The rest of the Zoning Administration office – as described in the right-

hand column in the chart above – would still report to the Zoning Administrator. The Committee believes strongly that this small investment in a highly qualified candidate will pay off in clearer, more consistent rulings from this office and in fewer costly mistakes. One performance measure for this position must be how often the ZA's decisions are overturned at the Board of Zoning Adjustment and in court and the attendant costs (or savings) of the results. This is probably one of the most important ways in which DCRA can manage its risk.

The Committee has learned that antiquated, inflexible District personnel rules have stymied efforts to promote from within District government. Apparently, the rules create some serious limitations when an District employee is being considered for a position more than 2 steps higher in salary range in how much of an increase can be offered. While this may have helped in the past to keep costs down by limiting how much an incumbent employee could increase in salary upon a promotion, the rules are not sufficiently flexible to take into account such a hard-to-fill position involving specialized knowledge and ability. And the agency cannot hire a qualified contractor, because a contract employee may not supervise FTEs. **The Committee will talk to the Government Operations Committee to see if that Committee could make some recommendations for change to help not only DCRA, but also the rest of District agencies with such specialized hard-to-fill positions.** The Office of Personnel should be in communication and consult with the federal Office of Personnel Management right here in town to learn how the federal government – which is due to lose ½ of its workforce in the next year or so – plans to find and retain employees. If we are to compete for effective staff with the federal sector as well as neighboring jurisdictions – like Fairfax and Montgomery counties – then we must be pro-active in our thinking about human resources. One possibility would be to create a new classification for "Specialty Jobs" and create criteria to identify which positions fit this new classification and provide some leeway to allow forgiveness of certain personnel rules. This listing then might have to be reviewed on an annual basis to take into consideration market conditions. The new positions would be Excepted Service, like MSS positions are now.

As mentioned heretofore, the Mayor has submitted a title in the Budget Support Act to fund increased Construction Compliance activities. Additional language was suggested that could be added to this provision to include funds collected as a result of zoning infractions and the funding thus collected would go to fund this part of the operation. The provisions in the Budget Support Act are discussed below and in that part of the report.

3) *Increase fines to act as true deterrents* –

The Committee Chair has often asked the agency to improve the deterrent value of fines and penalties by greatly escalating them. She has used the shorthand term of "3 strikes and you're out" to describe what she meant to see happen. DCRA has prepared and is about to propose a rulemaking that would create new civil infractions and double the fine structure for them. **The Committee staff reviewed the draft regulations and believes that the agency – with the promulgation of these new civil infractions rules – will be moving in the direction in which the Committee Chair has stated she wants so that the fines act as real deterrents. The Committee directs the agency to publish the new rulemaking as quickly as possible so that the new rules can be in place before the start of the new fiscal year.**

4) *BLRA understaffing, loss of authority over positions*

The Committee received considerable public testimony about understaffing and underfunding at DCRA, particularly in BLRA and zoning. For example, at the March 31st hearing, Mr. Jim Smith spoke about his review of BLRA's Plan Review program and noted that in FY 2004, that program was budgeted at $1,731,000, but in the FY 2005 budget, it is reduced to $1,537,000 – a decrease of $190,000. He voiced his concern about how burdened the current staff is now and suggested that the programs could not function with these reductions.

Mr. Smith voiced his opinion that it does not make sense for an income-generating agency such as DCRA to be decimated like this. He stated that at times, the DCRA employees in the BLRA construction approval division are only one deep. If the only person available is out, the operation grinds to a halt. There are three people in structural engineering, three people in fire, and similar bare bones staffing in other sections. Customers cannot get answers due to low staffing. And it will only get worse with fewer people.

Mr. Smith also suggested that the DCRA staff should get more training, especially since the District recently adopted the new International Building Codes. He said that there are technological advances that DCRA is missing out on due to a lack of training for its employees. He said that DCRA employees need to be trained in order to serve and that the District should not cut $14,000 from its training budget which he found on page 129.

The Chair of the Committee had already expressed her concern about the Mayor's proposal to remove authorization for 28 currently unfunded, vacant positions. The Committee asked the agency what positions were due to be removed from its authority. The list (in priority order) is as follows

Rank	Positions	Pay Plan	Grade	Proposed Salaries	Proposed Salaries + Benefits	Cumulative Salaries + Benefits
1	Chief Zoning Inspection Branch	MS	12	$ 52,363	$ 61,055	$ 61,055
2	Mgr Technical Plan Review	MS	14	$ 73,582	$ 85,797	$ 146,852
3	Structural Engineer	DS	12	$ 51,620	$ 60,189	$ 207,041
4	Structural Engineer	DS	12	$ 51,620	$ 60,189	$ 267,230
5	Supv Electrical Inspector	MS	13	$ 62,268	$ 72,604	$ 339,834
6	Electrical Engineer	DS	12	$ 51,620	$ 60,189	$ 400,023
7	Inspection Program Specialist	DS	12	$ 51,620	$ 60,189	$ 460,212
8	Enforcement Branch Chief	MS	13	$ 62,268	$ 72,604	$ 532,817
9	Investigator	DS	9	$ 34,345	$ 40,046	$ 572,863
10	Investigator	MS	12	$ 68,322	$ 79,663	$ 652,526
11	Program Specialist	DS	13	$ 61,370	$ 71,557	$ 724,084
12	Bilingual Contact Rep	DS	9	$ 34,345	$ 40,046	$ 764,130
13	Program Specialist	DS	9	$ 46,250	$ 53,928	$ 818,057

14	Bilingual Contact Rep	DS	6	$ 26,694	$ 31,125	$ 849,183
15	Supv Fire Protection Inspector	MS	12	$ 52,363	$ 61,055	$ 910,238
16	Contact Representative	DS	9	$ 31,572	$ 36,813	$ 947,051
17	Supervisory Information System	MS	16	$ 118,122	$ 137,730	$ 1,084,781
18	Fire Protection Systems Engineer	DS	10	$ 39,202	$ 45,710	$ 1,130,491
19	Structural Engineer	MS	13	$ 62,268	$ 72,604	$ 1,203,095
20	Neighborhood Stab Officer	DS	7	$ 33,823	$ 39,438	$ 1,242,533
21	Neighborhood Stab Officer	DS	7	$ 33,823	$ 39,438	$ 1,281,970
22	Neighborhood Stab Officer	DS	7	$ 33,823	$ 39,438	$ 1,321,408
23	Contact Representative	DS	5	$ 29,721	$ 34,655	$ 1,356,063
24	Contact Representative	DS	5	$ 24,095	$ 28,095	$ 1,384,157
25	Paralegal Specialist	DS	11	$ 48,584	$ 56,649	$ 1,440,806
26	Budget Analyst	DS	13	$ 64,520	$ 75,230	$ 1,516,037
27	Administrative Law Judge	DS	14	$ 67,814	$ 79,071	$ 1,595,108
28	Human Resource Director	DS	16	$ 80,134	$ 93,436	$ 1,688,544
				$ 1,448,151	$ 1,688,544	$ 1,688,544

The agency and Committee would actually like to restore authority for the entire list of 28 positions, but understands the budget pressures the government is under and wants to do their part to address it. Nonetheless, some of these positions are critical and the agency cannot function as it should without them, in the Committee's judgment, especially after hearing from several ANC Commissioners, residents, and business organizations on this topic of understaffing. So, as the budget deliberations proceeded, we asked the agency for a list of what were absolutely mission-critical positions that need to be restored.

As of April 16th, that list includes the following, in priority order:

Rank	POSITION	Pay Plan	Grade	Proposed Salaries	Proposed Salaries + Benefits	Cumulative Salaries + Benefits
1	Chief Zoning Inspection Branch	MS	12	$52,363	$61,055	$61,055
2	Mgr Technical Plan Review	MS	14	$73,582	$85,797	$146,852
3	Structural Engineer	DS	12	$51,620	$60,189	$207,041
4	Structural Engineer	DS	12	$51,620	$60,189	$267,229
5	Supv Electrical Inspector	MS	13	$62,268	$72,604	$339,834
6	Electrical Engineer	DS	12	$51,620	$60,189	$400,023

7	Inspection Program	DS	12	$51,620	$60,189	$460,212
8	Enforcement Branch Chief	MS	13	$62,268	$72,604	$532,816
9	Investigator	DS	9	$34,345	$40,046	$572,863
10	Investigator	MS	12	$68,322	$79,663	$652,526
11	Program Specialist	DS	13	$61,370	$71,557	$724,083

Note: a) The positions listed above are ranked by agency's priority & importance
b) The "Cumulative Salaries" column indicates the cumulative cost for the combine ranked positions

(Example: If DCRA could only hire the top 3 positions, positions #1, #2, and #3, it would cost $207,041)

The Committee is committed to authorizing and funding these 11 positions. Given the service demands and residents' needs and desires (which were clearly shown at the Committee's hearings on the subject), filling these key positions is crucial to get DCRA to function, even at a basic level. Again, this agency generates about $4 million more than it expends in revenues. The issue is to find the right level at which to fund and authorize FTEs and then to dedicate sufficient funds and FTE authority to the agency. By doing so, we should avoid many problems in both decision-making and communications at this level of government. To do otherwise is to delay the inevitable costs that would be incurred when we end up having to defend and correct mistakes later in the process – a much more costly endeavor than simply getting proper decisions and action at a lower cost and level of government. Of course, DCRA would have to demonstrate that it was using this funding appropriately, but that is the point in Performance-Based Budgeting.

The Committee believes that the revenue that would be generated by a new Construction and Zoning Compliance Management Fund[40] together with adding in $1.6 million from the FY 2003 fund balances from the Basic Business License ($600,000) and the Real Estate Guarantee and Education($1 million) funds – per one of the titles in the Budget Support Act – will generate sufficient revenue to handle the accumulated salaries and benefits of these 11 positions (totaling

[40] The fiscal impact analysis estimates that revenues to be generated under this provision (based on the new greater civil infractions fine structure)would be approximately $429,772 plus an additional $120,000 by adding zoning infractions, for a total of $549,772. We are also including an additional $1.6 million from 2 "O" fund balances to help "seed" the new fund. All of this revenue is meant for funding certain building and land and zoning operations, including funding these positions. **The Committee directs the Construction and Zoning Compliance Management fund be used (in priority order) for (1) an illegal construction unit, which could include up to 4 FTE's, a supervisor, and administrative support, including NPS funding; (2) filling the lost position in the Development Ambassador program; (3) filling the rest of the unfunded 11 positions and not-yet-funded new zoning compliance positions and upgraded salaries that are for construction and zoning compliance and enforcement; and (4) the Homeowners' Center (PS and NPS)**.

$801,625) and it will add the FTE authority along with adjusting the appropriations level for the agency to reflect that in the FY 2005 budget. Also, the 9th and 10th positions – both investigators – fit into the Basic Business Licensing program and should be paid for out of that fund. The BBL fund has sufficient funding to support these positions in the balance. Thus, the Committee will be providing the FTE and spending authority for these two positions as well.

5) *Development Ambassador position lost* –

In her opening statement at the Committee's budget hearing, Councilmember Ambrose noted that she wanted to focus on moving forward in the Development Ambassador Program – a valuable program in which property owners and developers of larger commercial projects get the required assistance they need in working through the extensive permitting and approval process. Chairperson Ambrose also stated that she would like to see a similar assistance center for home owners, who may just want to add a deck or make some improvement to their house. A Home Center would be much appreciated by citizens. She emphasized that we need to ensure that DCRA has the staffing and other resources necessary to succeed in this effort.[41]

The Committee received many accolades from witnesses and others about the current Development Ambassador program and its staff – one witness even called these employees "saints". **We would not want to lose them or the program.**

During the budget hearings, the Committee learned that one of the 3 positions in the Development Ambassador program had been lost when the funding for the position was used to fill other needs at the agency. The Development Ambassador position was "tapped" because it is one of only a very few programs at DCRA that is not mandated by law. Nevertheless, it is an extremely successful and useful program and needs to be funded. **In approving the funding for the list of positions above, the Committee directs the agency to fill the position lost in this program.**

6) *Need for Communications position* –

In anticipation of the Committee's performance oversight hearing we sent about 46 multi-part interrogatories to DCRA for their reply. One dealt with communications generally at the agency. The Committee asked for a report with statistics on the work of DCRA's customer service staff. We asked the agency to indicate the nature of the staffing, the number of calls for service; whether these are telephone calls forwarded by 727-1000 or calls directly to DCRA, correspondence by mail or email, or coming from Council offices or other government offices; the nature of the call for service (that is, housing code violation complaint, vacant property complaint, request for permit or license, zoning administration inquiries, help with certificates of occupancy application, etc.); and the responsiveness of the office. DCRA's response is contained in the following chart:

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[41] **The Committee asked the agency whether both the Development Ambassador program and the Homeowners' Center might not benefit from being managed as a single unit. Because of the need to set proper Performance-Based Budgeting measures for each of these units, it was requested to keep them separate. The Committee would appreciate a report from the agency by January 1, 2005, after the Home Center is established that thoroughly analyzes the pros and cons, including cost efficiencies, of bringing this staff together as a single unit for management purposes.**

ADMINISTRATION	CALLS RECEIVED	RESPONSIBILITY
DCRA Call Center	113049	Live Person Responds
Business & Professional Licensing	84765	Occupational & Professional Licenses
Housing Regulations Administration	13228	Nuisances & Vacant Property/Housing
Corporations	14006	Corp. Registrations/Updates, Good Standing
Master Business Licensing (now BBL)	53420	Business Licensing/Renewals
Building & Land Regulations Administration	14235	Inspection Scheduling/Permits/C of O/Zoning
Total	**292703**	
MONTHLY AVERAGE	**24392**	
CORRESPONDENCE	**5934**	
(COUNCIL RESPONSES)	**1653**	
EMAILS	**4474**	

Obviously, there is a vast quantity of communications at the agency. Managing the incoming and outgoing communications for DCRA is a huge task and the agency has greatly improved its capabilities and production in this regard. The Committee received testimony on this subject and has done its own analysis of communications to its office as well. Nonetheless, there are still too many instances when Council offices are being asked to intercede because one program or another (for instance, BLRA and the Rent Administrator's office) is not responsive enough – in part due to understaffing.

The Committee feels that there is still much work to be done, although the communications and constituent service delivery has improved at DCRA in the last few years. The Committee believes the agency needs to better focus on both the quality of the information it sends out and improving the coordination of information across program lines. The Committee is pleased that the Director recognizes this need, particularly in BLRA, and has already begun to recruit for a position to specifically address communications in that area of the agency. Further improvements that the Committee has explored include adding a Tenant Ombudsman and Housing Provider Ombudsman at the Housing Regulation Administrator's office to better assist tenants and housing providers by answering questions under the Rental Housing and Sales Conversion laws, coordinating records of Housing Violation Notices with ongoing cases before the Rent Administrator, and to produce and explain records of rent ceilings and other relevant computations of proper rents to be charged. DCRA will also need to coordinate with the new OAH that will be hearing civil infractions cases with respect to the production of Notices of Infraction and tracking completion of these cases and the collection of the fines and penalties. In addition, the Committee has added an ANC liaison position, to be housed in the customer service area. Some of these directives will be discussed in relation to the Inspection and Compliance programs later in the report.

At the Committee's March 31st hearing, Jim Smith testified about the continuing difficulties to get in touch with staff at DCRA, especially in BLRA. He said that he has called the BLRA

Administrator's office up to 40 times, with no response or call back. He explained that BLRA simply does not have enough people for them to be effective at their job. Mr. Smith described how daily, one can see the stress on the faces of the people trying to serve customers, but the resources are not there. Mr. Smith also complained about DCRA's inability to keep copy machines in good repair which added to the difficulty of obtaining copies of documents by the public.

To respond to some of these complaints about the systemic communications problems, specifically the difficulties of reaching BLRA staff by telephone, DCRA provided the following response after the hearings:

> "To address communication problems in the Building and Land Regulation Administration, new automated telephone instructions are being added to the agency's main Call Center lines. In addition, staff are now being scheduled to man specific telephone lines within BLRA and are responsible, during their assigned times, to answer questions, take messages, conduct research, and return calls. This latter activity will hold staff accountable for properly responding to customers."

The Committee directs the agency to look at its equipment for providing records to the public to see whether there is sufficient copy machines as well.

DCRA's Director also spoke to needing a new position in BLRA that would focus primarily on improving communications at that division. The Committee asked for a position description for this new position and agrees that improvement in this area of the agency is critical. Apparently, there is already sufficient funding and FTE authority to have started recruitment for this position. The Committee supports the agency's efforts to recruit and fill this position.

7) *Building Code development and enforcement* –

Most of the witnesses who spoke about Operations programs in the BLRA talked about the need for additional code enforcement, even as they praised the agency for completing development on a new building code. Residents who are adversely affected by a building project spoke to a need to better enforce stop work orders and other improvements in enforcement.

In addition to describing the development and passage of the new International Construction Code (which the Committee moved through the Council at the end of last year), the Director informed the Committee of a successful Illegal Construction pilot project that he was able to conduct this year. The Mayor has inserted a title in the Budget Support Act to establish a Construction Compliance Management fund to continue and expand upon the pilot's success. **The Committee wholeheartedly supports this initiative and the funding legislation.**

We also received public testimony on this subject. In addition to Commissioners Bill Starrels and Alan Z. Aiches (whose testimony has already been described above), several other Advisory Neighborhood Commissioners spoke to this issue. For instance, Commissioner Charlene Exum, ANC 7A04, and Commissioner Angela Murphy, ANC 7A02, testified to a list of perceived deficiencies and gave suggestions to improve the permitting process at both DCRA and DDOT: a lack of inspections, lack of enforcement, and lack of accountability. They indicated that the permitting process is flawed, since construction seems to occur in their community without the builders and property owners always following the law and the process. They spoke of a pattern of abuse by contractors and individuals who

obtain permits and an insufficient number of inspectors. Commissioner Murphy even suggested that the ANCs could constitute a cadre of volunteer inspectors to help DCRA and DDOT out.

They noted that their ANC had seen an increase in new construction of homes and religious facilities. They gave one example where permits were granted for 405 Anacostia Road, SE, when the construction actually is around the corner on Minnesota Avenue, SE. They complained that the permit holder (Capital Hill Congregation of Jehovah Witnesses) have blocked the streets, forced people to move, torn down fences, put in a driveway, and put up signs, all often without permits. While a stop work order was issued, the order was ignored. When residents have complained, they have gotten no response from the people who are constructing and DCRA has not followed up, instead saying that DDOT was the responsible agency.

After the testimony was provided, DCRA's Director was asked about this project. He replied that he was familiar with the project and that while they might be in compliance at this time with the *building* permit, he would speak to DDOT's Director about matters pertinent to that agency's purview. He spoke about those property owners and others who "walk close to the line" and may sometimes step over it when it comes to law enforcement. The Chair of the Committee asked the Director when the last time the city forced someone to tear down an illegally constructed structure and he replied that it was before his time, certainly greater than 3 years ago. He spoke of offenders who actually decorated their hedges with stop work orders. He indicated that the Mayor intended to put forward some changes to the International Building Code in the near future that would address this issue, while hopefully avoiding long-drawn out court proceedings. **The Chair indicated her support for these changes to the ICC and suggested they needed to come sooner rather than later. She also spoke to her desire to see whether the new Construction Compliance fund – which is now in the Budget Support Act – would help with building code enforcement as well as aid in establishing a Homeowners' Center to improve code compliance and enforcement.**

At the Committee's Performance Oversight Hearing on February 12, 2004, ANC Commissioner Regina James gave another example of the need for both better code enforcement and communications. She presented testimony about 1007 Rhode Island Avenue, NW, which used to be a Tourist Home[42]. In more recent times, the property was the scene of criminal activities and the local citizens got it shut down. Unfortunately, without checking first with the community, DCRA issued new permits which allowed it to reopen as a rooming house. Ultimately, DCRA issued a stop work order, but Commissioner James complained that no one at DCRA now will follow up with her.[43]

Also at the Performance Oversight hearing, Commissioner James testified about DCRA's involvement in issuing Bannum, Inc. a permit and a Certificate of Occupancy (C of O) to operate a Community Correctional Facility. She criticized DCRA for not catching zoning problems with the halfway house and even issuing a C of O before the Board of Zoning Adjustment (BZA) had issued its ruling on whether this would be legal.[44]

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[42] Commissioner James explained that these establishments existed before the passage of the Civil Rights Act when the country still allowed segregated accommodations and offered a place for African Americans to stay when other hotels still did not offer them accommodation.

[44] It is the Committee's understanding that the BZA issued a formal order on March 31, 2004, regarding its September 9, 2003 decision and determined that Bannum Inc.'s operation of

8) *Construction Compliance Management Fund (Title VI, Subtitle F, FY 2005 Budget Support Act)*

DCRA's Director testified that the agency is seeking approval to establish a "Construction Management Fund" to provide necessary resources to aggressively address problems caused by illegal construction. He noted that such problems include lost revenue as a result of unaccounted-for property improvements, unsafe conditions resulting from unskilled laborers' work, and financial losses on the part of unsuspecting homeowners. To the Committee Chair's inquiry about how the funds would be used, the Director replied that at first they were anticipating funding additional inspectors, and later overtime as well as a home improvement center. **The Committee thinks adding inspectors and ensuring compliance with the construction codes is very welcome and will support these efforts and the establishment of the fund to accomplish this.**

One aspect of this plan that had been discussed would be to establish a Homeowners Center at DCRA, to assist residential property owners with the approvals and compliance process for renovations and rehabilitation projects. The idea is that this Homeowners Center would be the residential counterpart to the very successful Development Ambassador program which has assisted developers and commercial property owners with larger and more complex projects. **The Committee shares the Director's view that establishing such a Center in the agency would be very helpful to improve the permitting process for smaller residential projects. It is envisioned that the Center would aid residents who wish to improve their property but who are not professional builders to comply with code requirements by making the permitting process work more smoothly.**

To fund these operations, the Mayor has proposed in the FY 2005 Budget Support Act to establish a new Special Purpose Revenue fund that would be made up of the revenue collected from all penalties and fines assessed for illegal construction under section 113A of the District of Columbia Building Code Supplement of 2003, Title 12A DCMR (51 DCR 292).[45] The fund would be without

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a 150-bed halfway house at 2210 Adams Place, NE violates DC's zoning laws.

[45] CODE OF DISTRICT OF COLUMBIA MUNICIPAL REGULATIONS
CDCR TITLE 12A. BUILDING CODE

113A. Violations and Infractions

113.1 Unlawful Acts. It shall be unlawful for any person, firm, or corporation to erect, construct, alter, extend, repair, raze, demolish, use, or occupy any building or structure or equipment regulated by the Construction Codes, or cause same to be done, in conflict with or in violation of any of the provisions of the Construction Codes.

113.2 Notice of Violation, Infraction, or Order. The code official is authorized to serve a notice of violation, notice of infraction, or order on the person responsible, for the erection, construction, alteration, extension, repair, razing, demolition, use, or occupancy of a building or structure in violation of the provisions of the Construction Codes, or in violation of a plan approved thereunder, or in violation of a permit or certificate issued under the provisions of the Construction Codes. A notice of violation or order shall direct the discontinuance of the illegal action or condition and/or the abatement of the violation.

113.2.1 Service of Notice of Violation, Infraction, or Order. A notice of violation, notice of infraction or order shall be served on the owner, operator, occupant or other person

responsible for the condition or violation either by personal service, mail or by delivering the same to and leaving it with some person of responsibility on the premises. Service of stop work orders may be made as set forth in Section 114.

113.2.2 Requirement to Abate Illegal Activity or Nuisance. A notice of violation or order shall direct the discontinuance of the illegal action or condition and/or abatement of the violation.

113.2.3 Failure to Provide a Notice of Violation. Issuance of a notice of violation pursuant to this subsection, prior to taking other enforcement action, is at the discretion of the code official. Failure to give a notice of violation shall not be a bar to any criminal prosecution, civil action, or civil infraction proceeding under this code.

113.2.3 Notice of Infraction. A notice of infraction shall impose a fine for the alleged violation.

113.3 Prosecution or Adjudication of Violation. If a notice of violation is not complied with promptly, the code official may request the Corporation Counsel to institute the appropriate proceeding at law or in equity to prosecute, restrain, correct, or abate such violation or to require the removal or termination of the unlawful use of the building or structure in violation of the provisions of the Construction Codes or of the order or direction made under the Construction Codes. In the discretion of the Director, the Director may adjudicate any infraction under the terms of titles I-III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, D.C. Law 6- 42.

113.4 Violation Fines and Penalties. Any person who shall violate a provision of the Construction Codes or shall fail to comply with any of the requirements thereof or who shall erect, construct, raze, demolish, alter, or repair a building or structure in violation of an order of the code official issued under the authority of the Construction Codes, or in violation of a permit or certificate including the approved plans, issued under the provisions of the Construction Codes, shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than $300, or by imprisonment not exceeding 10 days, or both, for each offense. Each day a violation continues shall be deemed a separate offense.

113.5 Abatement of Violation. The imposition of penalties prescribed in this section shall not preclude the Corporation Counsel from instituting appropriate action to prevent unlawful construction or to restrain, correct, or abate a violation, or to prevent illegal occupancy of a building, structure, or premises or to stop an illegal act, conduct, business, or use of a building or structure on or about any premises.

113.6 Civil Infractions. Civil fines, penalties, and fees may be imposed as alternative sanctions to criminal prosecution or other civil action, for any infraction of the provisions of the Construction Codes, or any orders, rules, or regulations issued under the authority of the Construction Codes pursuant to titles I-III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, D.C. Law 6-42. Adjudication of any infraction of the Construction Codes shall be pursuant to titles I-III of the Department of

regard to fiscal year limitations and would not revert to the General Fund but for an exception written into the title. The funds collected would be used in the following fiscal year to pay for the costs of operation of the Construction Compliance Management division of DCRA's Building and Land Regulation Administration in monitoring and enforcing compliance with the construction codes. Ninety-percent of any collected funds remaining in the fund after the costs are paid in the following fiscal year would be transferred or revert to the General Fund, while the remaining 10% would be retained as an operating reserve to pay the costs in subsequent fiscal years.

The Council asked how much money is anticipated to go into the fund and how would it be used. The Mayor replied: "We anticipate $850,000 in total fine assessments which, after fines are adjudicated, are expected to bring in $430,000. Anticipated expenditures from the fund are estimated at $430,000." The response further breaks down the anticipated expenditures, thus:

Staffing	$ 178,372
Equipment	$ 18,100
Other Costs and Materials	$ 112,000
Vehicles	$ 121,300
Total	**$ 429,772**

The Committee approves of the establishment of this fund and will be bringing this subtitle forward with some technical amendments suggested by the Council's General Counsel when the Council considers the Budget Support Act.

Consumer and Regulatory Affairs Civil Infractions Act of 1985, D.C. Law 6-42.

113.7 Illegal construction. If a building or structure or part thereof is deemed to have been erected, constructed, reconstructed, converted, or altered in violation of the Construction Codes or Zoning Regulations, the code Official is authorized to order the condition corrected within a specified time frame deemed reasonable by the code official. Should the owner fail to correct the condition as ordered and within the time frame established in the order, after being duly served, the code official is authorized to issue civil fines pursuant to Section 113.6 of this code, and each day thereafter the violation goes unabated shall be considered a separate offense. Notwithstanding the foregoing, should the code official deem the condition to be a fire safety hazard or otherwise constitute a hazard to the public, the code official is authorized to cause such condition to be corrected, assess the cost of correcting such condition and all expenses incident thereto, including fees or charges authorized or imposed in this code, as a tax against the property on which such condition existed or from which such condition arose, as the case may be; and carry such tax on the regular tax rolls of the District and collect such tax in the same manner as general taxes. Upon adjudication of the civil fines provided for in this Section, the code official is authorized to assess any unpaid fines, as a tax against the property on which the violation occurred and carry such tax on the regular tax rolls of the District and collect such tax in the same manner as general taxes.

Section 113A says:

The Committee asked if there were not other revenue that could be added to this fund that could improve the zoning operations as well. The agency followed up with some additional language for the provision in the Budget Support Act. This additional language would add a zoning compliance aspect to the fund and a list of zoning infractions fines and penalties which would also be included in the fund. The fiscal implications of adding zoning infractions is estimated to be $120,000 annually. The Committee will be adding the zoning aspects to the law. Further, the Committee is recommending adding "seed" money for this fund of $1.6 million to come from the FY 2003 fund balances from the Basic Business License ($600,000) and the Real Estate Guarantee and Education($1 million) funds.

9) *Business Licensing operations* –

DCRA is responsible in for a significant amount of business licensing. Besides the zoning and building and land programs already discussed, other programs in Operations include: the Business Service Center, Occupational and Professional Licensing (which staffs the boards and commissions at DCRA), Basic Business Licensing (BBL), and Corporations Division. This part of operations also handles vending and special events.

This part of the Operations program involves business licensing and regulation. One key program is the Basic Business License (BBL) program which provides new and renewed "Basic Business licenses" (what used to be Master Business licenses) for businesses (including non-profits) that meet the new statutory requirements. The Committee worked on amendments to the Regulatory Reform laws last year to completely rework this program. During that time, the agency had to keep adjusting its operations to reflect the current state of the law. Once Bill 15-19 was passed and became law, the agency had to overall its program one last time. It has been a very successful transition by all accounts. The funding for much of this part of the agency is in Special Purpose Revenue Funds. For further discussion of the BBL fund and Professional and Occupational Licensing funds, go to the earlier discussion of the Special Purpose Revenue Funds.

10) *Vending & Special Events* –

Within the Business Licensing and Regulation part of the agency there is a two-person Vending and Special Events operation. Their responsibilities include managing and regulating all the special events and street vending licensing and regulation. These employees do not set new policy and rules, but simply apply the regulations currently in place which are mostly contained in title 24 of the DCMR.

There has been a moratorium on the issuance of new vending licenses in the District for at least 8 years. While the District was under a "Control Board," this moratorium was established in Omnibus Regulatory Reform legislation. Certain conditions were placed in the legislation – known as "OMNI II" – that required further study before any change in street vending regulation would occur. At present there is still a moratorium in place.

The Deputy Mayor for Planning and Economic Development (DMPED) convened a broad-based group of stakeholders (the "Steering Committee") which included representatives from the vending industry and the Downtown Business Improvement District (BID), to focus on the District's vending issues. The Steering Committee, in their mission to develop an overall framework for public space

planning and management, determined that a pilot demonstration program in a part of the Central Vending Zone would be the best way to develop and evaluate workable methods to achieve the objectives outlined in the OMNI II legislation.

Based on the principles and concepts developed by the Steering Committee, the Office of Contracting and Procurement (OCP), on behalf of DCRA and DMPED, developed a solicitation of proposals from qualified contractors to begin to achieve the objectives of D.C. Law 12-86 by development and administering a comprehensive demonstration program. This program would include the development of a comprehensive plan, a design and location program, and an ongoing management program for street vending and public space within a designated demonstration area in the District.[46]

At the Committee's budget hearing on March 31st, testimony was presented about the impact of Special Events on other vending license holders by a vending industry representative through a translator. The testimony of Mr. Lap Phan, President of the DC Road Way Vendor Association, was presented by Ms. Anh Doan (who spoke for Mr. Phan) in Vietnamese with a translator, Ms. Hien Vo.

The Vendors Association asked the Council to obtain better assistance for them from DCRA. She said there are 300 street vendors, who have to get inspections, pay taxes, pay license fees, and fulfill other requirements. She expressed disappointment that there are only 76 spots available every month for the 300 vendors. This results in a lottery system, which is sometimes unfair. She indicated that sometimes vendors who win a spot by lottery are enticed, or coerced, into giving up their spot to others. She said that even if they are not picked to have the opportunity to sell in a spot, they still have to pay their taxes. She complained that when there are large parades (and other Special Events), they have a lot of difficulties. Instead of getting to use the spots DCRA has given them during these Special Events, they have to go to alternate spots, as directed by the U.S. Park Police, MPD, Secret Service, and other law-enforcement agencies. Then, even after the event is over, the police will not let them go back to their assigned spots, sometimes for hours. Instead, they give them tickets and have them towed away. She also complained that during the Special Events, people affiliated with the event organizers, who do not have vending permits and do not follow any of the rules, come in with push carts and sell whatever they want in the same spots from which the authorized vendors have been removed. The 76 vendors who win lottery slots are excluded from the central zone. She noted that the greatest problem is from 15th to 17th Streets, NW and from Independence Avenue to Constitution Avenue, NW. And, this is where the unauthorized vendors are allowed to sell and there is nothing the vendors with lottery slots can do about it. She said that their complaints to DCRA and to the police are ignored. She said that the vendors lose a lot of business and income in this way. She complained that they are never able to contact anyone at DCRA regarding their complaints. She said that DCRA does not have enough inspectors so they do not take enforcement actions against the people who are selling illegally on their spots. There is no enforcement.

Councilmember Ambrose noted that the overlapping jurisdictional issues (among the city and federal agencies) were complicated and indicated that she would attempt to set up a meeting the

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[46] The RFP was transmitted for the Council's 15-day review on April 21, 2004. The Committee held a briefing for Members and staff on the RFP on April 26th. The RFP would be deemed approved on May 6, 2004, if the Council did not adopt a resolution of disapproval during the review period.

multiple agencies involved to address these issues, such as the Park Service, DCRA, Special Events Task Force, and the MPD. She noted that the city is looking for a way to deal fairly with vendors without expanding greatly the number of spaces. She asked for a way to contact the witnesses and took their information so as to get back to them. She noted that no money had been placed in the budget for surveys.

When she was speaking to the Director at the hearing about this, he replied that when future Special Events occur, DCRA would ask for assistance from the Mayor's Office of Asian and Pacific Islander Affairs to help alleviate any communications gap. He also mentioned that the agency already holds monthly meetings with vending enforcement on the second Monday of the month. At these meetings they attempt to address issues involving illegal vendors, products, and similar topics.

At the Committee's February 12th hearing another vending industry witness testified. Mr. Ted Walker indicated that DCRA may finally be making progress with regard to vending. He said that Mr. Harris (who is one of the two FTEs mentioned above) was doing a good job. Mr. Walker suggested that DCRA needs to do a better job in resolving problems created by the Omnibus Regulatory Reform Act.[47] For instance, the law required that an RFP be awarded to conduct a study on vending. A moratorium on the issuance of vending licenses was put into effect – to remain until the study would be completed.[48] Mr. Walker mentioned that the city is losing vending sites to loading zones and driveways and that there is no process for establishing new vending sites when this occurs. Councilmember Ambrose noted that this is an issue that involves multiple agencies: DCRA, the Office of Planning (OP), the District's Department of Transportation (DDOT), and other agencies. Mr. Walker replied that the District had bought equipment to determine when a license is fake, but that Mr. Harris does not yet have a wand to take out in the field.

11) *Boards and Commissions (including D.C. Boxing and Wrestling Commission)* –

There are a number of Boards and Commissions at DCRA, which are staffed by DCRA. The Committee asked the agency for a report on all of the Boards and Commissions, including current vacancies on the boards and attendance records for the members serving on the boards.

One of these Commissions came separately before the Committee during the FY 2005 Budget discussions for review: the D.C. Boxing and Wrestling Commission.

D.C. Boxing and Wrestling Commission – Michael Brown, Vice-Chair of the D.C. Boxing and Wrestling Commission, provided testimony at the Committee's FY 2005 Budget Hearing held on March 31, 2004. Mr. Brown noted some of the noted some of the Commission's accomplishments, such as the 13 events it had held: ten boxing matches and three wrestling events. He further testified that the D.C. Boxing and Wrestling Commission had attracted two new boxing promoters to the

[47] The Committee would note that changes in policy and regulation such as that anticipated by the OMNI II legislation would be more logically developed by the Deputy Mayor for Planning and Economic Development and not by the agency that currently is responsible for enforcing the regulations. While DCRA's input on how effective a new regulatory scheme will be useful, it is likely not dispositive of the matter.

[48] As just mentioned above, an RFP has been developed.

District, one of whom is a resident of the District. He also said that the Commission had been very successful in being able to get the expenses related to each event prior to the event. He shared that these fees were used to pay for the costs of doctors, inspectors, judges, and referees.

Mr. Brown stated that with an annual budget of $50,000 the Commission had collected a total of $82,885.19 in revenues for FY 2003, and $22,643.17 thus far in FY 2004. Mr. Brown added that these revenues go directly into the general fund and do not augment the Commission's appropriated budget. Mr. Brown testified that the Commission's related expenditures in FY 2003 were as follows: $43,518 in Deputy Commissioner's salary and payments to officials; $2,000 in training; $1,480.64 in travel; $1,309.71 in office supplies, furniture, and fixtures; $319.72 in equipment and machinery; and $255 in membership dues. Mr. Brown then testified that expenditures in FY 2004 to date were as follows: $14,607 in Deputy Commissioner's salary and payments to officials; $62.29 in travel; $340.20 in furniture and fixtures; and $319.72 in equipment and machinery. Mr. Brown then testified that the Commission's goal was to have at least two fights per quarter, and that it proposed to spend its budget for FY 2005 on the following items: membership dues, deputy commissioner fees, stipends for officials, travel and training for Commissioners and staff, office supplies, parking and other related expenses, seminars to fulfill education credits, fees to the organization known, as Fight Fax, that collects boxers' history, and medical examinations for boxers.

The Committee's Chair stated that she was pleased with the Commission's progress and its efforts. The Chair then asked Mr. Brown what kind of relationship existed between the Boxing and Wrestling Commission and the Sports Commission. Mr. Brown responded that the Boxing and Wrestling Commission desires more of a working relationship with the Sports Commission, and will aim to use their promotion capabilities. **The Chair then stated that she encouraged a greater relationship with the Sports Commission**. The Chair further noted that the Sports Commission is currently working with the Army Corps of Engineers to air-condition the Armory. Mr. Brown responded that such was good news because the Armory is currently not an option for events during the months of May to August. The Chair then asked if the Commission had reached any agreements with television stations. Mr. Brown testified that an agreement has been reached with Channel 16 to cover all of the Commission's fights. Mr. Brown further added that the Commission has also used the Convention Center for events and will continue to do such. **The Chair stated that she was pleased to hear about the agreement with Channel 16 and reiterated her request that the Commission reach to the Sports Commission.**

OPLA – **The Committee also wishes to thank the mainly volunteer members of the rest of the Boards and Commissions that are staffed by DCRA's Occupational and Professional Licensing Administration** ("OPLA"). OPLA processes applications, administers examinations, issues licenses, and maintains the District's official licensure records.

In 1999, OPLA entered into a "Firm Fixed Fee per Transaction Contract" with Assessment Systems Incorporated (ASI), with four annual renewal options, whereby ASI acts as OPLA's agent for the issuance of all professional licenses. Under this contract, ASI retains $80 of each license fee and wires the remainder to the Office of the D.C. Treasurer on a daily basis. These wire transfers are coded so that DCRA can account for the total dollar amounts after-the-fact. The CFO's Balance Fund Summary indicates that there is $848,352 in the FY 2003 Fund Balance for the OPLA Special Fund (6010) to account for this revenue.

In all, there are 10 Boards and Commissions under OPLA's management. These Boards and Commissions include: the Board of Accountancy, the Board of Architecture and Interior Designers, the Barber and Cosmetology Board, the Boxing and Wrestling Commission (already discussed), the Board of Funeral Directors, the Gas Station Advisory Board, the Board of Industrial Trades, the Board of Professional Engineers and Land Surveyors, the Board of Real Estate, and the Board of Real Estate Appraisers.[49]

The Board of Accountancy exists to promote dependability of the information used for guidance in financial transactions or accounting for, or to assess the status or performance of, commercial and non-commercial enterprises. This board also prescribes and assesses the qualification of accountants. The board promulgates rules and regulations, establishes standards for professional liability insurance and prescribes liability for torts; issues, revokes, suspends, or refuses certificates, permits, or registration; and holds hearings. This board is composed 5 members.

The Board of Architecture and Interior Designers exists to enforce and propose revisions to the laws and rules of the District of Columbia relating to the licensure of architects and interior designers and to regulate the practice of these disciplines. This board advises, administers examinations, received applications, evaluate qualifications, receives, evaluates, determines eligibility, and reviews applications of qualified applicants; holds hearings, prepared rosters of licensed architects and interior designers; maintains a register of licenses, maintains records of proceedings, and issues an annual report. This is a 7-member board.

The Barber and Cosmetology Board exists to license and regulate barbers, cosmetologists, and specialty cosmetologists; and to grant, suspend, and revoke licenses for registrations. This board advises, administers examinations, approves licenses, receives and reviews complaints, requests investigations, holds hearing, and renders decisions. This is an11-member board.

The Board of Funeral Directors exists to license and regulate funeral directors, apprentice funeral directors, and funeral services establishments. This board evaluates applicants' qualifications, administers exams, and recommends individuals for appointment by the Mayor to the board. This is a 5-member board.

The Gas Station Advisory Board exists to make recommendations to the Mayor on petitions for exemptions from the moratorium on the reduction of services in the Moratorium on Retail (Gas) Service Station Conversion Act of 1979. This board establishes, publishes, and implements rules, procedures, and criteria for reviewing petitions. This is a 5-member board.

The Board of Industrial Trades exists to regulate the practices of plumbers, gasfitters, electricians, refrigeration and air conditioning mechanics, steam and other operating engineers, and asbestos workers. This 15-member board includes a chairman, three licensed electricians, 3 licensed plumbers, 3 licensed refrigeration and air conditioning mechanics, 3 licensed steam and other operational engineers, and two asbestos workers.

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[49] The Education Licensing Commission was transferred last year to the State Education Office.

The Board of Professional Engineers and Land Surveyors exists to license and regulate professional engineers and land surveyors. This board grants, suspends, and revokes licenses and registrations; establishes policies, standards, regulations, and procedures; develops, administers, and grades examinations; determines eligibility, and conducts hearings. This is a 7-member board.

The Board of Real Estate[50] exists to assist in licensing and maintaining records. This board establishes standards and carries out other duties with regard to real estate broker associates, real estate brokers, salespersons, property managers, and resident managers. This is a 7-member board.

The Board of Real Estate Appraisers exists to grant, suspend, and revoke licenses and to conduct hearings. This board administers and enforces provisions of law relating to the practice of real estate appraising, evaluates qualifications and credentials of applicants for licensure and certification; approves or disapproves applications for licensure, establishes examinations criteria; administers and oversees the administration of examinations; issues subpoenas; administers oaths, examines witnesses, receives complaints, reviews allegations, conducts hearings, defines continuing education requirements, and initiates disciplinary actions.

A report on all the Boards and Commissions at DCRA was requested and supplied in the agency's February 10th reply to the Committee's interrogatories. See Appendix B.

12) *Professional and Occupational Licensing fund* –

To support the staffing and work of the Boards and Commissions noted above there is a special purpose revenue fund for Occupations and Professions Licensing (6010) along with several other "O" funds that are specifically designated for the operations of certain boards. These funds are discussed in the part of this report where Special Purpose Revenue Funds are described.

Further, as noted earlier, the agency CFO requested four technical adjustments to the mark-up process to increase budget authority by $2,707,230 for four of DCRA's O-Type Funds in FY 2005. The OCFO has indicated that the fund balances are adequate to met the requested level of expenses. **The Committee agrees with these adjustments and discussed them in the Special Purpose Revenue funds section of this report.** Two of these funds pertain to Occupations and Professions Licensing, while the third and fourth are the Nuisance Abatement and Basic Business License funds, respectively. The two Professional and Occupational Licensing funds and adjustments are as follows:

1) Occupations and Professions Licensing Special Account (6010) – increase from $1,292,884 to $1,592,884, an increase of $300,000. The funding will be used for conducting examinations and to cover the costs of supporting various licensing Boards and Commissions. (The coding for the increase is as follows: Fund-6010, Index-6010o, PCA-OPS95, Object Class-0040.)

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[50] In a *Washington Post* article dated September 24, 2004, pertaining to the number of investigators, particularly in Maryland, to investigate real estate complaints, it was reported: "Virginia has 15 investigators assigned to 18 regulatory boards. Its Real Estate Board regulates about 60,000 individuals and businesses. The District has two investigators for 7,800 active licensees." **The Committee is concerned about the ratio of investigators to license holders. The Committee directs the agency to conduct a comparative study of staffing in similar sized jurisdictions as well as Virginia and Maryland. The Committee requests a report on the findings of the benchmarking by October 1, 2004.**

2) Professional Engineers' Fund (6020) – Increase from $71,155 to $171,155, an increase of $100,000. The funding will be used to cover the costs of producing and mailing the legislatively required roster of professionally licensed engineers and for supporting other costs of the Board. (The coding for the increase is as follows: Fund-6020, Index-6020o, PCA-OPS95, Object Class-0040.)

Inspections and Compliance Program: Within **Inspections and Compliance** are the following component programs:

1) Compliance
2) Enforcement
3) Housing Service Center
4) Condemnation
5) Rehabilitation
6) Weights and Measures
7) Rent Administration
8) Neighborhood Stabilization Program

Programs (1) and (2) have been in the Investigation Division, programs (3) through (5) and (7) have been in the Housing Regulation Administration (HRA), program (6) has been in the Weights and Measures Office, and program (8) has been in the Neighborhood Stabilization Administration (NSA).

The Inspections and Compliance program provides inspections, enforcement and abatement services for residential properties. The program also resolves landlord - tenant disputes, including tenant rent increases so as to have a stable market of affordable housing. The program ensures compliance through the activities listed above.

The Inspections and Compliance program has a gross funds budget of $8,320,394 – which is a decrease of $750, 737 or -8.3% from the FY 2004 approved budget of $9,071,131. This includes a Local Funds decrease of $695,140 and a Special Purpose Revenue Funds decrease of $55,597. The change is primarily due to the transfer of certain adjudicative functions to the Office of Administrative Hearings (OAH) planned for the start of FY 2005. The gross budget supports 114 FTEs, which is a decrease of 30 FTEs from the FY 2004 approved budget.

The program experienced a reduction of $1,058,650 and 15 FTEs reflecting the transfer of certain adjudicative functions to OAH in FY 2005. The transfer amount includes $1,041,650 in personal services and $17,000 in nonpersonal services.[51]

The performance measures for this program are as follows:

1) Percent of investigations completed within 60 days – the target goal for FY 2004 through FY 2006 is 95%.[52]

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[51] **The Committee will be recommending that at least 8 of these 15 FTEs (representing $666,000 in transferred amounts) should not be transferred to the Office of Administrative Hearings.** This will be further discussed under the Rental Housing discussion.

[52] Given the difficulty that constituents and Council offices have had in getting complete answers from DCRA to their questions of where an investigation of any given complaint that this program handles, this measure needs to define what "completed" means. That is, a "completed

2) Secure and bring vacant and abandoned units into compliance with the housing code – the target number for FY 2004 and FY 2005 is 700, while that number would decrease to 650 in FY 2006.
3) Demolish vacant and abandoned housing units B the target number for FY 2004 through FY 2006 is 100 per fiscal year.
4) Percent of businesses using commercial weighing/measuring devices investigations bi-annually – the target percentage goal for FY 2004 through FY 2006 is 95%.[53]
5) Percent of rental housing cases decided within 120 days – the target percentage goal for FY 2004 through FY 2006 is 95%.[54]
6) Percent of emergency complaints inspected within 48 hours – the target percentage for FY 2004 through 2005 is 95%, while in FY 2006 the target rises to 96%.
7) Percent of complaints inspected within 5 days – the target percentage for FY 2004 through 2006 is 95%.[55]

<u>Inspections and Compliance Programs Issues</u> –

1) *Housing Regulation, Neighborhood Stabilization Program, Compliance and Enforcement B generally*

The work in the what is often referred to as the Housing Regulation Administration involves compliance with the housing code of private housing stock, including the Neighborhood Stabilization Program and inspections, enforcement of the rental housing law, and enforcement of the laws pertaining to condominiums and sales conversions of rental properties.

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investigation" should mean one in which both an initial investigation (and possible citation) together with any abatement and reinspection has been accomplished after the issuance of any initial violation notice. Further, as there is improvement expected over time, one would hope that the overall target for this measure could rise. **The Committee recommends that the agency analyze its performance measures and resources for this part of the program to see if this goal could rise over time.**

[53] There is no explanation for why this target does not increase over time so that we are ultimately at 100% compliance. **The Committee recommends that the agency analyze its performance measures and resources for this part of the program to see if this goal could rise over time.**

[54] This performance measure could be split into at least two separate measures, if (as is done with building permit plan reviews) the level of complexity of the rental housing petitions is taken into account. While the 120-day deadline in this performance measure is a statutory requirement, there are some routine cases and questions that should be able to be completed more quickly.

[55] As there is improvement in enforcement, one would hope that over time the overall target for this measure could rise. **The Committee recommends that the agency analyze its performance measures and resources for this part of the program to see if this goal could rise over time.**

Besides concerns about staffing, the Committee believes that attention in this part of the agency needs to be placed on the impact of several key elements of the housing code compliance process – communications, technology (RAPIDS), contracting, and other tools (vehicles and cell phones) – all of which contribute to reaching actual results for District residents and Council offices working for residents. Furthermore, more emphasis is needed on not only increasing civil infractions fines (which is about to happen), but also on really dealing with repeat offenders by penalizing them for continually being out of compliance and thereby requiring calls for service and citations before they are willing to abate infractions. At some point NSOs cannot simply keep "warning" violators; they need to put some teeth into repeat problems to show that the District is serious about compliance. Finally, at the Committee Chair's urging, several improvements are underfoot to shorten and streamline the Board of Condemnation and Insanitary Buildings (BCIB). These amendments are being added to the Budget Support Act in a new title.

Mainly, the programs in Inspections and Compliance focus on residential properties and enforcing compliance with the Housing Code (title 14 DCMR). Several years ago the Council passed legislation that also required registration of vacant properties (which are not necessarily nuisances, but simply vacant). The registration fees collected would go toward the Nuisance Abatement Special Purpose fund. Other money was also allocated to that fund. Currently, the CFO reports that the Nuisance Abatement FY 2003 fund balance is $3.9 million. Also, the Mayor capital budget has an additional $ 8 million toward this need to address securing, barricading, and demolishing nuisance properties.

It should be noted that not all nuisance properties are necessarily vacant. Thus, Housing Inspectors and Neighborhood Stabilization Officers (NSOs) are often called by tenants (and others) who are living in substandard conditions. The Committee heard quite a bit of testimony (and has other first-hand experience) of difficulties that some tenants and other complainants have had in keeping track of the progress through the system and getting copies of Housing Code Violation citations received by the property owners and landlords. This need for improved record-keeping and communications is discussed below. Also, in the discussion of the Rent Administrator's program the testimony that was heard by the Committee is described in more detail.

The Committee asked for information about the registration for vacant properties program and the revenues it has generated. The agency stated that as of December 31, 2003, a total of $25, 661 has been collected in the fund. No funds were collected from fines and/or penalties.

The agency provided this report on the current status of the program: First Quarter 2004. It said: "As of February 10, 2004, 3255 properties are contained within the Vacant Property database. Currently, DCRA is conducting the 1st quarter FY2004 survey of these properties. Of the 3,255 properties identified, 2,070 have been surveyed, representing all vacant properties identified in the database for wards 1 thru 6. Surveys are ongoing in ward 7 and 8 and will be completed by March 1, 2004. As of February 10, 2004, the surveys provided the following information:

665 properties were identified as occupied
1,177 properties confirmed vacant and in need of update registration
141 properties now vacant lots
84 site survey reflect no such property address

____3_ duplicate property addresses

Total 2070

The agency also provided the following Action Items:

1) HRA (Housing Regulation Administration) requested that the Corporation Counsel draft an amendment to the Vacant Property statute that would add civil infractions as a component of enforcement. As the statute is currently drafted, the only penalty for non-compliance is criminal prosecution and a $1000 fine upon conviction. Because of the extended time frames associated with criminal prosecution, there is no incentive on the part of the homeowner to comply. The proposed amendment will allow for a schedule of fines and much quicker enforcement. It is anticipated that this process will be completed by 2/30/04.
2) A business process flow analysis has been built to complete the Vacant Property registration process from survey, to intake, to registration.
3) HRA Web page is on line and available for review by the public.
4) HRA is currently working to complete a number of "Back Office System Enhancements" for the Vacant Property Unit. These enhancements will allow HRA to implement a process that will complete the vacant property process by addressing online registration, inspections, enforcement, compliance, collection of fees, fines and penalties. Included are:

   Payment engine implementation;
   Combine the Registration and Vacant/Survey Databases;
   Identify, develop, test and deploy method for storing 5 photo Images per survey for three years; and
   Develop a process to automatically update DCVP records with Geographic Spatial Data.

The Committee wanted to know whether the Department anticipated having sufficient funding for this program to aggressively continue abating nuisance properties. We asked for information of any Mayor's plan for the acquisition of nuisance properties and for any regulations which have been or are to be promulgated to carry out the Mayor's plan. We also asked for the Mayor's budget for such use of the so-called "quick taking" provisions of the law.

The Department answered that it anticipates having sufficient funds to aggressively continue abating nuisance properties. It noted that the rest of this question had been forwarded to the Office of the Deputy Mayor for Economic Development who can provide information regarding the Mayor's plan for the acquisition of nuisance property, regulations to be promulgated to carry out the plan, and the Mayor's budget for use of the "quick taking" provisions of the law.

The Committee also asked the agency for a report on the Neighborhood Stabilization program. It replied:"Currently, there are 47 Neighborhood Stabilization Officers (NSO's), including 39 for each of the neighborhood clusters and eight leads. The names and cluster assignments are attached. There are currently three vacant positions in the NSP Program. All of the openings are presently being advertised by the D.C. Office of Personnel under Vacancy Announcement Number CR-04-107. The NSP Program is supervised by three managers. During FY 03 all Neighborhood Stabilization Officers received at least 60 hours of training, to include the following courses:

1. Basic Writing I & II
2. Vocabulary and Reading Development
3. MS Word (Level I, II, or III)

4. MS Excel (Level I, II, or III)
5. MS Access (Level I, II, or III)
6. Outlook 2000
7. Customer Service
8. Making Effective Presentations
9. Communication Skills
10. BOCA Training
11. How to Conduct Housing Inspections
12. RAPIDS Refresher Training"

The Committee asked how many investigations are assigned to each NSO each workday. For purposes of our question we assumed that an average case is a single business or a single family home. Then, assuming that a single family home is an "average" case, we asked what multiple of that average should be budgeted for a multiply family building and what kind of coverage there is on weekends and evenings. Finally, we asked how are cases assigned and prioritized.

The response stated that the average caseload per inspector is 11 per day. This includes complaints, re-inspections and surveys. An "average" inspection can take between 30 to 45 minutes. Depending on the size of the multi-family dwelling, the time limits will vary due to the number of inspectors utilized. Coverage on the weekends and evenings is accomplished utilizing overtime and compensatory time. Cases are prioritized and assigned via the RAPIDS Program (see explanation below).

Explanation of RAPIDS priority scheme

RAPID'S uses a priority/emergency level scheme for scheduling complaints. Every complaint is assigned a priority and an emergency level automatically by the system after it is entered. The rules employed by the system for assigning priority and emergency levels are explained below.

- If the nature of the complaint is sewer Back-up, or infestation, or broken pipes and the complainant **is** from the mayor's office or city council, the priority is set to 1 and the emergency level is set to 0.
- If the nature of the complaint is sewer Back-up, or infestation, or broken pipes and the complainant **is not** from the mayor's office or city council, the priority is set to 1 and the emergency level is set to 0.
- If the nature of the complaint is no utilities and the complainant **is** from the mayor's office or city council, the priority is set to 2 and emergency level is set to 1.
- If the nature of the complaint is no utilities and the complainant **is not** from the mayor's office or city council, the priority is 3 and emergency level is set to 1.
- If the nature of complaint is routine maintenance, or trash and debris, or other, or building wide inspection, or open and accessible, or noise, or carbon monoxide, or weeds, or vacant property and the complainant **is** from the mayor's office or city council , the priority is set to 4 and emergency level is set to 2.
- If the nature of complaint is routine maintenance, or trash and debris, or other, or building wide inspection, or open and accessible, or noise, or carbon monoxide, or weeds, or vacant property and the complainant **is not** from the mayor's office or city council , the priority is set to 5 and emergency level is set to 2.

The Committee asked about how many hours were spent in FY 2001, FY 2002, FY 2003, and (thus far) FY 2004 on before and after-hours investigations and inspections by NSOs or Housing investigators. We asked for a report that explained, by amount and percent, how many of these hours have been paid at overtime rates. Finally, we asked whether there would need to be additional resources in FY 2005 to cover expenses.

The agency responded: "All before and after-hour investigations and inspections by DCRA's neighborhood stabilization officers are paid at overtime rates. The table below details overtime hours worked by NSO's in FY 2001, FY 2002, FY 2003 and FY 2004 (through January 10, 2004). DCRA's FY 2005 budget request includes the resources necessary to cover FY 2005 expenses in this area."

Neighborhood Stabilization Officers' Annual Overtime Summary
Before and After-Hour Investigations and Inspections

Program/Responsibility Center	Overtime Hours Worked	Total Hours Worked	Percent of Hours Paid at Overtime Rates
FY 2004 (Through 01/10/04)	406.9	11561.56	3.6
FY 2003 Actual	994.9	24958.78	4.22
FY 2002 Actual	2934.6	69552.71	3.99
FY 2001 Actual	2033	56413	3.52

The Committee asked for a report on HRA's summary of abatements in FY 2003 and FY 2004 (to date). The material was provided as two charts (and is also on DCRA's web site). The grand total of abated properties in FY 2003 is 2052 and to date in FY 2004 the total is 618. The tracking indicates the kind of issue involved.

The Neighborhood Stabilization Program ("NSP") is responsible for targeting neighborhood clusters with inspectors to identify potential problems and to initiate solutions. The main focuses of this program are (1) to inspect and monitor all residential building within the city for code compliance, (2) to reduce the number of complaints for housing code violation inspections, (3) to coordinate more efficiently with related agencies and the Neighborhood Services Initiative to abate housing violations in persistent problem areas, and (4) to develop a calendar to attend regularly scheduled ANC and civic association meetings.

Although the Neighborhood Stabilization Program has exhibited tremendous improvement in responsiveness and customer service during the past several fiscal years, the need to continue to strengthen and improve this program exists. Despite the progress, there remains a considerable amount of distress on the part of citizens when they are unable to obtain sustained relief in their efforts to get irresponsible owners to abate violations of both vacant and abandoned, as well as occupied but run-down, properties.

The Committee is pleased with the progress that this Department has made in the last few years in addressing nuisance properties. DCRA must persevere in working through these issues. There is need for ongoing funding for inspectors and investigative staff along with the tools to let them be effective. The Committee notes with concern that three NSO positions are among the 28

FTEs that currently are vacant and unfunded and in FY 2005 are scheduled to no longer be authorized, which already have been discussed earlier in this report. The Committee would not like to see these positions lost. The Committee reminds the Mayor that if the pace of improvement is not maintained, the progress made thus far can be undone.

While customer service is improved in this part of the agency, the Committee still has heard of instances in which residents and Council offices want better communication and thereby closure and results from this program. The Customer Service section of the agency (which is under Agency Management) is not always well-served when they attempt to reply to citizens and Council offices if the housing inspection reports are not sufficiently informative or if inspectors are not as proactive in seeking abatement as they might be. The Director has made a significant investment in customer service, but there is always room for improvement. He mentioned several enhancements to the scheduling program known as RAPIDS which should prove helpful when completed.

With the tremendous building boom and influx of new residents that is (and will be) occurring in the District, expectations on the part of current and new residents have risen considerably. At a time when complaints and requests for service are up, DCRA's personnel and nonpersonnel resources are being stretched to do more with less than in the long-distant past. **Hiring and training the full complement of NSOs remains an important goal. The Chair of the Committee is most concerned about any vacancies in the inspector ranks. As the budget is currently presented for this agency, there are no more funds identified to fill the 3 NSO positions scheduled to no longer be authorized or funded in FY 2005. This Committee will be most eager for assistance in filling vacancies in the inspector and investigator positions.**

Contracting and procurement (PASS) issue –

In prior years, the Department's abatement efforts had been assisted by the District of Columbia National Guard as well as by Lorton inmates. Neither of those options are currently available, as Lorton has been closed and current military and national defense interests have reduced or eliminated the availability of the District's National Guard personnel. Consequently, contractors are used to do this work, for which funding is needed.

In recent years (at least from 2000 to 2003) so as to respond to the need to secure and barricade unabated (by owner) nuisance properties quickly and substantially reduce the abatement time requirements, DCRA, in agreement with its then contracting officer, implemented a number of Indefinite Quantities Contracts (IQC). This process allowed DCRA to establish a pool of pre-approved contractors that could be called upon to perform abatement services immediately or upon very short notice. An account was established for each contractor and when an abatement order was completed, the contractor was paid from this pre-approved fund. Contractors were assigned abatement orders as long as funds were in their accounts. When a contractor was close to exhausting the funds set aside for the contract(s), the Housing Regulation Administration would submit a request to the Office of Contract and Procurement to add or renew funds so that the contractor could continue to work. Using this process, DCRA was able to respond to emergencies within hours after receipt of the request for abatement.

As mentioned, this IQC process was utilized by DCRA from 2000 to 2003. In 2003, DCRA was assigned a new contracting officer who elected to terminate IQC contracts as they expired. This resulted in the return to the competitive bid process which substantially increased the time it takes to abate a violation. As a result, it now takes HRA several weeks to award and complete a contract. This is not a helpful change.

The Committee received testimony about the long wait that occurred before DCRA was able to shore up and secure a property after a fire. There has also been testimony and other complaints about the length of time it takes DCRA to respond to nuisance property complaints. Ensuring that the contracting process is as flexible as possible for securing and abating properties is one way in which to speed up DCRA's response time.

The Committee recommends that the OCP work with DCRA to see how to get back the flexibility and responsiveness that was the case with the IQC contracts (which the Committee required to be used several years ago). We need to balance the need for scrutiny of contractors and their results with the need for speed and responsiveness when dealing with nuisance abatement. Requirements contracts appear to be a better fit with this kind of project than a full competitive bidding process. Ultimately, having a better tracking system for these projects also would aid in ensuring that we are reaping the full value of these contracts.

RAPIDS improvements – **As mentioned above, the Committee believes the Mayor needs to provide DCRA the equipment, training, and staffing necessary to complete their mission. The Committee believes that the current DCRA management agrees with this need and is taking appropriate steps to ensure sufficient personnel and nonpersonnel resources for deployment**.

The Committee has been pleased with the implementation of the Remote Access Property Inspection and Dispatch System ("RAPIDS") that has enabled DCRA to better utilize and manage its limited quantity of human resources. RAPIDS, which is deployed now, reflects a new high in technology. The system is a tool that allows DCRA management to better track and prioritize inspection assignments as well as obtain and store detailed information on residential properties, including name of owner or agent, address, lot and square, history of enforcement actions, and digital pictures. The remote, mobile RAPIDS terminals were designed to provide inspectors the capability to print violation notices in the field immediately, thus saving time and money. The information developed by using RAPIDS should also enable DCRA to develop a history of each property, establish and evaluate worker performance, and gather data, upon which to evaluate the quality of each inspection. The system should also allow DCRA finally to keep current, accurate statistics of the number of fines issued and their cumulative dollar value.

At present, NSOs are the main employees using the RAPIDS mobile workstations to access complaints that are filed with the agency, including information regarding property ownership; record violations while conducting inspections; create casework from violations observed in the field; and print violation notices to serve on property owners and agents while in the field. However, RAPIDS was supposed to be expanded for the use of the Building and Land Administration and made quite a bit more robust than the system already is.

The Committee believes this is a worthwhile investment and requests the agency to continue to provide quarterly written progress reports, starting at the beginning of the fiscal year 2005, as the agency moves forward with continued implementation and future expansion of this tool. In particular, the reports should indicate how to prevent the large numbers of "no cause found" entries, many of which may end up being glitches in RAPIDS rather than actual results of inspections. The reports also should indicate how much training is being provided to inspectors, particularly in the nature of cross training.

The Committee mainly has been pleased with the agency's improvements in providing feedback to citizens and Council offices when a complaint has been handled, with some exceptions. This improvement appears to be the result of the development of a professional customer service staff and customer advocate at the agency. Moreover, a dedicated customer services staff to handle communications and intake frees up the NSOs to allow the NSOs to concentrate on handling the field tasks.[56] Even though an inspection may have been performed, in the past a complainant may have received different levels of feedback. While a property may have remained vacant, no code violation may have been found. Or, even if violations were confirmed, the result simply began a long process that ensues between compliance officers and violators (re-inspections, requests for extensions, appeals, etc.), leading to the hearing process which is in the Office of Adjudication – and will be moving to the new Office of Administrative Hearings.

It was anticipated that once the Vacant Property Registration program began in earnest and by eliminating one of two boards of condemnation, some additional progress in compliance and enforcement activities would occur sooner in the process. However, the Committee believes more could be done. We have consistently recommended an increase in fines that DCRA would be authorized to levy for noncompliance in order to obtain better compliance. This year – as a revenue enhancement – the Mayor is agreeing.

Testimony and comments concerning DCRA's abatement of nuisance property suggested a general frustration with the speed with which abatements occur (especially by tenants in occupied residential properties and neighbors of nuisances who are concerned about the impact on their own property). There have been complaints of a lack of public access to information once a citation has been given and abatement has begun. The Committee believes that much of this frustration could be alleviated through better communication by the agency, rather than requiring FOIA requests or repeated calls to Council offices. Another way to improve NSO communications is to hold the supervisory staff accountable for training inspection staff as well as reviewing and improving the quality, completeness, and timeliness of the NSO reports.

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[56] **The Committee would remind the agency that this only works if the customer service intake information – all of it, with all the details – gets in the hands of the NSOs. The Committee is distressed that at times Council staff or residents will provide very detailed information, such as the violation is to the rear of a property, only to find out later that no one informed the NSO who went out and did not find anything – because they were not looking in the correct place. The Committee directs the agency to develop a plan to correct this problem and share its plan with the Committee by August 15, 2004**.

That said, it remains the sense of the Committee that ever more efficient abatement of nuisance properties and proactive enforcement of the housing and building codes should be a priority, including more effective use of NSOs, for the agency in FY 2005.

The Committee asked the agency about its plans for RAPIDS in the FY 2005 budget. We asked: "What are DCRA's plans, and what initiatives are underway, to improve the reliability, accuracy, and utility of the data in RAPIDS? Please provide a report on how much funding has been expended in FY 2002, FY 2003, and FY 2004 on the RAPIDS system and record keeping in the Housing Regulation Administration generally. How is the RAPIDS system used currently? What is planned for FY 2005? What is the current number of RAPIDS units being used by DCRA? Please indicate whether, and how much, DCRA will be requesting in its budget request for additional RAPIDS units."

The agency provided an extensive response:

Plans and Initiatives to Improve Reliability and Accuracy

DCRA has implemented several enhancements to improve the quality and reliability of RAPIDS. Some of the enhancements that we implemented during FY 2003 include the addition of version control for all software modifications and a violation code feature that automatically downloads to the Inspection Mobile Workstation (IMW's) violation code changes once they are adopted. A major focus of system development targeted the Notice of Infraction (NoI). Here is a list of the myriad changes we implemented to increase system usability: automatic population of the inspector name, badge number, and phone number fields; automatic page numbering when multiple pages are printed (where more violations are identified than fit on a single page); printing the full location of the violation at the property (rather than the using an abbreviation); calculation of both the fine by abatement timeframe and total fine amount; the NoI corresponds with the complaint ID within RAPIDS to make it easier to track a case; and inclusion of the adjudication codes, allowing RAPIDS and the Office of Adjudication's Case Tracking system to work together. Other enhancements completed enable the intake staff to enter addresses not currently in the address database (e.g., an address associated with a new building) so an inspection can be performed; allow a user to enter multiple complaints for a single property without having to re-type the address; and allow supervisor to balance inspector workloads so cases are evenly distributed among the staff.

Funding and Use

With these improvements the Neighborhood Stabilization Program Office has increased the productivity this fiscal year. All 39 Neighborhood Stabilization Officers (NSO's) along with the 8 lead NSO's use RAPIDS. In FY 2003, the NSOs conducted over 16,000 inspections using RAPIDS. Since the beginning of this fiscal year, the inspectors have performed over 6300 cases in RAPIDS, an increase of nearly 20% compared to the same period last year.

The expenditures for RAPIDS in FY 2002 totaled $720,000 . In FY 2003 our expenditures for enhancements and support totaled $275,000. We estimate that the spending for FY 2004 will be approximately $46,000. We anticipate using funds from the Nuisance Abatement Fund for any spending in FY 2004 or FY 2005.

FY 2005 Plans

In FY 2005, we see RAPIDS evolving into a complete tracking system to encompass all the administrations and units across DCRA, to include NSP, HRA, BLRA, OAD, and CFO. The transformation will result in an Electronic Case Management System (ECMS). Currently we are in the process of re-engineering the NSP business processes and investigating the use of commercial off the shelf software (COTS) to improve inspector efficiency. ECMS will also allow better reporting and management decisions, and track the process. This means that we will monitor the entire process from the initial call (whether it be a housing or permit complaint, or a permit inspection) until the issue is resolved, adjudicated, and appropriate fines are collected. This will also include monies collected for abatements and fines.

The data within RAPIDS will also be linked up to the Database Address Cleansing System (DACS) for accuracy of address information along with tracking purposes across the agency for property owners.

Real Property Database – capital project – The real property database project is discussed under the Capital Budget above.

2) *Condemnation and Rehabilitation improvements* –

The Committee received testimony during its performance oversight hearings from Commissioner Cody Rice, ANC 6A03, regarding his impressions of DCRA's performance with respect to a building in the Capitol Hill Historic District at 251 8th Street, NE. The building had begun to deteriorate rapidly after a roof collapse in 2003. Eventually, it was partially demolished by DCRA once the facade started to buckle, but only after repeated calls and emails from the ANC and other residents to DCRA and the Historic Preservation Office to get action sooner. As per current processes, the owner had been issued a "show cause" order and DCRA started by waiting for the owner to obtain bids for a contractor to brace and shore the facade. By the time the DCRA crew was brought on the scene, the crew had to pull down the bay rather than brace and shore it. The example demonstrated Commissioner Rice's belief that DCRA needed improvement in its responsiveness to residents and coordination with the D.C. Historic Preservation Office to prevent further deterioration of damaged historic structures without resorting to demolition.

The Committee also received testimony from Gary Hyde, a resident of the Cardosa/Shaw neighborhood. Mr. Hyde indicated that he was one of the volunteers who helped to establish the Shaw Historic District. He voiced his distress that the Thomas Cabaret at 901 R Street, NW had been demolished, after this historic structure had been allowed to deteriorate over many years by a neglectful owner who had failed to abate numerous infractions after receiving ample notice. The reason given for the structure to be torn down was that it had become a hazard due to loose and falling bricks. Apparently, although the owner had been given ample notice of infractions and time to abate, he failed to do so, leading ultimately to the loss of a historic property. DCRA needs to be impressed that the agency is expected to protect historic districts and needs to be more responsive to resident's concerns.

Concerns about improving enforcement of the District's laws when faced with demolition by neglect, particularly of historic structures, has long been a priority of the Chair of the Committee on

Consumer and Regulatory Affairs. The Committee also has some concerns about properties that should be demolished but instead where property owners have been allowed continuously in the name of "due process" to "dodge the bullet" time and again. Part of the dilemma revolves around needed improvements at the Board of Condemnation and Insanitary Buildings.

The Committee asked the agency about how it planned to improve matters at the Board of Condemnation and Insanitary Buildings (BCIB). A preliminary draft to show where the agency was planning to go with the BCIB was shared with the Committee subsequent to our hearings. In it the agency suggested some possible changes.

The agency counsel reviewed the Board of Condemnation of Insanitary Buildings Statute and noted some areas of the statute that should be modified to strengthen the Board. The recommended changes could be facilitated through legislative measures, amendments and rulemaking. They noted that the effectiveness of the Board and the prompt implementation of its decisions are directly tied to the efficiency of the administrative process. It is their judgment that these changes will improve the administrative process, and enhance record keeping and document maintenance. They suggest a proposed penalties and sanctions provision to give the Board the authority to ensure that owners will act promptly or risk sanctions. Finally, it is expected that the recommended changes will outline and track Board decisions and provide a status of the project's process.

They warned that the list they offered of potential changes was not definitive. Additional changes to both the statute and regulations could be necessary to fully implement the proposed changes. **Nevertheless, the Committee believes that the DCRA General Counsel office is moving in the right direction with the legislative and regulatory changes they have so far suggested.** Some of these include:

With respect to the Board's Membership, there was a suggestion to increase the number of Board members and change the agencies which sponsor members. This would involve a legislative change, adding new subsection that would call for the Board to be comprised of six members as follows: two Department of Consumer and Regulatory Affairs members, one of whom shall be the Chairperson; one member from the Office of Economic Development; one Office Property Management member; one Department of Housing and Community Development member and one member from the Office of Historic Preservation.

The point was made that the chairperson would be able to direct the Board to sit in panels of three members, who would constitute a quorum, when the chairperson declares that the Board's business cannot be met by seating as a full Board. A decision of a panel established by this section shall have the same force and effect as a decision made by the full Board. Membership on the panels and sub-board activities will be handled by the chairperson.

The Committee thinks this idea will prove very useful to use Board members more efficiently and to speed up consideration of proceedings before the Board. Three member panels is an idea permitted under the Alcoholic Beverage Control statute and it is being used with good effect at present in ABRA.

They would develop guidelines to administer the Board proceedings though amendment of DCMR. These amendments could reduce the amount of time in which the owner may remedy the condition by restricting the number of extensions an owner may receive to one. They could reduce the time in which the owner must act in the Order of Condemnation. The Board would be able to provide the owner with the appropriate time frame in which to perform any work needed to repair or correct the condition outlined in the order to show cause and/or order of condemnation and the owner would be required to complete the work within the time period specified. The Board would be expected to develop a system that outlines and monitors each decision and order and the progress or status of each project.

There would be an amendment to the service of notice for absentee owners to simplify the Service of Notice. New penalties provisions would be added to the Civil Infractions Schedule. This provision would order that all fees and penalties collected under the chapter would be deposited in the fund established under Section 42-3131.01(b)(1) and would be used for the general administration of the Board. Other amendments would increase the civil infractions classification from Class 3 to Class 2.

Testimony taken – One kind of problem with condemnations and rehabilitations occur after serious fires. That was made evident by testimony from Morton Shussheim at the Committee's February 12th hearing. Mr. Shussheim presented testimony about his difficulties in the aftermath of a fatal fire at a group home at 1617 21st Street. Mr. Shussheim's home next door was damaged. The property where the fire occurred had been owned by an absentee landlord who never obtained a Certificate of Occupancy and had no working fire extinguishers or smoke detectors. The burned-out hulk sat there for 6 months, while the facade was tottering, because the Historic Preservation Office would not let it be razed. Mr. Shussheim complained of the long time it took before anyone could even start repairs. Eventually, DCRA hired contractors to shore up the building, and to do something so that the adjacent houses could be fixed. Councilmember Ambrose noted that it took some time for the fire investigation and inspection to be completed before anyone could safety enter the premises to even shore it up. Mr. Shussheim noted that after this, the house was sold to someone new. Mr. Shussheim questioned how a property could be sold when there still were code violations and wondered to what extent DCRA was responsible. He wanted to know whether any demands to improve the property could be placed on the new owner. This issue is more fully discussed earlier in the report.

3) *Rent Administration* – The Inspections and Compliance division in the agency includes the Rent Administrator's office. That office contains a Rent Administrator, a Scheduler, a Supervisory hearing examiner, four hearing examiners, and a program specialist. The Rent Administrator administers programs under the Rental Housing Act of 1985. This office serves as the repository for information regarding the amount of rent charged for residential rental property; receives and processes required documents for adjustments in rent ceilings (in the form of landlord petitions); resolves disputes between landlords and tenants, and where necessary, receives and distributes for legal action tenant petitions seeking redress for alleged infractions by a landlord. **The Committee Chair noted that she wanted the agency to explore how it could fund and manage a tenant advocate operation to assist tenants and tenant associations much earlier in the petition process than is now the case.**

Tenant and Housing Provider Ombudsmen - The idea for a Tenant and a Housing Provider Advocate or Ombudsman is not new. The Committee has mentioned it in past budget cycles. This year in the context of a possible change in the Rent Administration due to the plan to transfer hearing examiners to a new Office of Administrative Hearings and the likely reduction in resources devoted to this function in DCRA, the suggestion was raised again as it is now more critical.

The Committee has determined that there is a critical need for a Tenant Ombudsman to assist tenants and tenant associations, a Housing Provider Ombudsman to assist housing providers, and an ANC liaison to assist Advisory Neighborhood Commissions. We received considerable testimony about the difficulties tenants find with developing all the evidence they need to defend their positions vis a vis rent raises, including copies of Housing Code Violations and Notices of Infractions for other law infractions as well. There also is considerable unhappiness with how tenants are notified (or not) with respect to conversions to condominiums and other sales. Likewise, we have heard from small housing providers who have had difficulties with capital improvement and rent ceiling petitions. And given the amount of DCRA-related business over which the ANCs have official review responsibilities, there is also a need to ensure that they are able to get information from DCRA in a timely manner.

As a result, the Committee is directing the agency to develop a position description for each of these positions and to hire both a Tenant Ombudsman and a Housing Provider Ombudsman; classify these ombudsman positions as grade 13 with promotion possibilities to a grade 14; and have the positions report to the Housing Regulation Administration, not the Rent Administrator. Also, the Committee is directing the agency to develop a position description for an ANC liaison position and to hire an ANC liaison; to classify this position as a grade 10, step 1; and house the position in the customer service part of the department. These three positions shall be funded from a $1 increase to the Rental Accommodations fees. The Committee directs DCRA to provide these position descriptions, for which FTE authority will be given, by August 15, 2004, so that the positions may be filled as soon as possible after the start of the new fiscal year.

The positions are needed, based on years of testimony from tenants and housing providers and their advocates as well as from Advisory Neighborhood Commissions. The purpose of the tenant ombudsman would be to guide and assist tenants and tenant organizations and associations with preparing for petitions before the Rent Administrator (or the Office of Administrative Hearings and Rental Housing Commission). Some of this preparation involves retrieving information about Notices of Infractions, building code violations, corporation documents, licensing documents, and other information housed at DCRA and other District government agencies, including the courts.

The purpose of the housing provider ombudsman is similar. It is particularly needed for the small housing provider who needs assistance in working through the capital improvement and rent ceiling petition processes and other processes. These are the housing providers who often cannot afford additional legal services or membership in trade associations to assist them like larger providers can. The goal is to help those providers who are trying to preserve affordable rental housing in the District.

Both of the ombudsmen would report to the Housing Regulation Administrator and would be paid as grade 13's, with promotion potential to grade 14. They would not be in the Rent Administrator's office so they can avoid any appearance of conflict and yet truly assist both tenants and housing providers.

The purpose of the ANC liaison position would be similar, but would cover all the subject matter at DCRA. That FTE would primarily assist the Advisory Neighborhood Commissions when they have filing and information needs at DCRA so as to conduct official reviews of permits and other business. The FTE would be in the customer service part of the department and be paid as a grade 10/step 1.

According to the OCFO, the $1.00 increase in the rental accommodation fees is expected to generate a minimum of $612,000. The Committee would approve budget authority for DCRA for $192,000 to pay for these 3 FTEs from the fees collected. There is language in the Budget Support Act to accomplish this.

Testimony taken – At the Committee's February 12th hearing, Alex Martin from the Cleveland House Tenants Association spoke on a series of experiences and his belief that a Tenant Ombudsman is needed. He has had bad experiences with bad landlords. He explained that people who pay rents expect the problems with the buildings about which they complain to be addressed. For example, his building had a severe rat infestation. Despite the seriousness of the infestation, the landlord maintained that this was not a serious problem.

Mr. Martin noted that the tenants had been complaining for over a year. Apparently, the management company never kept a record of the complaints. Finally, there was an inspection and they were cited for a rat infestation. The owner / manager refused to sign or acknowledge receipt. The tenants had to file an FOIA request. The landlord tried to solve the problem just by putting out rat traps. The tenants complained to DCRA again. Finally, the landlord was forced to hire a professional company to handle the extermination. Mr. Martin shared that he believes that DCRA should have a tenant ombudsman.

Councilmember Ambrose pointed out that we have talked about having this, but we have to try to figure out how to pay for it. Mr. Martin noted that tenants pay taxes. Councilmember Ambrose mentioned that there was a piece of legislation for an ombudsman, but the sticking point was finding a way to fund it. Mr. Martin replied there also has been trouble getting current information regarding the business licensing for the building owners. He complained that some DCRA staff members – Meredith Scott and others – come up with a lot of excuses for not being able to provide any information regarding "registration." The Councilmember indicated that she would ask the Director about this. Mr. Martin shared that when the building had a re-infestation, the tenants again complained to DCRA and were told that DCRA would not come and inspect unless they had three complaints.

At the Committee's February 12th hearing, Jonathan Strong, Brandywine Tenants Association, testified about the difficulties he and his association has had in getting inspection reports at all from DCRA. It happens that these inspection reports were not in the Housing Regulation Administration but in the Building and Land Administration. Nonetheless, he complained that the tenants association was being required to file repeated Freedom of Information Act (FOIA) requests to get any information. This then makes appearing before a Rent Administrator hearing examiner with good evidence that a rent rate hike is inappropriate very difficult.

He complained that it was difficult to even get BLRA to conduct inspections and do their job. Mr. Strong indicated that one mid-level DCRA manager told him that BLRA did not like to get involved when tenants are in a dispute with their landlord. He suggested that this is an improper

attitude for the agency to take.[57]

Mr. Strong noted that he has made a number of suggestions, but does not know if any of them have been adopted. For instance, he believes that when tenant associations make complaints, they should be given copies of the inspection reports. Tenants have difficulties even get copies of inspection reports from DCRA. DCRA currently requires them to file FOIA requests. Further, this year, Corporation Counsel also has refused to waive the fee for completion of FOIA requests. When tenants have appealed to the Mayor, they were told that the Mayor did not have jurisdiction. **The Chair replied that she had introduced two pieces of legislation in the Council to assist with the promulgation of notice and information from the agency.**[58] Mr. Strong asserted that the denial of the fee waiver was retaliatory.

Mr. Strong also complained about the difficulty he had in getting subpoenas approved for people to testify at administrative hearings. Currently, it takes over a week to get a subpoena approved. Councilmember Ambrose agreed that a week was too long and mentioned that we are going to work on reorganizing the Office of the Rent Administrator.

Additional testimony was given by David Conn, Tenant Action Network, who agreed that it is very difficult to get inspections of rental properties. TAN also complained that reports often are lost and that no one can get copies of the inspection reports. Mr. Conn named two staff members – Robert Garrett[59] and Mr. Butler[60] – who he claimed have not been helpful, since these staff insist that the tenants and their organizations must submit a FOIA request for everything. Mr. Conn stated that it is hard to break through the bureaucratic processes the agency has set up.

Further, TAN mentioned that it held a number of unsatisfactory meetings with Raenelle Zapata, the Rent Administrator. For instance, Mr. Conn pointed out that DCRA has failed to ever implement the law with regard to the return of security deposits. Mr. Conn complained that he cannot get the Rent Administrator to act on this issue at all. He also alluded to the problems with enforcement of the Rental Housing and Sales Conversion Act and the ongoing so-called "95/5" sale issue. Mr. Conn indicated that the staff member responsible – Linda Harried – holds a position that unless there is a 100% sale, there is no requirement for notice to tenants of any change in interest or sale. Mr. Conn is also upset that it is so difficult to get information out of DCRA.

Testimony was also taken about this office, especially the Condo Conversion function. Joyce Saucier, President, King's Court Condominium Association, also testified on February 12th about problems the owners of King's Court Condominium (1907 Good Hope Road, SE) have had in

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[57] The Committee notes that it is the job of inspectors to make factual and evaluative determinations of code compliance, not to take sides in a dispute.

[58] Mr. Strong also mentioned that he had sent correspondence by electronic mail to Councilmember Orange, who chairs the Committee on Government Operations on the same topic and offered to testify before that Committee, but received no reply to his offer. The Committee on Consumer and Regulatory Affairs will share copies of Mr. Strong's testimony before that committee so they will have the benefit of his remarks.

[59] Mr. Garrett is the Assistant Program Manager in the NSP (Western Sector).

[60] Mr. Butler is in the NSP (Western Sector).

obtaining information from DCRA. She complained that they can never get any reports from DCRA. She asked why is everything there a secret. She and her neighbors have been experiencing flooding, as they are on low land. She mentioned that KSI Properties is putting in a new condominium project nearby. The association members are concerned about the lack of an adequate storm water management system. She stated that their parking lot floods all the time, and often the ground-floor units get water in them. She pointed out that there is Park Service property with a reservoir and a stream in the vicinity, yet property owners are allowed to build condominiums. She voiced the opinion that no one at DCRA is managing condo conversions. She mentioned that her building also has electrical and plumbing problems. Ms. Saucier stated that DCRA seems to side with developers and landlords. The tenants are left to fend for themselves. She said she wished someone would come to their tenants' meetings. Ms. Saucier continued that she has been told that the sewer line along Good Hope Road is defective. Councilmember Ambrose pointed out that the sewer system is a problem throughout the city and that Congress and the city are working incrementally to address this problem.

Committee interrogatories – The Committee sent a number of interrogatories about the Rent Administration program. We asked how many tenant complaints and landlord requests were received by the Rent Administrator in FY 2001, FY 2002, in FY 2003, and (to date) in FY 2004. We asked for statistics to show both the number and percentage of the resolutions in these cases, namely, how many were resolved to provide a stability or lowering of rent and how many resulted in rent increases. We asked by category, what type of disposition was made with regard to these complaints. We asked how many complaints were found to be unjustified and how many were found to be valid. We asked how many requests for a rent increase were denied and how many were approved. We asked how many fines were issued and collected. We asked for an accounting of the collection of these fines for FY 2001, FY 2002, FY 2003, and thus far in FY 2004.

The agency's response was that Tenant Petitions received by the Rent Administrator are as follows:

FY 2001	419
FY 2002	188*
FY 2003	323
FY 2004	94

*The number of cases filed from 02/27/02 – 09/30/02 under the jurisdiction of the Rent Administrator.

The response went on: "Due to the volume of cases, and the numerous issues that must be decided in each tenant petition, and the lack of staff to collect and maintain statistical data, the final outcome of each issue and rollback is not maintained. The Rent Administrator has developed in conjunction with DCRA's Office of Information Systems a comprehensive tracking system and data collection program that should be able to provide this information in FY05."

The Committee is very disappointed in the Rent Administrator's response and the absence of statistical information with which to track and measure results and performance. Soon she is supposed not to have control over the hearings and hearings examiners at all. We may push that transfer back, but, no matter if we do or do not do so, this kind of statistical information along with better record keeping and communications with members of the public – whether tenants or landlords or their representatives – is key.

The Committee asked for a breakdown of the cases noted above into main issues covered; that is, how many were complaints about rent ceilings, seeking a capital improvement increase, sales conversions, requests for rent increases where there were outstanding housing code violations, etc. We asked how many were claims of exemption from the rent control laws and how many of the Rent Administrator's case load also involved cases that are in Landlord/Tenant court.

The agency's response: "With regard to cases filed in the Landlord and Tenant Branch of the Superior Court of the District of Columbia (L&T Court), there is no requirement that the L&T Court notify the Rent Administrator of its proceedings. In fact, the parties may or may not inform the Rent Administrator of companion proceedings in L&T Court, therefore this information in not available."

Tenant Petitions	94
Capitol Improvement FY 03	15
Capitol Improvement FY 04	6
Condominium Conversion FY 03	89
Condominium Conversion FY 04	43
Claims of Exemption FY 03	1655
Claims of Exemption FY 04	599

The Committee also asked for a report on the structure of the Rent Administrator's office. We asked how many FTEs are assigned to this area and for a list of the office's FTEs and for the attorneys, the list should indicate whether each has a current bar membership and how long each has served in that position. We asked a number of questions about the planned transfer to the new Office of Administrative Hearings, including whether any determination had been made what responsibilities of this part of DCRA will be transferred to OAH. We asked for the schedule for that transfer and whether the agencies' conversations involved discussion of how the collection of fines and penalties would be accounted for so the revenue would return to the appropriate revolving "O" fund.

The agency responded as follows: "The Rent Administrator's Office, i.e., the Rental Accommodations and Conversion Division has seventeen employees including the Rent Administrator. The Customer Service Branch has nine FTEs. The Adjudication Branch has six FTEs, and the Conversion Branch has no FTEs. However, Ms. Harried continues to service this branch. The Rent Administrator has been involved in an initial meeting with OAH. The Rent Administrator is unaware if any determination has been made with regard to what responsibilities will be transferred or the schedule for such a transfer; she has not had any further discussions with OAH. The Rent Administrator does not have jurisdiction over the collection of fines and has not been involved in any discussions on this issue."

The agency then supplied the following information about staffing in the Rent Administration office.

Rent Administrator

1. Raenelle Humbles Zapata, Esquire, 20 months, PA and DC Bar Member (previously employed as Chief of Adjudication 6 Years)

Adjudication Branch

2. Timothy R. Handy, Chief 18 months, Current PA Bar Member/ DC Bar waiver application pending (previously employed as an RACD examiner for 4 ½ years)
3. Patricia Smith, Scheduler, 17 months

Hearing Examiners

4. Keith A. Anderson, 18 months, DC Bar Member (previously employed as an RACD examiner for 6½ years)
5. Carl Bradford, 20 years, JD
6. Sandra McNair, 16 months, NJ Bar Member
7. Gerald J. Roper, 30 years, JD

Customer Service Center

8. Linda Harried – Supervisor

Customer Service Representatives

9. Sonia Hardy
10. Sandra Hawkins
11. Helen Hooks-Scott
12. Jeannette Kane-Smith
13. Christine McKeever
14. Woodrow Nichols
15. Catrina Weston
16. Linda Wright

Condominium and Conversion Branch

17. Vacant (Mrs. Harried continues to service this branch)

The Committee also asked for DCRA to describe how it has administered the Rental Housing and Sales Conversion Act in FY 2001 through and including (to date) in FY 2004. We asked if the Department have any plans for FY 2004 and FY 2005 to administer the rental housing and sales conversion laws differently in light of some of the current case law and if there any plan to change the number and nature of FTEs assigned to this function. We asked if there was any review conducted (and who conducts these reviews) of determinations in letters prepared by DCRA (usually by Ms. Harried) of whether a "sale" will occur under the law's provisions to tenants who are seeking to assert their legal rights to organize and purchase the buildings in which they live.

DCRA responded: "The Housing Regulation Administration utilized the resources of two FTE from 2001 through 2002 to operate the Condominium and Cooperative Conversion and Sales Branch. In 2002 a FTE temporarily assigned to the Office was returned to her regular duty assignment. One contractor was secured to replace this FTE. In 2002, as a result of a substantial increase in the number of Applications for Condominium Registrations received, an additional contractor was secured who possessed specialized skills in Condominium Registration Review. The remaining FTE is Ms. Harried who was recently appointed to the position of Customer Service Supervisor. The remaining contractor acts as a staff person within the condo office responsible for filing, intake of documents, telephone

response, etc. In addition to these individuals, legal support for the Office is provided by the Housing Regulation Administrator.

"Since the current case law regarding 95/5 Sales is specific to one property, and there is case law from the Court of Appeals which rejects the current case law of the Superior Court, we will continue business as usual unless and until the Courts or our General Council (sic) directs otherwise.

"Following is HRA's plan to change the make-up of the Condominium and Cooperative Conversion and Sales Branch (CCC&SB) and the Housing Service Center (HSC) to respond to the substantial increase in the number of properties seeking condo conversion:

- The CCC&SB will be incorporated into the Housing Service Center.
- The current FTE responsible for the CCC&SB will become the Supervisor of the HSC which will include the CCC&SB.
- The position vacated will be advertised as quickly as personnel permits.
- An additional contractor with experience in condominium conversions will be added to address the additional workload.
- In order to meet the minimum requirements of the Act, the following reflects the permanent staff needs of the unit:
- A permanent staff member who regulates the Conversion of Rental Housing (inclusive of the review of the Application of Registration)
- A staff member who regulates the Sale of Rental Housing
- An additional Client Services staff member
- A minimum of one clerk.

"While there may be meetings to discuss such determinations if they are different from determinations historically provided, there is no review of determinations in letters prepared by DCRA of whether a "sale" will occur under the law."

The Committee asked: "What is the average time frame from when a rental housing complaint is received until a final disposition is rendered and a case is resolved? Our office has heard from tenants who claim they are being forced to pay increased rent amounts for units that do not meet code standards. What type of inspections are done before a rent increase is permitted? What follow-up inspection is conducted after a rent increase is allowed? How long after the increase is permitted is a follow-up inspection conducted? If substantial rental housing violations are present following a complaint by the tenants, is the rent ever ordered decreased? For how long? What would constitute "substantial" housing code violations to justify a rent roll back?"

The agency answered: "Tenant petition decisions and orders are rendered within the statutory time frame of 120 days from the date the complaint is filed. As a standard practice, DCRA does not perform an inspection of a rental unit prior to the implementation of a rent increase. Currently, the District has in excess of 100,000 rental units with a substantial percentage of these units electing to take the annual increase authorized by Section 206 of the Rental Housing Act of 1985, as amended. The resources and manpower required to conduct an inspection of each unit before a rent increase could be implemented would require at least a twofold increase in existing NSO and support staff. However, the Regulations for the Rental Housing Act addressed this issue in Section 4305.4(b) which

requires the housing provider to certify to the tenants, with the notice of rent adjustment, that the rental unit and the common elements of the housing accommodation are in substantial compliance with the housing regulations or if not in substantial compliance, that any noncompliance is the result of tenant neglect or misconduct."

Finally, we asked about enforcement of the Condominium Conversion law and the fund that law established. Specifically, the Committee asked the agency Director about the status of the Condo Conversion Fund. The Director and agency CFO provided the following response:

> "According to (James) Aldridge and Linda Harried, Condo Conversion fund revenues have declined to almost zero in the past several years because developers have found clever ways to avoid the condo conversion requirements (by buying-out tenants in advance, by converting vacant buildings, etc.). Condo Conversion fund revenues in FY 2002 totaled approximately $67,000. In FY03, revenues declined even further to just over $8,000 (Almost all of which was paid back to the single individual currently receiving housing assistance). The ending FY03 Condo Conversion fund balance of $671,078 was swept into the City's general fund at the end of last year, leaving a fund balance of $0. While the revenues in the fund need to remain available in following years to pay program participants, the collections portion was apparently automatically repealed in 1996 because the statue wasn't reauthorized 16 years after its 1980 effective date. This has created a short-term problem with how to pay the current recipient of housing assistance. To fix this, legislative action will be required to reauthorize the fund."

The agency also shared that there were 89 condominium conversions in FY 2003 and 43 in FY 2004. Nonetheless, there is a zero balance in this fund B because the law needs to re-authorize this fund. The Committee will be adding a provision to re-authorize the Condo Conversion fund in the FY 2005 Budget Support Act.

Transfer to OAH – **The Committee would say that the planned transfer of the rental housing hearing examiner FTE positions to the new Office of Administrative Hearings (OAH) is the key problem facing the Rent Administration operation in FY 2005.** According to the responses to written interrogatories from the Committee and the testimony received from Director Dave Clark during the Performance Oversight Hearing and Budget Hearing of March, the agency is concerned about the adoption of the "Office of Administrative Hearings Establishment Act of 2001", which will transfer all funding, property, and full-time equivalent position authority associated with the administrative adjudication functions of the Rent Administrator to the Office of Administrative Hearings (OAH). More specifically, the application of the Act's transfer provisions would entail the transfer of three hearing examiners FTE positions and one scheduler FTE position from the Rent Administration operation to OAH by October 1, 2004.[61]

In anticipation of this issue arising in this year's budget deliberations, the Committee made inquiries of the new OAH as well as of DCRA. In addition, at the Chair's request, Committee staff held a meeting on April 22, 2004 with DCRA's Director Clark and OAH's Chief Administrative

[61] The OCFO mistakenly listed 4 additional FTEs in the Rent Administrator's office for being transferred, including the Rent Administrator herself. These are administrative, not adjudicatory positions and, as such, should not be transferred. The budget authority of $333,000 also should be reinstated at DCRA.

Officer, T.J. Bement to discuss the transfer. Both agencies had met once prior to said meeting, but little had been resolved on the issues and problems involved in the planned transfer. The inquiries made prior to deliberations and the April 22, 2004 meeting revealed to the Committee that neither agency has properly investigated into how the transfer will alter the Rent Administration's operations and, more importantly, how such an unplanned-for alteration will affect District landlords and tenants.

In particular, the crux of the problem with the planned transfer is the differing approaches of the Rental Housing Act of 1985 and the Office of Administrative Hearings Act to the administration and adjudication of rental housing cases. The Rental Housing Act established the Rent Administrator's Office, i.e., the Rental Accommodations and Conversion Division, to serve as the repository for information regarding the amount of rent charged for residential rental property; receive and process required documents for adjustments in rent ceilings; resolve disputes between landlords and tenants, and where necessary, receive and distribute for legal action tenant petitions seeking redress for alleged infractions by a landlord. In sum, the Rent Administrator's operations were designed to both guide landlords and tenants through important rental housing data as well as to provide fact-finding functions, mediation and adjudicative relief where needed.

The Office of Administrative Hearings Act, on the other hand, was designed to centralize all of the District's administrative adjudication processes under a single agency. The Act designed the OAH to serve primarily as a neutral adjudicatory body before which litigants are to present their cases along with supporting data and information that litigants themselves have collected. Thus, as designed, the OAH will provide tenants and landlords with dispute resolution and adjudicatory processes, but will not guide landlords and tenants through important rental housing data or provide fact-finding functions traditionally provided by the Rent Administrator's hearing examiners.

Although the Committee finds the OAH Act's intended division of labor between the agencies – in which the Office of the Rent Administrator would collect and disseminate rent data among landlords and tenants and assist the parties in developing their evidential files for purposes of adjudication as well as performing certain other decision making functions in uncontested cases, while the OAH would adjudicate contested cases – to be of merit, the Committee does not believe that the District's tenants and landlords would be well-served by such a division until the Office of the Rent Administrator is better prepared for the transition. The Rent Administrator needs to have a better idea of what the functions that would remain are and how these would be performed with the remaining FTE and budget authority.

In the Committee's estimation, the Office of the Rent Administrator is not prepared to transition into the intended arrangement for the following reasons:

1. Testimony received from the public at the Oversight and Budget Hearings revealed that the kind of data and information that the Office of the Rent Administrator must maintain and provide tenants and landlords is quite burdensome and difficult to produce. For example, as public witness David Conn testified, a simple request by a tenant for certain data that affects a Rent Ceiling calculation is a very involved process requiring a considerable amount of fact-finding by the hearing examiners.

2. The OAH Act, when passed, lacked the necessary conforming amendments that would have indicated how to re-structure the Office of the Rent Administrator upon the transfer of its

adjudicative functions to OAH. That act also would need to have a further conforming amendment to D.C. Official Code § 42-3502.04(c) and (d)(1) to partially relinquish and transfer the Rent Administrator's power to employ personnel, consultants, and hearing examiners and give some of that authority explicitly to the OAH. The amendments also need to define what that official's role would be after the transfer. Right now, the absence of clarifying amendatory language in the law has caused some confusion by not fully spelling out whether the Rent Administrator has or has not retained any power to employ hearing examiners or other FTEs and for what purposes. Also, at present, the Rent Administrator makes the final decisions and orders in contested cases upon receiving the recommendations of the current hearing examiners. These hearing examiners primarily conduct informal hearings and often use alternative dispute resolution techniques, such as mediation. No final descriptions have been given to the Committee for how the new system would work (once contested cases were transferred to OAH) and whether the same or a different level of formality would occur. Moreover, we need to know before the transfer occurs what level of authority would be accorded the Rent Administrator's computations and decisions in non-contested cases in future.

3. Both OAH and DCRA lack an appropriate transition plan that considers the effects of the transition upon District landlords and tenants after the transfer of hearing examiner FTEs to OAH. The lack of a transition is quite worrisome, as the planned transfer will leave the Office of the Rent Administrator with just four FTEs to handle the transition to DCRA's new and yet to be defined new role. Most importantly, upon the Committee's inquiry, OAH's Chief Administrative Officer T.J. Bement communicated to the Committee that OAH is ***neutral*** on the issue of whether the Rent Administrator is prepared for the transfer as well as on the issue of whether such a transfer should take place at all. OAH is ready if the transfer takes place, but it is also willing to wait.

4. Director Clark submitted to the Committee his agency's April 5, 2004 letter to Tracy Bement, the Chief Administrative Officer at OAH, in which he communicated that OAH's proposed regulations do not provide an appropriate mechanism for adjudication of rent control cases. Director Clark further communicated that the government is not a party to rent control cases brought before DCRA's Rent Administrator. The parties to such actions are District landlords and tenants. Litigants are currently guided by regulations that take into account the nature of rent control proceedings. Director Clark further communicated that the District's rent control regulations address routine adjudicatory standards, but also set out standards for processes particular to the rental housing process which are not addressed by OAH's proposed regulations, such as audit processes used in determining rent ceilings, and RACD complaint procedures.

In response to the aforementioned reasons, OAH Chief Administrative Officer T.J. Bement communicated to the Committee via email that OAH takes no position on whether or not rental housing should be included under its jurisdiction. OAH is aware that DCRA has proposed that the transfer of rental housing adjudication be delayed so that the issue can be further studied. Mr. Bement also communicated that there technical conforming amendments are forthcoming that will address Director Clark's concerns regarding conflicting law and regulations. Such technical conforming amendments will be proposed toward the end of the year to help make the process smoother and the law's provisions more user-friendly.

Mr. Bement further communicated that despite the Director's concern for OAH's new

regulations and the absence of procedures for cases in which the government is not a party, the OAH is institutionally prepared to hear such cases. Mr. Bement noted that in October 2004 OAH will also acquire jurisdiction over unemployment insurance (UI) litigation, which is almost entirely between private litigants. About half of the UI cases are one in which the parties are not represented by counsel. Mr. Bement then stated that OAH recognizes that some areas of adjudication require simpler rules and procedures than others, and that OAH expects to work with rental housing stakeholders, through the notice and comment rulemaking process, to achieve the proper balance between process-based fairness requiring more express procedures, and greater flexibility that can be important when dealing with *pro se* parties.

The Committee finds that the Mayor's lack of a transition plan for DCRA's Rent Administration operations upon the transfer of its adjudicatory functions to OAH to be problematical, given the delicate nature of landlord and tenant issues in the District and that there was time in which to raise these issues earlier. In addition, we are not clear why under the circumstances where one agency is not ready for the transition, the Mayor did not use the OAH Act's provision which allows the Mayor to temporarily exempt an agency's adjudication processes from inclusion in the Office of Administrative Hearings. Moreover, the Committee finds it unacceptable that District tenants and landlords would be the ones expected to incur whatever problems that would occur when no transition plan has been prepared by the Rent Administrator for her and her remaining staff's role.

For all of the foregoing reasons the Committee recommends that the District delay the transfer of the three hearing examiners and one scheduler FTE positions in the Office of the Rent Administrator to the Office of Adjudicative Hearings this coming fiscal year.[62] Nonetheless, the Committee expects the transfer to go forward in the following fiscal year. To that end, the Committee directs DCRA to present to the Council and Mayor a detailed transition plan for Rent Administration operations by October 1, 2004 to be ready for implementation by October 1, 2005. This plan shall include: (1) a vision for the new role of the Rent Administrator and the rest of that office upon the eventual transfer of its adjudicative functions to OAH; (2) the number of FTEs and appropriate job description that the Office of the Rent Administrator expects to need to carry out its aforementioned new role; (3) a complete list and description of all the conforming amendments together with draft language that will be required to properly structure the Office of the Rent Administrator for its new role; (4) a complete list of all other conforming amendments that are necessary to clear up any remaining conflicting provisions pertaining to OAH and the Rent Administrator's operations that exist in the code or regulations; and (5) a detailed analysis of how DCRA plans to keep track and record the determination of rent administration cases upon their adjudication by OAH. This plan shall be done in consultation with the OAH.

4. *Weights and Measures – Budget Support Act provision* – Another program at DCRA's Inspection and Compliance area is that of Weights and Measures. A revenue enhancement has been developed for this section and it is part of the Budget Support Act. **The Committee approves this enhancement and supports this change in the law to permit it to go forward.**

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[62] As previously mentioned, the Committee directs return of the non-adjudicatory staff – 4 FTEs and $333,000 – that were mistakenly transferred by the OCFO.

5. *Compliance and Investigations – Non-housing* – Other investigations in this program area include subject matter beyond residential properties – that is, the investigations of businesses other than housing providers, such as trash transfer stations, towing operations and others. The hearings of the civil infractions violations written by these DCRA employees will be transferred to OAH.

Rental Housing Commission – Within **Rental Housing Commission** is a single component program: Rental Housing Commission.

The Rental Housing Commission program provides hearings, orders, and decisions to landlords and tenants so that they have final administrative resolutions to their claims under the District's Rental Housing laws. It should be noted that the parties (landlords and tenants) may still go into court for a review of the Commission's order and decision and that the courts have primary jurisdiction in matters dealing with eviction and other landlord – tenant legal issues.

The Rental Housing Commission program has a gross funds budget (all in Local Funds) of $394,887, an increase of $167,887 or 74% over the FY 2004 approved budget of 4227,000. this change is primarily due to a correction from FY 2004's budget level. The gross budget supports 4 FTEs, which is not changed from the FY 2004 approved budget.

The sole performance measure for the Rental Housing Commission is the percent of final decisions and orders issued within 90 days of hearing – the percent goal for FY 2004 through FY 2006 is 80%.[63]

Agency Management – Within **Agency Management** are the following 12 component programs:

1) Personnel
2) Training and Employee Development
3) Labor Management Partnership
4) Contracting and Procurement
5) Property Management
6) Information Technology
7) Risk Management
8) Legal Services
9) Fleet Management
10) Communications
11) Customer Services
12) Performance Management

[63] **The Committee recommends that the single goal should increase in value over time. Moreover, the Committee would suggest that another goal could be developed for this body; that is, to what extent the Commission's decisions are reviewed and either upheld, overturned, or altered by the Court of Appeals. The Rental Housing Commission has had a very strong track record in this regard over the years, although the number of appeals taken has declined.**

Agency Management programs provide operational support to the agency so they have the needed tools to achieve operational and programmatic results. This group of programs is standard for all Performance-Based Budgeting agencies.

The Agency Management program has a gross funds budget of $10,089,898 – an increase of $459,142 or 4.8% from the FY 2004 approved budget of $9,630,756. This includes a Local Funds decrease of $216,689; a Special Purpose Revenue Funds decrease of $208,306; and, an Intra-District funds increase of $1,584. This change is primarily due to reallocation of personnel costs to the new Agency Financial Operations program and approved pay raises in FY 2004 and FY 2005. The gross budget supports 57 FTEs, a decrease of 16 FTEs from the FY 2004 approved level.

The 5 performance measures for the Agency Management programs include:

1) Dollars saved by agency-based labor management partnership project(s) – No target amounts are provided for FY 2004 through FY 2006. There is a note indicated that when labor management partnerships developed their projects in FY 2003, few had cost savings as objectives. Agencies plan to continue ongoing projects and establish new ones by the third quarter of FY 2004. Cost savings will be tracked for this measure for those projects that have cost savings as a key objective.

2) Percent variance of estimate to actual expenditure (over/under) – the target for FY 2004 through FY 2006 is 5%.

3) Cost of Risk – This measure replaces one called "percent reduction of employee lost workday injury cases." Cost of Risk will be a comprehensive measure of a wide range of risks confronting each agency, including but not limited to safety issues, financial risks, and potential litigation. Agencies will establish a baseline in FY 2004 and will seek to achieve reductions in the Cost of Risk in subsequent years. Lost workdays due to injuries will be one of the many components of the Cost-of-Risk formula. Thus, no actual target is indicated for FY 2004 through FY 2006 as yet.

4) Rating of 4 - 5 on all four telephone service quality criteria: 1) Courtesy, 2) Knowledge, 3) Etiquette, and 4) Overall Impression. The target score for FY 2004 through FY 2006 is "4"[64]

5) Percent of Key Results Measures achieved – the target for FY 2004 to FY 2006 is 70%.

Agency Financial Operations – Within **Agency Financial Operations** are the following 3 component programs:

1) Budget Operations
2) Accounting Operations
3) ACFO (Agency Chief Financial Officer)

[64] **The Committee recommends that there should be a measure for written communications, such as correspondence and electronic mail, as well as telephone responses.**

The purpose of the Agency Financial Operations program is to provide comprehensive and efficient financial management services to and on behalf of District agencies so that the financial integrity of the District of Columbia is maintained. This program is standard for all Performance-Based Budgeting agencies.

The Agency Financial Operations program has a gross funds budget of $927,381 – a decrease of $44,828 or 5.1% from the FY 2004 approved budget of $882,553. This includes Local Funds of $870,203 and Special Revenue funds of $57,178. This change is primarily due to reallocation of personnel costs to the new Agency Financial Operations program. The gross budget supports 11 FTEs – a decrease of 1.1 FTEs from the FY 2004 approved level. No performance measures are provided for this program specifically for DCRA.

IV. Alcoholic Beverage Regulation Administration (ABRA)

Alcoholic Beverage Regulation Administration
Agency Operating Budget FY 2004 to FY 2005 (Dollars in Thousands)

Object Class	FY 2003 Actual	FY 2004 Budgeted	Mayor's FY 2005 Proposed	CRA Cmte. Proposed FY 2005	Variance
Subtotal for Personal Services	1852	2313	2451	2866	415
Subtotal for Non personal Services	860	1213	1082	2010	929
Total Expenditures	2712	3526	3533	4877	1344
Other FTEs	0	0	0	0	0
Total FTEs	32.2	42	42	47	5

The Alcoholic Beverage Regulation Administration ("ABRA") was created when Title 25, D.C. Code Enactment and Related Amendments Act of 2001 became law on May 1, 2001. This legislation was passed by the Council on final reading on December 19, 2000, and on reconsideration by the Council on January 23, 2001. It was signed by Mayor Anthony Williams on February 9, 2001, at which time it became D.C. Act 13-603.

The mission of ABRA is to issue alcoholic beverage licenses to qualified applicants, educate establishments in the prevention of alcoholic beverage sales to minors, and to educate businesses and the community on the license application process, including complaint and protest mechanisms. ABRA also investigates license violations, adjudicates contested cases, and enforces compliance with DC alcoholic beverage laws. The agency plans to fulfill its mission by achieving the following strategic result goals: 1) Improve the process for issuing alcoholic beverage licenses; 2) Partner with other agencies, including the Department of Consumer and Regulatory Affairs and the Office of Tax and Revenue, to provide one-stop business service to customers seeking licenses; 3) Ensure compliance with the District's alcoholic beverage laws, D.C. Official Code Title 25 and Municipal Regulations Title 23; 4) Partner with other agencies, including the Metropolitan Police Department, to combat underage drinking; and 5) Improve adjudicatory support processes that implement Alcoholic Beverage Control Board ("ABC Board") decisions.

Committee Reasoning and Recommendations

The Committee on Consumer and Regulatory Affairs approves a FY 2005 budget of $4,876,708, for the Alcoholic Beverage Regulation Administration. This is an increase of $1,344,000 above the Mayor's Proposed Budget. Thus, the Committee is approving the agency's request for an additional $544,000 budgetary authority in PS spending for 5 FTEs. In addition, the Committee approves ABRA's request for an $800,000 enhancement in one-time NPS spending to be used for increasing office space at 941 North Capitol Street, NE.

The Committee highly recommends that ABRA take all the necessary steps to ensure timely implementation and enforcement of the new regulations and increased fees.

The Committee commends the Board for developing and implementing a training program

for new Board members and highly recommends that it continue the program during the next fiscal year.

The Committee commends ABRA's training of MPD on the importance of forwarding 251 Incident Based Reports and highly recommends the continuation of this practice.

The Committee commends the hiring of Chief Investigator Al Luna.

The Committee commends ABRA's efforts to train Investigators in financial investigations, report writing, and auditing techniques. The Committee highly recommends that ABRA continue to train its investigators in these areas during FY 2005.

The Committee commends the agency's efforts in providing language translation in its community outreach program. The Committee highly recommends that ABRA translate license applications into different languages. The Committee requests that ABRA submit a report to the Committee by June 15, 2004 detailing how the agency plans to come into compliance with its obligations under the "Language Access Act of 2004", as recently passed by the City Council. The Committee reminds ABRA that the Language Access Act requires the agency to be in compliance by October 1, 2004.

Three Divisions of ABRA

Licensing

The Licensing Division processes applications, issues licenses, and provides information to the public about the licensing process. As part of the licensing function, ABRA maintains the District's official alcoholic beverage records; provides information about the number, type, and location of licensed alcoholic beverage establishments; and evaluates the need to propose changes in licensing fees. Currently, there are more than 1,600 establishments in the District with alcoholic beverage licenses.

Compliance

The Compliance Division ensures compliance with the District's alcoholic beverage laws and regulations. Investigators and auditors conduct inspections and investigate allegations of licensing violations at alcoholic beverage establishments. Currently, there are 1,676 licensed alcoholic beverage establishments in the District. ABRA's staff issues citations when alcoholic beverage laws are violated and submit reports to the ABC Board on completed investigations. This program works to prevent the sale of alcoholic beverages to minors through licensee educational programs and enforcement. Compliance staff often work in conjunction with other District of Columbia government regulatory agencies, including the Metropolitan Police Department and the Office of Tax and Revenue.

Adjudication

The Adjudication Division supports the ABC Board's adjudication function by performing administrative duties and informing licensees and the public about the protest process. It also processes citations submitted by ABC investigators and the Metropolitan Police Department, monitors the status of protest hearings and voluntary agreements, and notifies parties and the public of ABC Board decisions. Adjudication staff work in conjunction with the Office of General Counsel to ensure the enactment of ABC Board decisions and orders.

FY 2005 Operating Budget

An analysis of ABRA's FY 2005 budget must begin with an examination of ABRA's FY 2003 actuals, the FY 2004 budget, and the Mayor's FY 2005 budget request. The Mayor's FY 2005 budget request is reflected in the following flow chart:

Alcoholic Beverage Regulation Administration
Agency Operating Budget FY 2003 to FY 2005 (DOLLARS IN THOUSANDS)

Object Class	FY 2003 Actuals	FY 2004 Budget	Mayor's FY 2005 Proposed	CRA Cmte. Proposed FY 2005	Variance
Regular Pay - Cont. Full	1216	1525	1677	2041	364
Regular Pay, Other	326	399	387	387	0
Additional Gross Pay	17	14	18	18	0
Fringe Benefits	234	326	332	384	52
Overtime Pay	60	50	36	36	0
Subtotal for Personal Services	1852	2313	2451	2866	415
Supplies and materials	38	80	75	80	5
Energy, Comm., Bldg. Rentals	0	4	5	5	0
Telephone, Telegraph, Etc	0	27	37	37	0
Rentals, Land and Structures	0	316	354	354	0
Security Services	316	6	6	6	0
Services Charges, Other	392	227	222	265	43
Contractual Services, Other	0	268	248	1048	800
Subsidies and Transfers	72	0	0	0	0
Equipment and Equip. Rental	42	285	135	214	80
Subtotal Nonpersonal Services	860	1213	1082	2010	929
Total Expenditures	2712	3526	3533	4877	1344
Other FTEs	0	0	0	0	0
Total FTEs	32.2	42	42	47	5

For FY 2005, ABRA is proposing a gross operating budget of $3,532,708. The proposed budget is an increase of $516,708 over the FY 2004 budget of $3,016,000. The number of authorized FTEs supported by the proposed budget is 42, which is an increase from the 36 FTEs supported by the FY 2004 budget. The personal services ("PS") part of the FY 2005 proposed budget is $2,451,130, which is an increase of $138,115 that was reclassified from nonpersonal services ("NPS") in order to support additional PS spending. The personal services increase is due to grade increases for ABRA

investigators, step increases for ABRA staff, and the filling of 2 currently vacant FTE positions and 6 more FTE positions that were approved in its FY 2004 budget. In addition, ABRA has requested authorization for an increase of 5 FTEs to the 42 FTEs originally proposed for FY 2005, as well as for a non-personal services non-recurring enhancement of $800,000 to address space concerns for the agency.

The Committee on Consumer and Regulatory Affairs approves a FY 2005 budget of $4,876,708, for the Alcoholic Beverage Regulation Administration. This is an increase of $1,344,000 above the Mayor's Proposed Budget. There is sufficient funding in the ABRA fund balance to support this increase in budget authority. Thus, the Committee is approving the agency's request for an additional $544,000 budgetary authority in PS spending for 5 FTEs. In addition, the Committee approves ABRA's request for an $800,000 enhancement in NPS spending to be used for increasing office space at 941 North Capitol Street, NE.

Revenues

ABRA's FY 2005 budget is comprised entirely of "Other" or "O" type funding. Presently, it receives no appropriations from the General Fund of the District. The major source of Other type revenue for ABRA is the licensing and regulation of alcoholic beverage establishments in the District. ABRA charges a fee for administering new licenses and renewing licenses. ABRA also has the authority to collect fines for non-compliance with District ABC laws.

ABRA collected $3,217,330 in revenues during FY 2003. Given that the agency's budget for FY 2003 was $3,016,000, the amount of revenue collected by ABRA exceeded its FY 2003 budget by more than $200,000. ABRA expects to generate approximately $902,430 in additional revenue annually upon the adoption of the Board's proposed regulations implementing D.C. Law 13-298, the Title 25, D.C. Code Enactment and Related Amendments Act of 2001. The regulations, which will increase fees by 30%, will be effective on April 20, 2004 – the effective date of the new ABRA regulations that were published in the D.C. Register on March 19, 2004 – and will increase ABRA's anticipated annual revenue to approximately $4,119,760.

Additionally, Bill 15-516, the "Omnibus Alcoholic Beverage Amendment Act of 2003," if adopted by the Council of the District of Columbia in its current form, will also generate additional revenue for ABRA through the creation of an entertainment endorsement that would be required for Class CR, DR, CT, DT, CH, and DH licensed establishments to have entertainment, dancing, or a cover charge. The fee for the entertainment endorsement would be 20% of an establishment's base license fee.

Furthermore, ABRA also expects an undetermined amount of additional revenues to be generated as a result of the issuance of: (1) new manager's licenses needed to monitor catered events, (2) Alcohol Education Certification licenses, and (3) other new licenses and permits. **The Committee recommends that ABRA take all the necessary steps to ensure timely implementation and enforcement of the new regulations and increased fees.**

Expenditures

According to the responses to written interrogatories from the Committee and the testimony received from Director Maria M. Delaney during the Budget Hearing of March 31, 2004, ABRA plans to spend its revenues on improving the agency's efficiency and customer service, enforcing the new ABC law and implementing new ABC regulations, and combating problems associated with underage drinking. Specifically, ABRA plans to expend its revenues on these efforts by filling the 6 new FTE positions that were approved in its FY 2004 budget. These six positions are to be used for the hiring of 3 investigators and 3 administrative staff.

In FY 2005, ABRA plans to expand its staff from 42 FTEs to 47 FTEs through hiring an additional 5 FTEs. The agency also plans to expend revenues to expand ABRA's current office space. If both of these enhancements are approved, funding for the additional 5 FTEs would come from ABRA's FY 2003/2004 Fund Balance of $2,139,268, as well as from the revenues of the expected 30% increase in fines. Funding for the expansion of office space would also come from ABRA's Fund Balance, as would any approved salary increase for ABRA staff/attorneys during FY 2005.

The additional 5 FTEs requested will assist ABRA by providing for: (1) a Chief of Operations to assist the ABRA Director with budget, procurement, legislative and other matters; (2) two additional investigators; (3) two supervisory investigators to assist in enforcing the newly created Caterer's License, Voluntary Agreement Compliance, and to check for ABC establishment's food sales requirements; (4) an Adjudication Specialist; and (5) an attorney to handle the backlog of Board opinions.

The increased office space will permit ABRA to create a separate space for the public to review ABRA files and also allow more than one license application to be reviewed at one time. The reconfigured space will also allow ABRA's staff divisions to be more unified by allowing all the staff of each division to be seated together to make the work process flow more efficiently. Funding for this project – a one-time expenditure – has been identified in the Special Purpose Revenue Fund Balance Availability Report (on page 2; Office of Revenue Analysis, Office of the Chief Financial Officer; Wednesday, February 18, 2004 – *see* Appendix B). This report was provided to the Committee by Henry Mosley, Associate Chief Financial Officer, Economic Development and Regulation, pursuant to the Committee's discussions with the OCFO and ABRA regarding the appropriate manner in which to fund the enhancement. The on-going increase in fixed costs will be addressed through ABRA's operating budget.

ABRA has also planned for changes to its budget with regard to the operations of the ABC Board. Specifically, the adoption of Bill 15-516 by the Council of the District of Columbia in its current form would double the maximum annual Board member stipend from $6,000 to $12,000. Additionally, the maximum annual stipend for the Board Chairperson would increase from $7,200 to $14,400. ABRA has also budgeted approximately $12,500 for education and conference training for Board members, which includes travel costs.

The Committee on Consumer and Regulatory Affairs approves a FY 2005 budget of $4,876,708, for the Alcoholic Beverage Regulation Administration. This is an increase of $1,344,000 above the Mayor's Proposed Budget. Thus, the Committee is approving the agency's

request for an additional $544,000 budgetary authority in PS spending for 5 FTEs. In addition, the Committee approves ABRA's request for an $800,000 enhancement in NPS spending to be used for increasing office space at 941 Capitol Street, NE.

FY 2003 Capital Budget

There are no FY 2003 capital budget proposals for the Alcoholic Beverage Regulation Administration.

Committee Budget and Oversight Hearing

FY 2005 Performance Oversight Hearing

The Committee held two hearings regarding the operations of ABRA. The first was a performance oversight hearing held on February 12, 2004. The second was a budget hearing on the FY 2005 Budget and was held on March 31, 2004. In preparation for both hearings, the Committee submitted questions to ABRA for its responses together with its written testimony. (*See* Appendixes A and B).

ABC Board Chair Charles R. Burger testified on behalf of the Board at the February 12th performance oversight hearing. ABRA Director Maria Delaney and Board Members Judy A. Moy, Audrey E. Thompson, Vera M. Abbott, and Peter Feather accompanied Mr. Burger. Mr. Burger testified that training, enforcement, underage drinking, community outreach, and technology constituted the Board's key priority areas for FY 2004.

Mr. Burger testified that the Board, in conjunction with ABRA, will seek to improve upon the significant amount of training offered in FY 2003 by increasing upon the number and variety of training topics offered to licensees, members of the public, Advisory Neighborhood Commissions (ANC's), and ABRA staff in FY 2004. Mr. Burger testified that the Board and ABRA planned to hold training sessions for licensees, ABRA staff, ANC's, and members of the public over the next several months on the new ABC regulations. Mr. Burger then stated that the Board believed that the success and implementation of the new regulations, once effective, will hinge upon the education of both licensees and the public regarding changes to the Board's previous procedures. Mr. Burger testified that ABRA's training on the issue of combating underage drinking was highly successful in FY 2003. Mr. Burger testified that further training on combating underage drinking training will be helpful in FY 2004 given the number of establishments which were cited by ABRA in FY 2003 for selling alcoholic beverages to 13 and 14 year-old minors. Furthermore, expanding upon the alcohol violation training offered by ABRA to the Metropolitan Police Department (MPD) will continue to assist MPD officers in identifying alcohol violations and ensuring that ABRA receives the "251" reports, or Incident Based Reports, from MPD. Mr. Burger testified that the Board also intends to expand upon its recently offered new Board member orientation raining program for new Board members once one or both of the current vacancies on the Board are filled.

Mr. Burger testified that, with regard to enforcement, the Board is excited about the impact of the upcoming implementation of the ABRA Civil Penalty Schedule Regulations as recently approved by the D.C. Council. The issuance of fines under the regulations by ABRA investigators for violations regarding noise, sign violations, and the absence of an ABC manager on duty, will allow ABRA to improve upon its enforcement capabilities without significantly overextending the Board's weekly calendar. Mr. Burger then testified that ABRA's increased enforcement efforts in both FY 2003 and in FY 2004 to check voluntary agreements for compliance, further assisted the Board in taking enforcement action against establishments that are in non-compliance with their voluntary agreement.

Mr. Burger testified that the Board's continued enforcement of voluntary agreements is essential to continue building trust amongst community members and applicants in the voluntary agreement process. Mr. Burger testified that ABRA will also continue to conduct underage compliance checks in each ABC establishment and that the Board will continue to crack down on ABC establishments who are found to sell or serve alcoholic beverages to minors.

Mr. Burger then testified that the Board plans to continue its efforts in the area of community outreach. Mr. Burger testified that the Board is planning to hold several symposiums during the remaining part of FY 2004 for Advisory Neighborhood Commissions, neighborhood associations, business associations, and members of the public. Mr. Burger testified that the Board believes, based upon the significant amount of discussion that arose prior to and during the D.C. Council's consideration of the Board's proposed regulations, that the holding of interactive workshops will continue to be a helpful forum in providing an exchange of ideas on a variety of topics between these groups and the Board. Mr. Burger stated that the Board believes that the holding of such symposiums can only serve to improve upon the operations of both ABRA and the Board as well as providing the Board with a forum to hear and address concerns of the community.

Mr. Burger testified that the Board will also continue to build upon technology as a priority area. Mr. Burger stated that the Board is excited about the positive improvements that ABRA's new computer system will have upon the Board's adjudication process. Specifically, the new computer system will dramatically improve upon the Board's ability to quickly and accurately obtain information involving licensees which is essential in assisting the Board in its decision-making process. Additionally, the new computer system will assist the Board in relaying its licensing and enforcement actions and decisions electronically to the appropriate ABRA staff.

Upon the conclusion of his prepared remarks regarding the Board's priority areas for FY 2004, Mr. Burger then addressed the questions sent to the Board by the Committee prior to the hearing. (See Appendix B). In response to the first question regarding Board meeting attendance, Mr. Burger testified that the Board regularly meets each Wednesday and met 49 times during FY 2003 and 48 times during FY 2002. Mr. Burger stated that the dedication and commitment of his fellow Board members to ensure that a quorum is always present for Board meeting has been extremely important during the last several months given the Board's two vacancies. Chairperson Ambrose stated that she was very impressed with the Board's dedication in light of the difficulties that the two vacancies posed in forming a quorum. In response to the second Committee question regarding the number of appealed Board decisions, Mr. Burger testified that one decision of the Board was appealed in FY 2003, which is the only Board decision currently pending with the D.C. Court of Appeals. The Board had two decisions in FY 2002 and three decisions in FY 2001 that were appealed to the D.C. Court of Appeals. Mr. Burger then stated that the Board was also pleased to report that none of its written decisions have been overturned since 2001. In response to the third question regarding the Board's opinion regarding the removal of the referendum process from the ABC statute, Mr. Burger testified that the Board has no objection to the removal of the referendum process from the existing ABC law.

Mr. Peter Feather, member of the ABC Board, testified that he was the newest member of the Board and a resident of Ward 1. Mr. Feather then stated that his prepared testimony addressed the significant accomplishments of both the Board and ABRA during the course of FY 2003. In addition, Mr. Feather, stated that he would also touch upon the following three areas: (1) agency operations; (2) Board policy and Board programs; and (3) training.

First, with regard to agency operations, Mr. Feather testified that one of ABRA's biggest successes in FY 2003 occurred when the ABRA website went on-line this past May. Mr. Feather testified that the ABRA website has not only benefitted the public by providing the actual text of each Board approved voluntary agreement, it has also made it easier for ABRA investigators to find voluntary agreements and check them for compliance. Mr. Feather testified that changes planned for the ABRA website will also help to enhance the benefits of the ABRA website to customers. Mr. Feather then reported that ABRA exceeded its targeted annual LSDBE goal for FY 2003 by 24%. Specifically, ABRA exceeded its allocation goal of $170,500 for contract awards to certified Local Small Disadvantaged Business Enterprises (LSDBE) with a contract amount of $211,448.34.

Mr. Feather testified that another success in the operations of ABRA during FY 2003 occurred with the creation of the ABRA licensing renewal team. The creation of this team, headed by Patricia Jenkins, focused solely on renewals and has allowed ABRA to process licensing applications in a more expedited manner. Mr. Feather testified that the team also allows ABRA's license examiners to focus on other important parts of their caseload, including other types of license applications. Mr. Feather then testified that ABRA and the Board were pleased with the completion in FY 2003 of the ABRA color brochure. Mr. Feather testified that the brochure, which provides useful information about the Board and ABRA, including its mission, goals, programs, the role of the Board, and useful ABRA staff phone numbers, serves as a powerful outreach tool in connecting ABRA and the Board with the public.

Second, with regard to Board policy and procedures, Mr. Feather testified that the Board developed an orientation training program for new Board members. Mr. Feather testified that he is the first product of that training. Mr. Feather then testified that the Board is pleased with the approval in large part of the proposed regulations by the D.C. Council in FY 2004. Mr. Feather stated that the Board looks forward to continue working with the Committee as legislative changes to Title 25, some of which have been sent to the D.C. Council through the Executive Office of the Mayor, move forward in FY 2004. **The Committee commends the Board for developing and implementing a training program for new Board members and recommends that it continue the program during the next fiscal year.**

Mr. Feather also testified on the success of the mediation process in reducing the Board's caseload. The use of the mediation process in ABC proceedings was largely non-existent several years ago. The Board's placement of a greater emphasis on and use of the mediation process has evolved to the point that, in FY 2003, approximately 87% of the cases mediated by ABRA staff, including ABRA's Mediation Specialist, La Verne Fletcher, settled prior to the holding of a protest hearing.

Third, with regard to training, Mr. Feather testified on the success of training of ABRA staff, MPD, and ABC licensees, which has ensured that compliance checks involving the sale of alcohol to minors are conducted in a professional manner. The Board and ABRA offered training on this topic by holding approximately 22 training sessions for ABC licensees. Additionally, under ABRA Director Maria Delaney's leadership, written standard operating procedures were developed and put into place to ensure that ABRA investigators, MPD Officers and National Capitol Coalition to Prevent Underage Drinking (NCCPUD) youths were properly trained prior to their participating in the compliance program. Additionally, efforts have been made to ensure that youths who participate in the program look under the age of twenty-one and do not have full beards or mustaches. Mr. Feather testified that the Board is interested in providing to staff in FY 04 specific training involving issues that arise during the license

application process, including such topics as corporations and immigration. Mr. Feather stated the he also planned to make a contribution by working with ABRA staff in planning the symposiums and educational forums mentioned by Chairman Burger.

Mr. Feather then stated that, on a personal note, he has enjoyed his short time as the newest member of the ABC Board. Mr. Feather further stated that he believes that he is providing a voice to the Board from a Ward 1 perspective and that he look forward to working with his fellow Board members in accomplishing the Board's goals for FY 2004.

Chairperson Ambrose stated that she was pleased with the Board's efforts to provide training sessions for MPD and ABC licensees. Chairperson Ambrose added that such outreach efforts help give the community and business as sense of ownership in the process. Chairperson Ambrose then asked the panel if language translation was being used in any outreach meetings. Mr. Burger responded in the affirmative and testified that translators had been used in meetings where members of the Korean community where expected. Mr. Burger further added that language translators were also used when needed during mediation processes. **The Committee commends the agency's efforts in providing language translation in its community outreach program.**

Maria M. Delaney, Director of the Alcoholic Beverage Regulation Administration (ABRA), prefaced her testimony with a quick mention of the fact that in preparation for ABRA's March 31, 2004 hearing on the FY 2005 budget, ABRA's submitted FY 2005 budget had been returned to ABRA from the Mayor without any changes. Director Delaney then stated that her testimony would first review the steps that she has implemented to improve ABRA as an agency, and, second, also discuss the agency's major initiatives in relation to these steps as ABRA moves forward in FY 2004.

Director Delaney testified that the steps taken to improve ABRA included: (1) improvements to ABRA's training programs for staff, the Metropolitan Police Department (MPD), youths, licensees, and community groups; (2) ABRA's efforts to curb underage drinking and the statistics resulting from these underage compliance checks; (3) the hiring of new personnel; (4) improvements occurring from the merging of the Adjudication and Licensing Divisions; (5) improvements to the Enforcement Division; and (6) the building of a relational data web based software system.

With regard to the first issue, Director Delaney testified that the level of training provided to ABRA staff has been significantly upgraded in an effort to ensure that ABRA staff adhere to a high professional standard. Over the last year, ABRA has provided both basic and specific training courses to its investigative staff on a variety of topics. Specifically, ABRA Investigators were provided training classes at ABRA related to underage drinking, including determining the authenticity of various forms of personal identification as well as the proper way to conduct compliance checks. Additionally, ABRA investigators were provided training in report writing, interview and interrogation skills, and other enforcement classes.

Director Delaney testified that in May 2003, the majority of ABRA Investigators and Supervisory Investigators also attended the National Liquor Law Enforcement Association (NLLEA) training class in Norfolk, Virginia. The following were subject matters that the basic class focused on: report writing, verbal judo, how to use informants, recognizing fraudulent identifications, and rave and club drugs. Additionally, more advanced classes were provided to ABRA investigators that focused on financial courses, detection of ownership, critical stress management, and other management courses. Director Delaney further noted that nationally recognized instructors were used to teach courses to the investigators, as well as to other staff members. ABRA investigators continually receive training to ensure

professionalism, ethics, and proper investigative techniques. Director Delaney testified that other staff members have attended training classes through the Center for Workforce Development as well as in-house training on ethics, sexual harassment, and diversity training.

Director Delaney testified that ABRA is committed to continue improving upon the quality of training offered to ABRA staff during the current Fiscal Year. Specifically, in FY 2004, ABRA and NLLEA are attempting to design a professional course specifically geared toward liquor law enforcement issues whereby all ABRA investigators will attend and graduate.

With respect to the education of ABC licensees, Director Delaney testified that ABRA provided 22 merchant training classes on the detection of fake identifications and the methods used in combating underage drinking. Director Delaney testified that 428 different ABC establishments sent 720 individuals to attend the training. Director Delaney testified that the training was well-received and that ABRA intends to hold more of these training classes in March and November of 2004. Director Delaney testified that ABRA also plans to offer educational programs to ABC licensees and community groups that will detail common violations that an ABRA Investigator may find during a routine inspection.

Director Delaney testified that in November 2003, ABRA began conducting in-service training classes to MPD regarding: (1) the importance of MPD forwarding their incident reports (called 251s and 163s) to ABRA as soon as a violation occurs; (2) the District's ABC laws and regulations, (3) detecting fake identifications, and (4) the elements that are necessary to prove sale to minor cases, and other liquor related cases. These classes are held every Thursday, twice a day, until the end of July 2004. **The Committee commends ABRA's training of MPD on the importance of forwarding 251 Incident Based Reports and highly recommends the continuation of this practice.**

Director Delaney testified that as the result of meetings and discussions held with Police Chief Charles Ramsey and Executive Chief Michael Fitzgerald, ABRA was able to tape a training film on the importance of MPD forwarding their incident reports to ABRA and explain the elements needed in proving ABC violations. Director Delaney testified that this training tape is constantly played at the MPD officers' daily roll calls. Director Delaney testified that improving upon the information documented by MPD involving ABC establishments will make ABRA Investigators better equipped to verify information regarding incidents in a more expeditious manner, which will assist them in more quickly determining whether an establishment is in violation of the District of Columbia's ABC laws and regulations. Director Delaney testified that two training classes were also given to MPD and the NCCPUD youths on how to conduct compliance checks of on-premise alcoholic beverage consumption establishments.

With regard to community organizations and District residents, Director Delaney testified that ABRA also conducted at least five separate education programs involving the procedures for filing a protest, the protest hearing process, and voluntary agreements. Director Delaney testified that ABRA's Community Resource Officer and Gottlieb Simon, the Executive Director of the Office of Advisory Neighborhood Commissions, are planning to hold a training session in April 2004 for all the ANCs on the above mentioned topics once the new regulations are in effect. Director Delaney further testified that ABRA's Office of the General Counsel and the Director will offer several training sessions to the staff, public, and MPD on the new ABC regulations during the next several months.

With regard to efforts to curb underage drinking, Director Delaney testified that ABRA was able to secure several grants for the enforcement of underage drinking for the grant years of 2000 through 2002. The subgrantees of the Office of Juvenile Justice and Delinquency Program (OJJDP) Grant are MPD in the amount of $400,000, NCCPUD in the amount of $125,000, and most recently the Office of Corporation Counsel (OCC) received $63,532.

Director Delaney testified that ABRA's most recent efforts to curb underage drinking in the District of Columbia include continuous training of the merchants, youths, and MPD, through the (OJJDP) grant. Director Delaney testified that, after the initial offering of training to licensees, compliance checks have been jointly conducted by ABRA, MPD, and NCCPUD. Director Delaney testified that 578 joint compliance checks were conducted between July 2003 and January 2004, resulting in 138 out of 578 establishments selling alcoholic beverages to minors. Director Delaney noted that 36 of the 138 establishments sold to youths that are under 16 years of age. The Adjudication division closed 54 of the 111 sale to minor cases it received. Director Delaney testified that such efforts resulted in the collection of $54,500.00 in fines, which are credited to the District of Columbia's General Fund. Director Delaney testified that the remainder of cases are still pending adjudication.

Director Delaney testified that the Enforcement division also conducted joint investigations with MPD that entailed entering licensed ABC establishments in an undercover capacity and looking for individuals who were not of legal drinking age. These investigations resulted in MPD arrests of minors procuring alcoholic beverages as well as citing the ABC establishments both criminally and administratively for selling alcoholic beverages to minors.

With regard to the use of the OJJDP grant in FY 2004, Director Delaney testified that in January 2004, OCC hired an attorney who will specifically prosecute both criminally and civilly any cases pertaining to underage drinking and sale to minors. Director Delaney stated that this is an important step in the District's efforts to combat underage drinking. Director Delaney further added that NCCPUD and ABRA intend to provide public service announcements to combat underage drinking in FY 2004 using funds awarded under the OJJDP grant.

Director Delaney testified that ABRA will continue partnering with MPD, other law enforcement agencies, and NCCPUD in FY 2004 to conduct compliance checks and to prevent underage drinking as well as work with OCC to successfully prosecute these cases. In FY 2003, ABRA was also awarded another grant in the amount of $360,000 for the enforcement of underage drinking laws from OJJDP.

With regard to hiring, Director Delaney testified that the position of Chief Investigator was filled in November 2003 with the hiring of Al Luna as Chief Investigator. Director Delaney testified that Mr. Luna has an extensive background in investigations and is a former agent with the Texas Alcohol Beverage Control Division with management experience. Mr. Luna is responsible for supervising ABRA's two Supervisory investigators, eight investigators, and one auditor. Director Delaney testified that Mr. Luna has been a valuable asset to ABRA in filling this role. Director Delaney further testified that in October, 2003, Juliana Tengen was promoted to the position of Supervisory Investigator. **The Committee commends the hiring of Chief Investigator Al Luna.**

Director Delaney testified that ABRA is also in the process of hiring one new investigator and an attorney. Director Delaney testified that once the new regulations are in effect and ABRA realizes the additional funds, ABRA will hire the additional people necessary to help ABRA become a successful administration.

With regard to improvements occurring under the merger of the Adjudication and Licensing Divisions, Director Delaney testified that the leadership of Ms. Laura Byrd has increased the morale of ABRA's Licensing Division and individuals have become more accountable for the completion of specific tasks. Director Delaney testified that in May 2003, a new renewal team was formed, under the supervision of Pat Jenkins. The renewal team's current primary duty is to renew license applications. Director Delaney testified that in FY 2004, these duties will be expanded to include authentication of information provided by ABC licensees compared to information contained in ABRA's existing records. Director Delaney testified that ABRA is committed to ensuring that its licensing files are as complete and accurate as possible.

Director Delaney testified that the licensing staff under the supervision of Diane Jackson has also streamlined the applications process by keeping license applications with only minor deficiencies in house with staff, rather than returning the application to the applicant in each instance. Director Delaney testified that such has enabled the licensing staff to process additional applications in a more efficient manner.

Director Delaney testified that ABRA has also updated its placards to bring them into compliance with the ABC laws and regulations. Director Delaney testified that ABRA has maintained the same bright colors and the current placard size to ensure that the residents of the District of Columbia are able to readily identify the placards. Director Delaney testified that ABRA has also added additional information on the placards to assist the public regarding the protest process.

Director Delaney testified that, with the implementation of ABRA's new computer system, the licensing staff is revamping its applications which will be placed on the ABRA website once they are completed. Director Delaney testified that the Licensing Division also intends to work with the Office of the General Counsel, to develop an effective and efficient license application for the new catering license should the forthcoming additional regulations, as proposed by Bill 15-516, the "Alcoholic Beverage Omnibus Amendment Act of 2004", be adopted by the Council.

With regard to the Enforcement Division, Director Delaney testified that significant progress has been made in several areas. Director Delaney testified that in October 2002, ABRA Investigators began to conduct compliance checks on voluntary agreements entered into by ABC establishments, if existing, at the same time regulatory inspections were conducted. Director Delaney testified that the implementation of this policy has been extremely effective as 477 voluntary agreements were checked for compliance in FY 2002. Director Delaney testified that this proactive approach, which was slightly refined in December 2003 by the Chief Investigator and Supervisory Investigator Jeff Jackson to provide for better tracking, has continued to be successful in FY 2004. Director Delaney noted that in January 2004, 350 regulatory inspections and 97 voluntary agreements were checked for compliance.

Director Delaney testified that one of ABRA's most important projects for FY 2004 is to build a new computer relational web-based software package. Director Delaney testified that ABRA is currently working with OCTO to launch a new relational web-based software system for ABRA. Director Delaney testified that prior to the undertaking of this project, only the Licensing Division had a computer data base. Furthermore, ABRA lacked a fully integrated system that all ABRA divisions could use. Director Delaney testified that the project has been labor intensive because some of the old data was found to be outdated or incorrect, and therefore, could not be downloaded into the new software system. Director Delaney testified that ABRA has been revalidating its information and once this new system is completed, ABRA's staff will be more efficient and the processes will be less time consuming. Director Delaney further added that phase one of this project is almost complete and phase two, which will improve ABRA's ability to

maintain and update the files and records of the agency is scheduled to begin shortly. Director Delaney stated that this new system will also help to provide more accurate information on ABRA's web page.

Director Delaney testified that ABRA website currently displays for each establishment: the Applicant's number, License number, Applicant's name and Trade name, Class of license, Address, and ANC where the establishment is located. Director Delaney testified that ABRA is aware that several entries that involve the ANCs, and spellings of the ABC establishment names and streets are not correct at this time. Director Delaney testified that ABRA is using a Master List that is accurate and once the new system is complete the correct information will be automatically updated on the ABRA website.

Director Delaney testified that ABRA's updated website will serve as a powerful tool for ABRA in communicating its mission and educating the community about the District's alcoholic beverage laws and procedures. Director Delaney stated that although the current ABRA website does include such items as an updated list of alcoholic beverage establishments, voluntary agreements listed by ward, the text of voluntary agreements, and ABRA application procedures, the new updated ABRA website will be more accurate and user-friendly. Director Delaney further stated that the updated website will also permit users to download license applications and other forms and will also provide question and answer forums.

Chairperson Ambrose stated that ABRA had very impressive statistics on combating underage drinking. Chairperson Ambrose then requested an update on how ABRA training included issues such as fake driver's licenses. Chairperson Ambrose then stated that part of the problem was with corporate citizens such as stores like Safeway. Director Delaney responded that indeed it could be foreseeable that a small store operated by recent immigrants may make a mistake at first, but large stores with a history in the District should not be repeat offenders. Director Delaney added that ABRA does investigate into repeat offenders.

Chairperson Ambrose noted that ABRA is sending out inspectors to check on compliance with voluntary agreements. She then asked if ABRA had a cycle for such investigations. Director Delaney responded in the affirmative and that the cycles were one to two year cycles and that violations were taken immediately to the Board.

Joseph Fengler, Chair of ANC 6A, submitted written testimony on behalf of ANC 6-A prior to the performance oversight hearing. Mr. Fengler testified that at a regular meeting on February 12, 2004 the Commission voted unanimously to approve a written statement regarding ABRA's performance. The written statement opined that ABRA's performance has been a grave disappointment to ANC's seeking greater participation in alcohol regulation. Mr. Fengler also testified that ABRA's website and database have not been updated to reflect redistricting. Mr. Fengler testified that the failure to update the website resulted in notices being sent to the wrong ANCs during the first 6 months of 2003. Mr. Fengler also testified that the Board does not post hearing agendas seven days prior to meetings. Mr. Fengler further added that the Board does not provide seven days notice of when a hearing will take place.

Mr. Fengler's statement also said that ANC 6A does believe that ABRA has been very engaged in its community. Mr. Fengler testified that ABRA staff has held many community meetings and that ABRA investigators have been equally responsive. Mr. Fengler then noted that ABRA's overall performance could be improved by hiring more personnel.

FY 2005 Budget Oversight Hearing

On March 31, 2004 the Committee held a Budget Oversight Hearing. ABRA Director Maria Delaney testified on behalf of the Alcoholic Beverage Regulation Administration. Director Delaney was accompanied by Henry Mosley, Associate Chief Financial Officer for Economic Development and Regulation, ABC Chairperson Charles Burger and Fred Moosally, ABRA's General Counsel. Director Delaney prefaced her prepared remarks by stating that her testimony would address ABRA's accomplishments in FY 2003 and the beginning of FY 2004, discuss changes that the Board and ABRA believe are necessary for the implementation of the new ABC legislation and regulations, and, lastly, discuss ABRA's FY 2005 budget and its several major initiatives and visions as ABRA moves forward in FY 2005.

With regard to ABRA's accomplishments in FY 2003 and FY 2004, Director Delaney testified that the agency has surpassed the collection of revenue necessary to support its budget. Director Delaney testified that the agency's budget for FY 2003 was $3,016,000 and that ABRA collected $3,217,330 in revenues during FY 2003. Director Delaney testified that, accordingly, the amount of revenue collected by ABRA exceeded its FY 2003 budget by more than $200,000. Director Delaney then testified that ABRA expects to generate approximately $902,430 in additional revenue annually with the adoption of the Board's proposed regulations implementing D.C. Law 13-298, the Title 25, D.C. Code Enactment and Related Amendments Act of 2001. Director Delaney testified that this would increase ABRA's expected amount of annual revenue collected to approximately $4,119,760.

Director Delaney testified that ABRA consolidated the Adjudication/Licensing Divisions under the leadership of Laura Byrd, who was promoted to Program Manager. Director Delaney testified that ABRA also promoted Diane Jackson, who leads the licensing unit, and Pat Jenkins, who leads the renewal unit. Director Delaney then testified that ABRA hired Al Luna, Supervisory Investigator, who acts as the Chief of the Enforcement Division, and that ABRA has also reclassified the auditor's position to Investigation Program Specialist. In addition, ABRA upgraded the Investigators' positions to have the career ladder of 9/11/12 with promotions based upon the performance evaluations. Director Delaney further testified that, during this period, Supervisory Investigators were reclassified to a DS-13.

Director Delaney testified that ABRA has also taken significant steps to upgrade its computer capabilities which will significantly benefit ABC licensees and the public. Specifically, ABRA signed an MOU with OCTO for a new computer system, the ABRA Licensing Management System, (ALMS). Director Delaney testified that the new system will be in place for the renewal period beginning on the week of May 25, 2004. The system will automatically generate different form letters, renewals, bills, licenses, and Advisory Neighborhood Commission areas. Director Delaney testified that the new system will automatically be able to insert the proposed endorsements, whether there is a Voluntary Agreement, and an establishment's hours of operations on the ABC license once this information is inputted into the computer system. Director Delaney stated that the staff is very excited about the new system since it will track the licenses, enforcement cases, and adjudication decisions. Director Delaney testified that ABRA is also in the process of hiring its own IT Specialist who will be able to train ABRA employees on computer software packages, update the web site, enforce security procedures, provide desk-top hardware and software support to ABRA. Director Delaney then testified that ABRA is committed to improving its web page in FY 2005 by keeping voluntary agreements current, maintaining current license information including those licenses in safekeeping, and providing other current licensing and enforcement information to the general public.

Director Delaney testified that in FY 2004, ABRA is also exploring the feasibility of a training program for ABRA Investigators that focuses on specific investigative areas that would be taught by experts from the National Liquor Law Enforcement Association. Director Delaney testified that several subjects that would be offered, such as verbal judo, interview and interrogation techniques, report writing, preparing for testifying, and public speaking. Director Delaney testified that the instructors would be brought to ABRA to provide training, as this would result in substantial savings to the agency due to the fact that ABRA investigators would not have to travel. Director Delaney then testified that a second advanced class would be taught in FY 2005 to ABRA investigators and would include such topics as financial investigations, report writing, and auditing techniques. **The Committee commends ABRA's efforts to train Investigators in financial investigations, report writing, and auditing techniques. The Committee highly recommends that ABRA continue to train its investigators in these areas during FY 2005.**

Director Delaney testified that ABRA made significant progress in FY 2003, as well as during the beginning of FY 2004, with the creation of the Enforcement Division's Voluntary Agreement and Regulatory Inspection unit and the Adjudication & Licensing Division's Renewal and Records Management unit. Director Delaney testified that, as a rapidly growing and developing agency, ABRA still has more to accomplish in its Enforcement, and Adjudication/Licensing Divisions. Specifically, with regard to Enforcement, Director Delaney testified that ABRA intends to continue its very proactive approach and increase visits to each ABC establishment to between 6 to 8 times a year for regulatory and voluntary compliance checks, if applicable. Director Delaney testified that these visits by ABRA investigators are also necessary to ensure that all ABC establishments remain in compliance with all other ABC District laws. Director Delaney stated that said visits do not include the underage drinking compliance checks, and ABRA investigations of police 251 reports and consumer complaints.

Director Delaney testified that ABRA Investigators will be trained in FY 2004 to issue citations under the proposed ABRA Civil Penalty Schedule and enforce the new catering laws and regulations. Director Delaney then stated that the Adjudication/Licensing Division, which includes the records management unit, will need to address the added responsibilities of processing citations that are issued, licensing information having to be manually inputted into ALMS, and the need for records to be consolidated from several files into one file. Director Delaney testified that the licensing unit is in the process of rewriting and reformatting the existing licensing applications. Director Delaney stated that upon completion of the rewriting and reformatting of the licensing applications, ABRA intends to have the license application instructions translated into different languages.

With regard to the Adjudication unit, Director Delaney testified that ABRA has taken steps to improve the level of notice provided to the public, businesses, and Advisory Neighborhood Commissions. Director Delaney testified that ABRA has worked with Gottlieb Simon with the Office of Advisory Neighborhood Commissions to ensure that the correct ANCs are identified for each ABC establishment. **The Committee highly recommends that ABRA translate license applications into different languages**. **The Committee requests that ABRA submit a report to the Committee by June 15, 2004, detailing how the agency plans to come into compliance with its obligations under the "Language Access Act of 2004", as recently passed by the City Council. The Committee reminds ABRA that the Language Access Act requires the agency to be in compliance by October 1, 2004**.

Director Delaney testified that the Adjudication unit has worked to improve getting Voluntary Agreement Board orders drafted for Board review to ensure that these become effective in a timely manner. Director Delaney testified that there were 76 protest hearings and 46 show cause hearings in FY 2003. Director Delaney further added that, as of March 17, 2004, there have been 59 protest hearings and 52 show cause hearings in FY 2004. Director Delaney testified that the increase in show cause hearings reflects an increase in compliance checks conducted by ABRA involving underage drinking. Director Delaney expanded on the details of the increase testifying that 40 of the 52 show cause hearings are the result of compliance checks involving underage drinking. Director Delaney then testified that, given that 59 protests have been filed thus far in FY 2004, ABRA expects the number of protest hearings to increase in FY 2004. Director Delaney then testified that the number of show cause hearings will also continue to increase in FY 2004 due to the continued increase in compliance checks conducted by ABRA as well as the issuance for the first time of citations under ABRA's proposed civil penalties schedule.

With regard to recordkeeping, Director Delaney testified that ABRA has worked diligently in making license information available to the public as well as responding to Freedom of Information Act requests and subpoenas. Director Delaney testified that during the remainder of FY 2004 and FY 2005, additional ABRA staff will be needed to process licensing information into ALMS.

Director Delaney testified that ABRA's budget request for FY 2005 reflects the Board's direction for the agency. Director Delaney then testified that the Personal Services (PS) portion of ABRA's budget for FY 2005 is $2,451,130 (including fringe benefits). Director Delaney explained that this is an increase of $138,115 which was reclassified from Non Personal Services (NPS) in order to support the additional PS spending while remaining in line with the baseline budget. Director Delaney testified that the increase in PS spending is necessary to pay for grade increases for ABRA investigators as well as for step increases that are due to ABRA staff. Director Delaney further added that ABRA has 8 FTEs it expects to fill in FY 2004. Director Delaney testified that ABRA is presently recruiting for two vacant positions, and that ABRA intends to fill the 6 additional FTEs that were approved in its FY 2004 budget once ABRA's proposed fee increase of approximately 30% is implemented. Director Delaney explained that these 6 positions are being used to hire 3 Investigators and 3 administrative staff that are necessary to provide support to the various divisions within ABRA. Director Delaney testified that ABRA is committed to hiring qualified individuals and believes that an increase in licensing fees requires an improved level of services to be offered by our agency. Director Delaney testified that the hiring of these 6 individuals would result in ABRA filling the 42 FTEs that the agency has been approved for FY 2005.

Director Delaney testified that in addition to the hiring of the 6 individuals, the Board and ABRA are seeking 5 new FTEs, given the additional revenues to be generated by ABRA through the adoption of both the new ABC regulations and legislation. Director Delaney testified that these 5 FTEs are necessary to enable ABRA to hire the following necessary staff: one Chief of Operations to assist the ABRA Director with budget, procurement, legislative, and other administrative matters; 2 additional investigators that would allow ABRA to have a total of 18 investigators with 15 field investigators, 2 supervisory investigators, and one Chief Investigator. The 2 additional investigators would provide ABRA with the resources necessary to enforce the newly created caterer's license as well as allowing ABRA to dedicate more resources to verify each ABC establishment's food sales and check each existing voluntary agreement for compliance; one adjudication specialist that is needed to process the substantial increase in compliance check violations as well as processing the new citations expected to be issued under the upcoming ABRA civil penalty schedule; and one attorney to handle the backlog of Board opinions, including voluntary agreement orders and other orders currently drafted by the Adjudication Division.

The hiring of an attorney will allow the Adjudication Division to focus its attention on its other matters.

Director Delaney testified that the hiring of these 5 additional FTEs will complete the growth of ABRA staff for the near future while allowing the Board and ABRA to significantly perform its added responsibilities under the new ABC regulations and legislation. Director Delaney testified that the Board and ABRA believes that these 5 additional FTEs will result in an increase in efficient services provided to both the public and ABC establishments through: (1) an increase in the number of licensing appointments as well as an increase in the number of processed applications each week; (2) getting Board opinions issued to the public in a more timely manner; (3) providing the Board and ABRA with the necessary staff to both issue and process citations under ABRA's proposed civil penalty schedule; and (4) decreasing the time it takes the Enforcement division to complete an investigation involving a 251 police report or complaints. Director Delaney testified that the total ABRA budget for FY 2005 necessary to handle these 5 additional FTE's would be $4 million dollars. Director Delaney further noted that the citations that will be issued and processed by some of the 6 FTEs approved in FY 2004 and the 5 additional FTEs requested in FY 2005 will raise monies through fines that are contributed to the District of Columbia's General Fund.

Director Delaney testified that ABRA has also planned for changes to its budget with regard to the operations of the ABC Board. Director Delaney explained that the adoption of Bill 15-516 by the Council of the District of Columbia in its current form would double the maximum annual Board member stipend from $6,000 to $12,000. Additionally, the maximum annual stipend for the Board Chairperson would increase from $7,200 to $14,400. Director Delaney testified that ABRA has also budgeted approximately $12,500 for education and conference training for Board members, which includes travel costs. Director Delaney stated that said allotment does not interfere with the training budget for ABRA staff.

With regard to ABRA's improvements and visions for FY 2005, Director Delaney testified that ABRA has requested an $800,000 enhancement to address space concerns for the agency. Director Delaney added that the enhancement was not included in ABRA's FY 2005 budget request because the ABC Board approved ABRA's plan for additional space in February 2004. Director Delaney testified that the current space which ABRA occupies on the 7th floor of DCRA is not large enough to accommodate the needs of ABRA staff, the ABC Board, and the public. The current space used by ABRA was a temporary solution to ABRA's space needs when ABRA was established 2 years ago. Director Delaney testified that it was the intention of the ABC Board to eventually move into another facility. Director Delaney testified that in February 2004 the Board reconsidered moving to another facility and instead voted to approve enlarging ABRA's current space in order to remain closer to the one-stop government business center for the convenience of the public. Director Delaney testified that, as a result, ABRA is seeking to increase and reconfigure its space on the 7th floor of DCRA. Director Delaney explained that the reconfiguration would allow ABRA to create a separate space for the public to review ABRA files without interfering with the daily operations of ABRA and also allowing more than one license application to be reviewed at one time. The reconfigured space would also allow ABRA's staff divisions to be more unified by allowing all the staff of each division to be seated together to make the work process flow more efficiently. Director Delaney testified that DCRA is willing to accommodate this request if ABRA agrees to incur all costs for moving DCRA staff to the 9th floor and also reconfigure part of the space on the 9th floor. Director Delaney testified that funding for this project would come from the FY2003/2004 Fund Balance since it is a one-time expenditure. Director Delaney testified that the on-going increase in fixed costs will be addressed through ABRA's operating budget.

Director Delaney testified that another improvement ABRA intends to accomplish in FY 2005 is the completion of the development of ALMS and its ability to interface with ABRA's website. This integrated computer system will improve ABRA's ability to track and update its records as well as ABRA's website. Director Delaney testified that, as a result of this improvement, ABRA will increase its ability to provide the ANC's and District residents with correct and immediate updates of licensing, voluntary agreements, and enforcement information on ABRA's website. Director Delaney testified that by hiring an IT Specialist, ABRA hopes to have this project completed by early 2005. Director Delaney added that ABRA is in the process of revamping all its applications to ensure that the information contained in ALMS, ABRA's Licensing Management System, is accurate and correct. ABRA has already revamped the renewal applications and hopes after the full renewal cycle that an ABC establishment's second year payment will be able to be mailed into the Agency. Director Delaney then testified that ABRA intends to translate various publications, including: (1) the instructions for ABRA's new upcoming licensing applications; and (2) a summary of the new Board regulations into different languages and make them available to ABC merchants and the public. Additionally, ABRA intends to offer training sessions to ABC merchants on several topics, including compliance checks and the new regulations, into different languages.

Director Delaney testified that another improvement ABRA intends to accomplish in FY 2005 is to affect the area of enforcement by hiring three additional investigators in FY 2004 and two additional investigators in FY 2005. Director Delaney testified that such would allow ABRA to increase its visits to each establishment to 6-8 times a year to check for compliance of Voluntary Agreements and conduct regulatory inspections.

Director Delaney then testified that, in regards to improving training, the ABRA staff will continue to be trained in various aspects of their jobs and be expected to adhere to the high professional standards of ABRA. Director Delaney added that the substantial level of training provided to ABRA investigators in FY 2003 and thus far in FY 2004 has allowed ABRA investigators to provide training to licensees, the Metropolitan Police Department, and the general public which has helped to ensure better compliance of the ABC laws and regulations.

Chairperson Ambrose thanked ABRA and the Board for their thoroughness and quickness in promulgating new regulations. Chairperson Ambrose then asked Director Delaney to further address the issue of hiring and training additional personnel for checking restaurants for compliance with the food requirement. Director Delaney responded that one auditor has been reclassified to do in-depth auditing, other auditors will be eventually trained to carry out on the spot audits for food requirement compliance.

Chairperson Ambrose then asked how much ABRA expected the new regulations to bring in. Director Delaney responded that ABRA projected $4.2 million, and that the agency already had approximately $2 million in carry-over funds.

Chairperson Ambrose asked whether the cycle for license renewals should be changed from a 2 year cycle to a 3 year cycle. Director Delaney deferred the question to Mr. Burger which responded that the Board supports a 3 year cycle because of the administrative and organizational advantages that could be gained with little harm to the public. Mr. Burger added that from an adjudicatory point of view, the Board is in need of a more streamlined calender and a 3-year cycle would help attain this.

Chairperson Ambrose stated that she would speak to DCRA Director Clark regarding ABRA's expansion of office space. Chairperson Ambrose then asked if ABRA had a sufficient funding for the expansion. Mr. Fred Moosally, General Counsel to ABRA, responded in the affirmative and noted that

the $800,000 would be a one-time expenditure. Chairperson Ambrose then asked Director Delaney to expand on her testimony regarding the new ALMS system. Director Delaney responded that except for the one IT specialist that will staff the system, the expenditure is a one-time cost. The system will permit the instant scanning of voluntary agreements, and thus as changes such as outdoor space or entertainment endorsements occur they can be posted immediately.

Chairperson Ambrose then asked whether ABRA was using real sixteen year olds in its underage investigations. Director Delaney responded in the affirmative and further added that ABRA had been also offered training sessions to the community regarding underage drinking. Director Delaney noted that the community outreach included two classes in Korean and one in Spanish.

The Committee also received written testimony from Mr. Robert Pittman. Mr. Pittman's submitted remarks did not address ABRA's FY2005 Budget. Instead, Mr. Pittman testified that the Council must review Title 25 and its implementation since May 3, 2001. Mr. Pittman stated that residents who reside near an establishment or neighborhood association should have a stronger position on ABC matters. He suggested that when groups of 5, 10, or 20 protestants come together to protest a license application, they should have to enter into a decision together. Mr. Pittman testified that if a protestant fails to show up for a Roll Call Hearing and subsequently gets a case reinstated, the protested licensee or applicant should also be compelled to appear at the time that the protestant appears to present the reason for reinstatement. Mr. Pittman testified that ABRA should publish an administrative procedural manual for the community to use for guidance on the process. Mr. Pittman testified that the Board should commission a study on the impact of single sales ban. Mr. Pittman also testified that by limiting the hours of operations for ABC establishments, the District is driving business to other states.

FY 2005 Budget Support Act of 2004

During the Committee's budget hearing on March 31, 2004, Councilmember Ambrose, Chair of the Committee on Consumer and Regulatory Affairs questioned the ABRA specifically regarding amendments that may be recommended for inclusion in the FY 2005 Budget Support Act of 2004 that would affect alcoholic beverage legislation, or would otherwise have an impact potentially on ABRA operations. The Director noted that there were not any amendments in the Budget Support Act coming from ABRA.

V. Department of Insurance, Securities, and Banking Regulation (DISB)

Department of Insurance, Securities, and Banking

Agency Operating Budget FY 2002 to FY 2005 (Dollars in Thousands)

Object Class	FY 2002 Actual	FY 2003 Actual	FY 2004 Budgeted	Mayor's FY 2005 Proposed	CRA Cmte. Proposed FY 2005	Variance
Subtotal for Personal Services	6415	7158	8028	10283	10549	266
Subtotal Nonpersonal Services	1931	2191	2217	2865	2926	61
Total Expenditures	8346	9349	10244	13148	13475	327
Other FTEs	91	98.7	107	129	132	3
Total FTEs	91	98.7	107	129	132	3

The Department of Insurance, Securities, and Banking ("DISB" or "the Department") was established in 2004 when the Council merged the Department of Insurance and Securities Regulation ("DISR") with the Department of Banking and Financial Institutions ("DBFI"). (*See* D.C. Act 15-385.) Operationally, the Department of Banking and Financial Institutions's mission and programs were transferred and will be fulfilled within the merged DISB. To effectuate that, the FY 2005 projected budget for the Department of Banking and Financial Institutions funding requirements of $2,000,000 and 22 FTEs were transferred to support those operational and programmatic functions that continue within the new DISB.

The Committee notes that funding for the Department of Insurance, Securities, and Banking is provided through industry assessments and various fees, not through an allocation of local tax dollars. All funding for DISB is done through "O" type funding.

Four Bureaus of DISB

DISB is organized into four bureaus – the Insurance Bureau, the Securities Bureau, the Fraud Division, and the Banking Bureau. In addition, DISB has a division specifically assigned to coordinate the management of the Department.

Department Management

The Department Management or – the Administration – sits on top of DISB's hierarchy and comprises 23.6 FTEs and provides the operational support for the Department and helps to ensure that the Department has the necessary tools to achieve all of the operational and programmatic plans.

Insurance Bureau

The Insurance Bureau comprises 54.2 FTEs and regulates insurance companies, mediates disputes between insurers and consumers, conducts financial analysis reviews and examinations of insurance companies and health maintenance organizations, and reviews and approves premium rates and policy forms.

The bureau has five divisions: the Financial Examinations, Insurance Products Division, Consumer and Professional Licensing, HMO, and Captive Insurance Division.

Fraud Bureau

The Fraud Bureau comprises 8 FTEs who are charged with protecting the interests of citizens doing business in the insurance, securities and banking industries from the direct or indirect effects of fraudulent insurance, securities or banking acts. It is empowered to conduct investigations of suspected fraudulent activities and to make referrals to the appropriate authority for criminal or civil actions against perpetrators. The Fraud Bureau has two divisions: the Compliance Division and the Investigative Division.

Securities Bureau

The Securities Bureau comprises 25.2 FTEs who are responsible for the licensing, regulation, and monitoring of broker-dealers and agents, investment advisers and their representatives and agents of issuers. Under the Securities Act of 2000, the bureau is also responsible for registration and regulation of securities issuance that are offered to citizens in the District. The Securities Bureau has three divisions: Corporate Finance, Examination, and Licensing.

Banking Bureau

The Banking Bureau comprises 18 FTEs who provide regulatory services to District financial institutions and consumers allowing them to benefit from a fair and equitable financial arena; community development strategies and capital access services to ensure better access to financing for housing opportunities and business development; and provides residents with the financial education and information so that they can become informed consumers of financial services. The Banking Bureau has four divisions: Depository, Non-Depository, Commercial Lending Analysis, and Community Outreach.

At the Committee's budget hearing, Commissioner Mirel explained that the first District-chartered bank, WashingtonFirst, is scheduled to open its doors in April. In addition, DISB has had several meetings with federal banking officials in the Office of the Comptroller of the Currency, which under current law is the Federal regulator of District of Columbia banks, and they have agreed to work together on a joint examination of WashingtonFirst.

In addition, the Banking Bureau is currently administering the Charter School Credit Enhancement Fund Program and Direct Loan Fund Program under the leadership of Jennifer Snowden. These programs offer funding for capitol improvements that need to be done on charter schools in the District. **This effort to ensure that District students have the proper facilities in which to learn is a very good program being undertaken by DISB and the Committee recommends that DISB continue to work to ensure that there is some funding to support the management of charter school facilities.**

FY 2004 Supplemental Budget

Neither the Mayor nor the Committee has any FY 2004 Supplemental budget proposals for the Department of Insurance, Securities and Banking.

FY 2005 Operating Budget

An analysis of DISB's FY 2005 budget must begin with an examination of the Department of Insurance and Securities Regulation's FY 2002 and FY 2003 actuals, the FY 2004 budget, and the Mayor's FY 2005 budget request. The Mayor's FY 2005 budget request is reflected in the following flow chart:

Agency Operating Budget FY 2002 to FY 2005 (DOLLARS IN THOUSANDS)

Object Class	FY 2002 Actuals	FY 2003 Actuals	FY 2004 Budgeted	Mayor's FY 2005 Proposed	CRA Cmte. Proposed FY 2005	Variance
Regular Pay - Cont. Full	5278	5954	6913	8511	8740	229
Regular Pay, Other	134	146	0	307	307	0
Additional Gross Pay	72	12	35	14	14	0
Fringe Benefits	889	999	1039	1411	1448	37
Overtime Pay	42	47	40	40	40	0
Subtotal for Personal Services	6415	7158	8028	10283	10549	266
Supplies and Materials	44	50	66	78	78	0
Communications (telephone)	70	61	71	109	109	0
Rentals, Land and Structures	801	963	880	1229	1229	0
Services Charges, Other	451	434	692	871	909	38
Contractual Services, Other	175	124	150	50	50	0
Subsidies and Transfers, Other	104	57	78	130	130	0
Equipment and Machinery	286	501	279	397	420	23
Subtotal Nonpersonal Services	1931	2191	2217	2865	2926	61

Total Expenditures	8346	9349	10244	13148	13475	327
Other FTEs	91	98.7	107	129	132	3
Total FTEs	91	98.7	107	129	132	3

For FY 2005, DISB is proposing a gross operating budget of $13,148,126. That is an increase of $257,342 from the FY 2004 budget of $12,890,284. The number of authorized FTEs supported by the proposed budget is 129 which is 3 fewer than in FY 2004. A very big part of the increase is necessary to ensure that the operations of the banking bureau are properly incorporated into the operations of DISB. According to the Commissioner's testimony, prior to the merger, DISR had requested $11.15 million for FY 2005 with a total of 107 FTEs. DBFI had requested $2.6 million with a total of 25 FTEs. The combined DISB budget that was submitted by the Mayor shows a combined reduction of more than half a million dollars and 3 FTEs. Commissioner Mirel explained that the basis for the reduction is, by necessity, somewhat speculative since the merger plan has not been fully implemented. However, he noted that DISB can already see areas of potential savings in the combining of administrative and support functions and also in some programmatic areas such as licensing and enforcement.

The Committee is recommending a gross operating budget of $13,475,000 which is an increase in the Department's budget of $327,000 with a corresponding increase of 3 FTEs for a total of 132 FTEs. This budgetary increase is mostly found in personal services to accommodate for several substantial changes to the Department – including 2 attorneys and 1 examiner.

Specifically, the variance will be applied in several problem areas within DISB. The first problem area that needs to be addressed is in the Securities Bureau which is experiencing delays in responding to requests for interpretation and/or No Action Letters based on District of Columbia and Federal securities laws. This interferes with their ability to achieve their performance objectives of processing filings within the statutory deadline and providing prompt customer service. (The filing requirements of the securities laws require ongoing interpretation and analysis and guidance of the Securities Bureau Licensing Division and the regulated industries.) The Securities Bureau has essentially 100 percent of the services of one staff attorney in the Office of Legal Affairs (OLA). That person not only provides interpretive guidance as describe above, but also works on enforcement and legislative and regulatory matters. The Securities Bureau is supposed to have additional support from OLA, but that office is chronically understaffed and burdened with work from the Insurance and Fraud Bureau and initiatives such as the Captive program.

The proposed solution to this problem is that a legal assistant which is currently a part of the Securities Bureau staff could handle many of the matters that are now handled on a low priority basis by OLA, resulting in a quicker turnaround of these inquiries, with accompanying expedition of fees and filings and allocation of more of the time of the OLA staff attorney to priority enforcement and regulatory matters. In addition, another full time person could attend relevant training programs and develop valuable institutional memory. **The Committee recommends that the legal assistant be charged with handling matters which are now handled on a low priority basis by OLA. In addition, the Committee recommends that the time of an OLA staff attorney be used for relevant training programs and to develop valuable institutional memory.**

The second problem area pertains to the fact that the Commissioner has embarked on a very aggressive and progressive program to attract new insurance business to the District of Columbia. To that end, many novel pieces of legislation have been drafted, introduced and enacted. New programs, such as the Fraud and Captive programs, have been implemented to enhance the District's appeal for companies to relocate and do business in the District. This intense activity has strained the Department's legal resources extensively. There has not been a new FTE position in the Office of Legal Affairs since its inception in 1994, despite the fact that the Insurance Administration merged with the Securities Administration to form the Department of Insurance and Securities Regulation in 1997. Moreover, the Department of Insurance and Securities Regulation is currently in the process of merging with the Department of Banking and Financial Institutions thus causing additional demands on the strained legal resources.

The proposed solution to this problem is for the Office of Legal Affairs to hire an additional FTE to provide legal assistance to the Department. This position may be a junior attorney at a grade 13 level. **The Committee recommends that a junior attorney be included in the DISB budget and hired as soon as possible.**

The third problem area is with the Financial Surveillance Branch/Financial Examination Division within the Insurance Bureau which expects to experience delays in performing statutorily mandated reviews and audits of financial information due to a staff shortage. Without the proper staffing level, the Department would be forced to rely more on contracted services. This results in increased costs associated with audits and examinations for the insurance companies. This is not received well by companies since they are already being assessed to fund the Department's entire budget. Further, even with the use of contract examiners, adequate staff needs to be available to review and monitor the work for compliance with Department directives. The examined companies are broadly categorized into three groups: property and casualty, life and health, and health maintenance organizations. Ideally, the Branch would staff at least one qualified insurance company examiner for each category. Currently, there are only two examiners.

The proposed solution for this area is the addition of a qualified insurance company examiner to assist in audits and examinations performed by the Department. The examiner would also participate in the monitoring and review of the contractors' work. The additional staff would also provide relief to the supervisor who would be able to devote more time to planning, establishing priorities and developing the staff. **The Committee recommends that the necessary number of additional staff be hired including the insurance company examiner and their support staff.**

Revenues

DISB obtains funds from six revenue sources -- Insurance Assessment fees, HMO Assessment fees, Broker dealer license fees, Investment Advisor fees, Securities Registration fees, and Banking fees. All of these funds located in three distinct and separate funds — the Security Regulatory Trust Fund, the Banking Regulatory Trust Fund and the Insurance Regulatory Trust Fund. It receives no appropriation from the general funds of the District of Columbia. The Securities Regulatory Trust Fund, established by D.C. Official Code § 31-107(b), is funded by all monies "obtained pursuant to securities regulation[,]" and is used to pay for all of DISB's securities-related operations. For purposes of securities regulation, DISB utilizes fines and fees paid by securities broker-dealers and investment advisors. The Banking Regulatory Trust Fund was established in the recent "Consolidation of Financial Services Act" and will be funded by all the monies that are related to the regulation of the banking industry.

For the regulation of insurance, DISB is funded by an assessment on insurers doing business in the District of Columbia under the Insurance Regulatory Trust Fund Act of 1997 (D.C. Official Code § 31-1201 *et seq.*) The Department assesses health maintenance organizations ("HMOs") under the same law (*also see* D.C. Official Code § 31-3402(d)). The Insurance Regulatory Trust Fund, established by D.C. Official Code § 31-1202(a), is funded through yearly assessments on all insurance companies and health maintenance organizations doing business in the District of Columbia, and is used to pay for all of DISB's insurance and HMO-related operations. The assessments used to fund the Insurance Regulatory Trust Fund may not be less than $1,000 or more than 3/10 of one percent of a company's District of Columbia gross receipts; and the actual amount of the assessment for each company is based on the part of each year's DISB budget allocated to insurance and HMO functions. Further, assessments on insurance companies must be used to fund the agency's insurance functions; and assessments on health maintenance organizations must be used to fund DISB's HMO activities. Accordingly, the amount of each assessment on an insurance company is based on the part of each year's DISB budget allocated to insurance functions, and the amount of each assessment on an HMO is based on the part of each year's DISB budget allocated to HMO activities.

Two other aspects of these funds are noteworthy. First, they may not be used to support the activities of any other District of Columbia agency. Second, the funds do not operate within fiscal year limitations. Thus, any unused funds in one fiscal year are carried into the next one; and, within the Insurance Regulatory Trust Fund (overseen by the Insurance Regulatory Trust Fund Bureau), those rolled-over funds are either refunded to insurance companies and HMOs in the next year, or used to reduce the assessments on those companies in that year.

With respect to the Department's FY 2005 budget request and the assessments of the insurance companies and HMOs, matters relating to the Insurance Regulatory Trust Fund are overseen by the Insurance Regulatory Trust Fund Bureau, which is comprised of all insurance companies and HMOs subject to assessments. Among the duties of the Insurance Regulatory Trust Fund Bureau is to review DISB's budget request in advance of Mayor's budget submission to the Council. The Board supports the Mayor's budget request for the Department.

The Board of the Trust Fund emphasized that the Trust Fund account funds may not be used to support any other operations or department of the District government. Moreover, the law provides that an annual assessment is to be the only assessment levied on insurance carriers and HMOs for support of the administrative costs of doing business in the District. Furthermore, the Bureau has no role in advising on the collection or use of those funds, aside from seeing that costs are properly pro-rated and that insurance company assessment funds are not used to support securities regulation.

Expenditures

According to the Commissioner's testimony on March 31, 2004, the FY 2005 proposed budget for DISB is $13,148,126 which is an increase of $257,342 from the FY 2004 budget of $12,890,284. The number of authorized FTEs supported by the proposed budget is 129 which is 3 fewer than in FY 2004. The Committee is recommending a gross operating budget of $13,475,000 which is an increase in the Department's budget of $327,000 and 3 FTEs. This increase mostly found in personal services to accommodate for several substantial changes to the Department. A very big part of the increase is necessary to ensure that the operations of the banking bureau are properly incorporated into the operations

of DISB. According to the Commissioner's testimony, prior to the merger DISR had requested $11.15 million for FY 2005 with a total of 107 FTEs. DBFI had requested $2.6 million with a total of 25 FTEs. The combined DISB budget that was submitted by the Mayor shows a combined reduction of more than half a million dollars and 3 FTEs. Commissioner Mirel explained that the basis for the reduction is, by necessity, somewhat speculative since the merger plan has not been fully implemented. However, he notes that DISB can already see areas of potential savings in the combining of administrative and support functions and also in some programmatic areas such as licensing and enforcement.

Each of the Department's Bureaus have responsibility for both generation of revenue and expenditures. The FY 2005 budgeted expenditures for each bureau is as follows:

1) The Insurance Bureau has a gross funds budget of $6,362,607, or 26.0 percent from the FY 2004 approved budget of $5,048,077. There are 54.0 FTEs for this program, an increase of 7.4 FTEs or 15.8 percent above FY 2004. Changes from the FY 2004 budget include the addition of the HMO activity within this program.
2) The Securities Bureau has a gross funds budget of $2,859,337 or 63.2 percent over the FY 2004 approved budget of $1,752,632. There are 25.2 FTEs for this program, an increase of 9.2 or 56.3 percent over FY 2004. Changes from the FY 2004 budget include the re-distribution of FTEs from the Agency Management and Fraud programs into this program.
3) The Fraud Bureau has a gross funds decrease of $401.881, or 45 percent below the FY 2004 approved budget. This program has 8.0 FTEs, a decrease of 1.0 or 11.1 percent from the FY 2004 approved budget.
4) The Banking Bureau has a gross funds budget request of $1,630,202 and supports 22.0 FTEs.

The Committee is pleased that DISB has been diligent in maintaining a balance between expenditures and revenues. When DISB was created, the Council mandated that the department be funded completely out of the regulatory fees that it collected from the industry. DISB has taken that mandate and perfected it in practice. There seems to be, in DISB, a complete understanding that the work that needs to be done regarding education efforts and consumer protection can only be done when a sufficient funding source has been established. The staff at DISB has worked very hard to achieve a level of funding that now enables them to work even more diligently on creating some of the many needed community education and consumer protection tools.

FY 2005 Capital Budget

Neither the Mayor, nor the Committee has made any FY 2005 capital budget proposals for the Department of Insurance, Securities, and Banking.

Committee Budget and Oversight Hearings

The Committee held a hearing regarding the operations and budget of DISB. The oversight hearing was held on February 12, 2004 and the budget hearing on the FY2005 Budget was held on March 31, 2004. In preparation for this hearing, the Committee submitted questions to DISB for its responses together with its written testimony. (*See* Appendixes A and B).

In the oversight and budget hearing the Commissioner, Lawrence H. Mirel, of the Department of Insurance, Securities and Banking presented testimony on behalf of DISB regarding activities and performance for FY 2003 and status of performance for FY 2004. Commissioner Mirel's testimony included descriptions of the activities of the Department as well as the future plans of the Office.

In the hearing the Commissioner presented testimony on behalf of DISB regarding FY 2005 budget issues. Accompanying Commissioner Mirel to the hearing were key members of his staff.

For a more in-depth exposition of the work each Bureau is performing see, *infra,* "Four Bureaus of DISB". DISB submitted written answers to questions the Committee posed and also presented testimony at both of the hearings. (See attached.)

Commissioner Mirel presented testimony at the Performance Oversight Hearing on February 12, 2004. In his testimony he stated that DISB has been very busy over the past year. He noted that in the wake of the disapproval of the conversion of CareFirst by the Maryland Insurance Administration, the Maryland legislature last year enacted a law that threatens the viability of the District's Blue Cross/Blue Shield plan, and we have been working with Maryland officials and CareFirst to try to fix the problems. In addition, he explained that the captive insurance company program has been expanding at a rapid rate, and that they have now licensed more than 20 captive insurance companies. The Commissioner also explained that they have been very busy coordinating and facilitating the merger of the insurance department and the banking department.

Commissioner Mirel also described a program that DISB has been very involved with – a program to track towed vehicles. DISB became involved with this task force due to the higher than average vehicle insurance rates in the District. The Commissioner explained that he believes the new system of tracking towed and stolen vehicles will help to reduce these high insurance rates.

The Commissioner also explained that he wants to make it very clear to financial services organizations, and to consumer and investors, that DISB will not tolerate or accept illegal, fraudulent or misleading practices in the District. Last year the department referred 18 cases to the US Attorney, and the US Attorney took 12 of those cases for prosecution. In the past year those efforts have resulted in 4 convictions. He also explained that these same diligent investigations are happening in the Securities Bureau. And that the District received approximately $4 million in fines this past year from participating in the investigation of a number of the country's largest investment banking firms.

Commissioner Mirel also presented testimony regarding the FY 2005 budget request at the March 31, 2004 budget hearing. Commissioner Mirel noted that DISB came into being only recently when, on March 1, Mayor Williams signed legislation enacted by the Council that combined two former agencies, the Department of Insurance and Securities Regulation (DISR) and the Department of Banking and Financial Institutions (DBFI), into one new agency. He explained that because the merger is so recent, and the combining of the functions and personnel of the two former agencies is still on-going, the DISB budget that is being presented to the Council is based to a degree on speculation about what the merger will mean for the efficiency and effectiveness of the new agency.

He further explained that prior to the enactment of the legislation DISB hired an outside management consultant to review the operations of both agencies with the objective of developing an organizational structure that will enable the new agency to carry out its twin missions to provide efficient, fair and prompt regulation for the protection of the citizens of the District and to develop the District as

a national and international center for financial services businesses. The consultant reviewed the missions of both organizations, interviewed employees in both agencies, and prepared a report that detailed problem areas and well as areas of strength in both agencies, and made specific recommendations about how the new department should be structured.

Commissioner Mirel explained that following enactment of the merger law he appointed a transition team to build on the recommendations of the outside management consultant and develop a specific plan and time line for merging the two agencies into one. The transition team consists of a lawyer from each of the former agencies — Stephen Taylor from DBFI and Joe Cohen from DISR — a representative of the office of the Deputy Mayor for Economic Development — Causton Toney — the president of a local bank — Doyle Mitchell of the Industrial Bank of Washington — and as Chair Theodore Miles, the Director of our Securities Bureau. He noted that the transition team has filed its first report, recommending a number of steps that DISB can take immediately to unify the functions of the two former agencies. It is now working on recommendations for some of the more difficult changes that may take more time to bring about. He explained that he expects the transition team to complete its work before the end of April 2004.

Commissioner Mirel also explained that one of the premises underlying the combination of the two financial services regulatory agencies is that operational efficiencies will result. He noted that the budget before the Committee reflects that goal. Prior to the merger DISR had requested $11.15 million for FY '05 with 107 FTEs. DBFI had requested $2.6 million with 25 FTEs. The combined DISB budget that has been submitted by the Mayor shows spending authority of $13.15 million and a combined staff of 129. That is a reduction of more than half a million dollars and three FTEs.

He explained that the basis for this reduction is of necessity somewhat speculative, since they have not yet implemented the merger plan. Nevertheless some areas of potential savings in the combining of administrative and support functions can already be seen – such as human resources, systems and technology, legal services, public affairs and outreach, etc. – and even in some programmatic areas such as licensing and enforcement. **The Committee commends the Commissioner and DISB for their hard work in obtaining the necessary reductions and in ensuring that DISB is funded solely on the monies taken in from the regulation of the businesses that are included in their oversight.**

Commissioner Mirel stated that both DBFI and DISR were entirely dependent on fees, fines and special assessments from the industries they regulate for their budgets—neither agency received any funding from the District's General Fund. **And while DISR has been able to meet its funding needs from charges to the insurance and securities industries – and in fact returned more than $60 million this last year in unrestricted funds to the General Fund beyond what it needed to meet its budget – the same has not been true of DBFI, which has fallen short of anticipated revenues to meet its budget in at least two of the past three years.** He explained that until DISB can understand better why the revenues from the regulation of banks and financial institutions have fallen short, they are proposing to reduce the combined budget request so that there is a better chance of keeping the expenditures for the regulation of banking functions within the revenues received from that sector.

Furthermore, Commissioner Mirel explained that DISB anticipates further cost savings by bringing all of our employees together in one location. DISR now occupies all of the 7th floor and most of the 6th floor at 810 First Street, NE. The banking employees currently remain at their location at 1400 L Street, NW. The rest of the 6th floor at 810 First Street is occupied by another District Government agency and DISB has been working with that agency to see if it will be willing to relocate its employees that currently occupy the sixth floor so that they can consolidate operations.

Commissioner Mirel explained that the first District-chartered bank, WashingtonFirst, is scheduled to open its doors in April. In addition, DISB has had several meetings with federal banking officials in the Office of the Comptroller of the Currency, which under current law is the Federal regulator of District of Columbia banks, and we have agreed to work together on a joint examination of WashingtonFirst. **The opening of the District's first self-chartered bank, WashingtonFirst, is a tremendous accomplishment for DISB and the Committee recognizes this achievement as a step forward in the regulation of the financial services in the District.**

He further explained that the Securities Bureau continues to play a leadership role among state securities regulators, working with counterparts in other states and with the federal Securities and Exchange Commission to go after irregularities among securities brokerage firms and mutual fund managers. The District's share of fines and settlements in those scandals has already exceeded $4 million. This year the District of Columbia will host the spring conference of the North American Securities Administrators Association (NASAA), an organization made up of state regulators of all the U.S. and Mexican states and the provinces of Canada. Our Securities Director, Theodore Miles, will chair that meeting.

Commissioner Mirel noted that the District continues to attract captive insurance companies and risk retention groups, a potentially major source of new revenue for the District. He stated that last year when he testified on the FY '04 budget request there were 3 captive insurance companies. Now there are 21, with another 6 to 10 in various stages of applying. The regulation of captive insurance companies and other alternative risk transfer mechanisms is a major part of DISB's effort to become a world financial center. **This accomplishment is one that DISB should be commended for accomplishing. The inclusion of captive insurance companies in the District is a major new source of the revenue that is certain to grow over the next several years.**

Commissioner Mirel also explained that he recently has been asked to lead an inter-agency task force made up of representatives from DISB, the Office of the Risk Management, the Office of the Corporation Counsel, and the Department of Human Services to solve a critical liability issue for the District.

He explained that the Free Clinic Act requires to the District to provide liability coverage to District healthcare clinics and the providers that work in those clinics without any limitations on the amount of exposure. DISB administers the program to determine if a facility has satisfied the statutory requirements for participation. Although so far there have been no claims of malpractice against any of these clinics, the District's exposure is considerable and open-ended.

Moreover, there are many community-based health providers, an essential part of the District's health care network, that are not covered by the Free Clinic Act and have seen their medical malpractice insurance rates go up by 50% to 100% over the past year and that face closure because they cannot afford the insurance, which is a prerequisite for qualifying to contract with the District. He explained that the purpose of the new task force is to come up with solutions to these problems. Failure to address them adequately can leave the District without adequate care for the mentally ill, for pregnant women, and for others who are now cared for by these private, community-based providers. **The Committee commends the Commissioner for establishing the task force to come up with solutions to the problems that currently exist with regard to the District's health care network providers that are not covered by the Free Clinic Act.**

Commissioner Mirel concluded by stating that they are pleased with their accomplishments over the past year, and look forward to the challenges ahead, especially the challenge of integrating the regulation of financial services and institutions into a single District agency.

With respect to the Department's FY 2005 budget request and the assessments of the insurance companies and HMOs, written testimony was received from the District of Columbia Insurance Regulatory Trust Fund Bureau and the Insurance Regulatory Trust Fund Bureau Board testified at the budget oversight hearing. The purpose of the Board is to provide oversight of the process by which the District determines the level of assessments on insurance provides, HMOs and captive insurers. The Board also monitors and comments on the budget and expenditures of the DISB. The Board emphasized in its testimony that the insurance functions of DISB are 100% paid by assessments against insurance companies, HMOs and captive insurers licensed in the District. By law, the assessments cannot exceed 3/10th of 1% of a company's gross premiums earned in the District. However, a minimum annual assessment of $1000 is applicable to all companies. These assessments are paid into an interest bearing account that cannot be used for any other purpose other than the regulation of the insurance industry. Each year the fund balance is carried forward to the next year. And any excess funds are to be refunded to the companies or used to reduce the fees the following year.

The Board expressed concerns regarding the merger of the insurance and banking departments. The Board noted that they trust that the funds used to support insurance regulation would not be used to support banking activities. **The Committee understands these concerns and notes that when securities regulation was placed under the insurance department that was not a problem. Consequently, the Committee is confident that there will be no problems with the intermingling of funds between programs at DISB now that the banking department has been merged into DISB.**

In general, the Board acknowledged that it is pleased with the overall fiscal management of DISB. **The Board congratulated DISB for bringing in-house functions of licensing insurance producers. An outside vendor, ASI, had performed these functions. The District is one of two jurisdictions that now do in-house, on-line renewing of producer licenses. This saves time and money for the District and should generate millions of dollars in new revenues that will flow to the general fund. The Committee recognizes that in last years budget process the Commissioner informed the Committee of these savings. The Committee commends DISB for this accomplishment.**

The Board also noted that there is a need to consolidate all insurance regulatory functions into DISB. Currently, there is the Health Plan Grievance and Appeals Coordinator's office in the Department of Health. The Board believes that this office causes a conflict with the Insurance Regulatory Trust Fund. Specifically, the language that states that "no other assessment shall be charged". The Coordinator's office is assessing fees that the Board believes are not consistent with the Trust Fund laws. The Board acknowledged that DISB has entered a formal agreement with the Coordinator's office to assess an annual fee of $50,000 on the HMOs to cover the costs of the new office. The Board explained that to this date it is certain that the Coordinator's office has not paid the $50,000 to DISB under their agreement. **The Committee notes that this concern has been raised by the Board for two years in a row and that the Committee will once again attempt to resolve this issue.**

Richard Hall testified on behalf of Opportunity Accounts. He noted that 192 District residents have taken advantage of matching funds and that Jennifer Snowden in DISB has worked very hard to get these funds sent down from the OCFO. He explained that the District contribution is matched by the federal government dollar for dollar.

Councilmember Ambrose explained that she is very interested in making sure that this money is once again put back in the budget. She explained that Councilmember Catania has been the one who has championed this effort over the past several years. She stated that she would work with him to find this money.

Councilmember Ambrose asked several questions of Jennifer Snowden, who is the program coordinator for the Charter School Credit Enhancement Fund Program and Direct Loan Fund under DISB. Councilmember Ambrose asked how much money was currently in the fund. Ms. Snowden explained that there is $6 million in direct loan money, $5 million to provide credit enhancements that can be used to acquire or renovate locations, and $7.9 million for direct loans to charter schools. Ms Snowden explained that there have been 12 schools involved in the program and not one of them has defaulted on their loan. Councilmember Ambrose asked how she advertises and Ms. Snowden explained that she mostly goes by word of mouth. She did also note that her staffing levels are very thin and she could use much more help. Currently, she only has herself and two others. Ms. Snowden also noted that she recently was informed that her program received $5 million from the Department of Education.

Councilmember Ambrose thanked her for her work and then closed the hearing. Commissioner Mirel also noted that he looks forward to working with Ms. Snowden to ensure that her program is successful.

FY 2005 Budget Support Act of 2005

During the Committee's budget hearing on March 31, 2005, Councilmember Ambrose, Chair of the Committee on Consumer and Regulatory Affairs questioned the Commissioner specifically regarding amendments that may be recommended for inclusion in the FY 2005 Budget Support Act of 2004 that would affect insurance or securities legislation, or would otherwise have an impact potentially on DISB operations. The Commissioner noted that he was not aware of any amendments for DISB to the FY 2005 Budget Support Act.

VII. The District of Columbia Housing Authority (DCHA)

Background –

Public Housing has been owned and operated in the District of Columbia by various entities since 1934. For years, the controlling entity was "National Capital Housing." By all accounts, in the 1990s, conditions in public housing developments were deplorable. The District of Columbia Department of Public and Assisted Housing (DPAH) was established in 1994 to provide decent, safe, and sanitary housing to low-income residents of the District. But, conditions did not improve significantly. In May of 1995, after a year of review, Superior Court Judge Steffen Graae, took the extraordinary step of removing this distressed agency from the control of the Government of the District of Columbia.

Judge Graae appointed a Receiver, David Gilmore, to improve the conditions at DPAH. In May of 2000, after five years of steady progress, Judge Graae ended the receivership. At the same time, a completely reconstituted District of Columbia Housing Authority ("DCHA"), headed by an Executive Director and governed by a Board of Commissioners, was created through legislation (*see* D.C. Official Code § 6-201 *et seq.*).

Mr. Michael Kelly was hired, as the first Executive Director, to run the new Authority. At the same time DCHA has been administering two major programs, Public Housing and the Housing Choice Voucher Program, it has also undertaken numerous ambitious efforts to transform its public housing stock through demolition and substantial rehabilitation. DCHA is an independent agency, and while the Deputy Mayor for Planning and Economic Development sits on the DCHA Board of Commissioners, the agency receives no local District dollars. DCHA's budget is derived completely from federal grants. Consequently, it does not request, or receive, any local appropriated dollars to fund its operations or programs. Thus, there is no line item for DCHA in the Mayor's FY-2005 budget request. Nonetheless, the Committee on Consumer and Regulatory Affairs, on behalf of the Council of the District of Columbia, maintains oversight over DCHA.

Mission –

DCHA is dedicated to enhancing the quality of life in the District of Columbia by providing and effectively managing affordable, subsidized housing, which is diverse, well-maintained, and aesthetically pleasing for those whose circumstances prevent them from competing in the general marketplace. DCHA seeks to achieve the highest and best use of that housing for people of low to moderate income through the promotion of economic development and self-sufficiency opportunities and the facilitation of other supportive services.

Organization and Operations –

DCHA is governed by a 9-member Board of Commissioners. Each commissioner serves a 3-year term. The Board was established in July, 2000 after the D.C. Council had passed the District of Columbia Housing Authority Act of 1999 (D.C. Law 13-105), which established DCHA as an independent public Housing Authority.

Four Commissioners are nominated by the Mayor and confirmed by the D.C. Council. These Commissioners serve staggered terms. Three of the Commissioners are public housing residents who are elected by residents. These are: a Family Properties Representative, a Senior Citizens/Disabled/Mixed Populations Representative, and a Representative-at-Large. The current three housing resident

representatives were all elected for a three-year term in May, 2003. The Deputy Mayor for Planning and Economic Development is a Commissioner. And, the final Commissioner is a labor representative named by the Central Labor Council. The Chairperson of the Board, who is appointed by the Mayor, is currently Mr. Russell Simmons.

DCHA's Executive Director is Mr. Michael Kelly. He leads the Executive Staff and oversees day-to-day operations, according to the policy direction established by the Board of Commissioners. Below the Executive Director, there are 22 Senior Staff Executives who supervise a total of 832, full-time employees.

Organizationally, DCHA is structured into three operational regions: the Anacostia Region, the Potomac Region, and the Rock Creek Region. All of DCHA's public housing properties fall into one of these regions, each of which is headed by a Regional Administrator. Client Support includes Client Placement, Resident Services, Public Safety, Public Affairs, and ADA Compliance. Business Support includes the Office of Financial Management, Administrative Services, and Human Resources. Capital Programs includes the Development and Modernization Administration and the Office of Planning and Development.

During 2003, DCHA made important strides in its "pursuit of excellence" and continued the process of institutionalizing the achievement of its recent past. The result has been an expectation from residents, housing advocates, industry peers, as well as the DHCA's staff and its Board of Commissioners that DCHA will continue to maintain the highest standards in the public housing and the affordable, assisted housing industries. At the same time that DCHA has been striving to solidity these achievements, it has continued to reach forward with an understanding that there is still much work to be done.

DCHA serves approximately 25,000 District residents in approximately 9,000 public housing units, and another 25,000 residents through the federal Housing Choice Voucher Program (formerly called the "Section 8" Program) with the issuance of over 9,000 vouchers. DCHA's 25,000 public housing residents live in about approximately 58 developments, including 18 buildings for senior citizens (serving about 5,000 seniors). Despite this extensive amount of assistance, there are still approximately 23,300 people on the waiting list for Public Housing and 31,507 people on the waiting list for the Housing Choice Voucher Program.

DCHA worked toward a goal of unobstructed customer service through the establishment of several initiatives. DCHA recognizes that the condition of its properties has a significant impact on the overall quality of life in the neighborhoods in which they are located. It has therefore placed a high priority on reviewing its portfolio to determine what, if any, changes are necessary to improve the livability of the units in its developments. DCHA has continued to place an unwavering priority on empowering its residents. Thus, DCHA has sought to assist its residents to become true partners through training, services, and facilitation of organizational efforts.

Performance Oversight Hearing and Testimony –

The Committee on Consumer and Regulatory Affairs held a Performance Oversight hearing on DCHA and its operations on December 15, 2003. At that hearing, Mr. Michael Kelly, Executive Director, Mr. Russell Simmons, Chair of the Board of Commissioners, and Ms. Margaret McFarland, DCHA's General Counsel, gave testimony. The Committee thanks the Authority and its Board of Commissioners for their willingness to serve and their cooperation. The Committee also compliments DCHA on how it is conducting its core business: providing and managing housing that serves low- income families. Being

in a "service" business, DCHA is performing its mission in an ever-improving manner by serving those citizens who are unable to compete in the private market.

In his testimony before the Committee, Mr. Simmons appeared with fellow commissioner, Ms. Marcie Cohen. Mr. Simmons described the current membership of the Commission. He reviewed the Commission's mission and goals. He described the operations of the Commission's four Standing Committees: the Committee on Development and Modernization, the Committee on Education, the Committee on Finance, and the Committee on Operations.

He discussed DCHA's operations at Henson Ridge and Kentucky Courts, the Housing Choice Voucher Program (HCVP), and the HCVP's Home Ownership Assistance Program. He summarized DCHA's accomplishments and announced that Michael Kelly had been hired for another year as Director. He noted that approximately 77% of residents are returning to the completed Hope VI Project in Henson Ridge. He mentioned that progress has been made at Capital Gateway Estates. And, he stated that the new construction at Kentucky Courts will be completed in mid-2005. **The Committee Chair notes with satisfaction how well the project at Kentucky Courts has come and reminds everyone that this is a special local public-private partnership. The Authority is to be commended for following through on this project.**

Mr. Simmons noted that Arthur Capper-Carrollsburg – a Hope VI project– is in the process of being demolished. He testified that the Eastgate Community Hope VI proposal would be submitted to HUD soon. He expressed his appreciation to the DCHA staff for their hard work. He emphasized that DCHA's primary goal is to be customer-focused. He expressed that they are trying to improve communications at all levels and have been working on developing a "Tenant's Bill of Rights," which will cover housing, medical, education, and services.

Director Kelly delivered his statement, "Goals and Accomplishments for 2003." He thanked the Chair of the Committee, Councilmember Sharon Ambrose, for the leadership and assistance she has provided ever since the Authority came out of receivership. He reported progress on all DCHA's strategic goals and that DCHA has continued to perform in an outstanding manner. DCHA is looking forward to improving the quality of the housing stock that is available to citizens, and the Authority is proud of its support services.

Mr. Kelly reported that at Frontiers, 54 units have been converted to home ownership, that vertical construction has begun at Kentucky Courts, and that the Partnership Program for Home Ownership will eventually provide home ownership to approximately 700 people. He noted that DCHA is ahead of schedule in the conversion of units to meet ADA/504 standards. Mr. Kelly reported that they have 234 ADA-compliant units and have another 90 on the way. The ultimate goal is 565, with the remainder of these to come from units in construction in HOPE VI projects. DCHA continues to serve approximately 10% of the District's entire population through the Public Housing and Housing Choice Voucher Program (HCVP). Through DCHA's HCVP Ombudsman and HCVP Program Officer, Herbert Ruffin, the HVCP is attempting to reach out to landlords. There are over 3,000 landlords in the HCVP. Mr. Kelly noted that he is developing a new Customer Satisfaction Survey. DCHA sponsored its annual Housing Fair and established a citywide Citizens Advisory Board. They are working to foster business relationships and have started a non-profit housing development corporation. DCHA established a 501(c)(3), tax exempt organization, called Community Visions, Incorporated, and have participated in a number of community programs. DCHA has established relationships with the Court Services and Offender Supervision Agency (CSOSA), and through initiatives with case workers, is working constructively to address housing for

returning ex-offenders. DCHA is also providing training for members of Resident Councils.

Mr. Kelly reported that DCHA has continued to score well under HUD's Public Housing Assessment System (PHAS). DCHA is receiving HUD scores in the 90s, which is a high score and thus, extremely commendable. DCHA received a "High" performance rating in both the "Financial" and "Management" components of PHAS. DCHA also received, for the first time, a "Standard Performer" rating in the "Physical Condition" component of this assessment tool.

Mr. Kelly highlighted that DCHA received a favorable AA rating from the Moody's rating company. And, DCHA received, for the second year, an "unqualified" opinion on its Annual Independent Audit, in which it was determined to be "in compliance" in all major programs. **The Committee commends the Authority on this achievement and notes that this higher bond rating will be important as the Authority continues to implement its mixed income projects.**

The Director shared that DCHA facilitated the creation of a new, resident, interim City-Wide Advisory Board, which has successfully created Bylaws and Articles of Incorporation for the permanent entity, and is currently implementing the election process for a permanent Board.

Mr. Kelly explained that residents have begun moving back into Henson Ridge. He noted that DCHA takes great pride in the fact that 77% of the families currently on site in this revitalized community are returning former public housing residents. This is a significant achievement.

He noted that DCHA continued to remain ahead of schedule in the conversion of units to comply with the requirements of the federal Americans with Disabilities Act (ADA). As more units have become fully accessible, DCHA has been creating a valuable housing resource for mobility impaired individuals. The Office of the ADA/504 Program has been working to ensure all of the Authority's clients are provided reasonable accommodations to assist them in their activities with DCHA. The creation of policies, procedures, and easily-understood forms all work toward our efforts for a fully-accessible housing authority. Moreover, DCHA Senior Staff Executives Christopher Stennett, Director of Development and Modernization, and Larry Bonds, ADA/504 Coordinator, have been repeatedly acknowledged by HUD as experts in the area of accessibility compliance and have been called upon to train other personnel in other housing authorities in this regard.

Mr. Kelly indicated that DCHA's strong preventive maintenance plan constitutes a position shift in the Authority's property management program. DCHA is serving its clients more effectively by proactively identifying property and unit needs.

Mr. Kelly testified that DCHA served an additional 3,500 families under the HCVP during the past three years. DCHA also added 289 new landlords to this program. The program is now at 100% utilization.

During 2003, aggressive development programs have been initiated in non-Hope VI communities, especially at Henson Ridge, where a new supportive service program is moving along well and is serving more families than ever. DCHA efforts with development partners under the scattered-site home ownership program are also progressing.

Other accomplishments noted in by DCHA were:

- Continued emphasis on its Youth Mentoring Program,
- Back-To-School events,

- Assistance with access to Health Services,
- Implementation of the annual Do Your B.E.S.T. Summer Youth Employment Program,
- Resident Council training sessions,
- The annual Home Buying Fair, and
- Development of a non-profit, tax-exempt, 501(c) (3) entity: Community Visions, Incorporated.

DCHA also provided a summary report on progress made at Henson Ridge, Capitol Gateway Estates, Kentucky Courts, Arthur Capper and Carrollsburg, and the Townhomes on Capitol Hill. They reported with regret that DCHA did not receive a HOPE VI grant from HUD for the Eastgate community when they originally applied for it in 2003. They re-applied in March, 2004, and HUD has not yet announced winners for this funding round.

Moving to Work –

As one of the 30 national housing authorities selected to participate in HUD's "Moving To Work" Demonstration Program, DCHA is not subject to the standard inspection and scoring system that has applied in the past. Under "Moving to Work," DCHA is allowed a certain degree of budget flexibility, different standards of evaluation, and is permitted to draft, to some degree, its own regulations which are slightly different from those of HUD.

As part of this process, DCHA also produces its own set of initiatives each year. Until 2003, DCHA, like other housing authorities was measured on four indicators. For instance, for its performance in 2002, DCHA's "Financial Condition" score was 89.66%, a 35% increase over 2001. For 2002, DCHA's "Management Condition" indicator score was 93.33%. For 2002, DCHA achieved an overall performance score of 87%, a 21% increase over 2001.

Now, under Moving to Work, none of these measures are required. HUD and DCHA are working together to come up with other performance measures – such as a new, customer satisfaction survey. DCHA continues to do very well on it management indicators, like its rent collection. For 2003, Mr. Kelly reported that DCHA posted a 99.84% rent collection rate. DCHA also had a 99% occupancy rate.

The Committee commends the Authority for its inclusion in HUD's Moving to Work Program. This is a significant achievement, particularly considering how much progress was made to reach this point in a short period of time.

Budget (Federal Funding Levels) –

In response to the Committee's questions regarding its budget, DCHA noted that it has not experienced any significant deviations from its budgeted expenditure level. The FY-03 audit is projected to be completed by June, 2004. DCHA is anticipating a consolidated FY-04 budget of approximately $223,000,000, a reduction of approximately $27,000,000 from FY-03. Department of Housing and Urban Development (HUD) approval of this budget is still pending before Congress. DCHA experienced a 5.3% reduction in Operating Subsidy from HUD in its FY-04 budget which amounted to a loss of $2.5 million available for its public housing program.

DCHA's FY-05 consolidated budget is projected to be in the range of $225,000,000, but since its budget submission is not due to HUD until June 30, 2004, it is still in the pre-planning stage of preparation. HUD only approves the Authority's operating subsidy request.

While HUD has not yet provided guidance on FY-05 subsidy levels, DCHA is anticipating a reduction in its FY-05 operating budget of between 3 to 5%. For DCHA, this will amount to a reduction of between $1.4 million and $2.3 million.

At the present time, the FY-05 HUD federal budget is pending approval by the U.S. Congress. On February 2, 2004, President Bush released his proposed budget for FY-05. The HUD budget would eliminate funding for HOPE VI, provide significantly less than what is needed for Housing Choice Voucher Program vouchers, the Public Housing Capital Fund, and Operating Fund. The amount of money proposed for public housing for FY-05 is $2.674 billion nationwide for the Capital Fund Program, $3.573 billion for the Operating Fund Program, zero for HOPE VI, and $1.633 billion below the need for Housing Choice vouchers.

HUD has initiated a negotiated rule-making process with the industry for the development of a new operating fund formula. The work is to be completed not later than July 1, 2004. This new formula, once implemented, will impact the amount of operating funding that DCHA will receive on an annual basis. Despite the decrease in HOPE VI funding, in December, 2002, DCHA applied for a $20 million HOPE VI grant for its Eastgate site. DCHA was not selected for this grant in the past. DCHA resubmitted this application in January, 2004, but HUD has not yet announced the winners.

Once again, in last year's budget, the U.S. Congress did not provide funding for any new "incremental" Housing Choice Voucher Program (HCVP) vouchers, or any funding for the Drug Elimination Program (DEP). In the past DCHA has used its DEP funding, approximately $2.6 million annually, to support resident services and its public safety (police) force, the Office of Public Safety. Consequently, both of these programs have been incorporated into the authority's Consolidated Operating Budget, contributing to budget pressures. Likewise, without funding for new vouchers, DCHA is unable to assist the thousands of families on the waiting list that have requested this housing subsidy. DCHA has also been using funds from its Operating Subsidy to support these programs. While core resident services continue, like "Do Your BEST," Resident Empowerment Training, and Back-to-School events, there has been a limit to additional services that could be provided. The Office of Public Safety was successful in obtaining outside grant funds to support overtime and investments in security technology.

In June 2003, HUD also released a notice on the mandatory community service requirement. Housing authorities nationwide are now required to institute this initiative, which mandates that public housing residents perform 8 hours a month of community service. Exempt from this requirement are the elderly, the disabled, and resident who are working. Utilizing its "Moving to Work" designation, DCHA has elected to create a voluntary community service program in the place of this requirement. This program is not yet in place.

The FY-03 HUD budget, which was approved by Congress in February, 2003, provided $3.6 billion for the Public Housing Operating Fund. For FY-04, this was $3.579 billion. For FY-05, it is projected to be $3.573 billion. DCHA anticipates receiving its full operating subsidy for FY-05.

For FY-03, Congress authorized HUD to use $250 million to cover the FY-02 operating shortfall. The Committee has been unable to learn from DCHA how much of an operating shortfall occurred during FY-03, but apparently, there was one, which had an impact on DCHA's FY-04 budget.

In its FY-04 budget proposal to the U.S. Congress, HUD included several proposals that would impact both Public Housing and the Housing Choice Voucher Program. First, HUD did not propose full

funding in the Capital Fund which authorities use to maintain and repair their units. In lieu of full funding, HUD again proposed a public housing investment initiative that would allow project-basing of public housing units.

HUD also did not propose any funding for the HOPE VI program for FY-04, although the Congress, in its FY-2003 budget, did extend HOPE VI for 2 years and funded it for 2003.

HUD has also proposed block granting the Housing Choice Voucher Program and giving the funding to the states rather than to housing authorities. HUD states that this will "improve coordination between housing and TANF assistance." Affordable housing advocates have voiced concern that such a move is meant to pass off additional costs of the program to the states, and question whether states have the capacity to assume responsibility for the program. To the Committee's inquiries, DCHA reported that this has not been as yet approved by Congress. HUD's new proposal for FY-05 is to block grant the voucher program to housing authorities and reduce operational costs to an inflationary factor. DCHA is concerned about the impact that this proposal would have. Advocates estimate that DCHA would lose 1,133 vouchers under this new, HUD-proposed plan.

DCHA's FY-05 operating subsidy request for the Public Housing Operating Fund will be submitted to HUD in May, 2004. DCHA submitted its FY-02 Audited Financial Statements, which contain the authority's most recent audited financials, to the Committee. In addition, upon completion, DCHA's FY-03 Audited Financial Statements and its final FY-03 Annual Audit, which are being prepared for submission to HUD, will be forwarded to the Committee.

Under-reported Income by Residents –

DCHA reported it continued to monitor the under-reporting of income by residents of public and subsidized housing. This remains an issue for HUD. During the summer of 2003, DCHA participated in a nationwide "rent integrity" survey conducted by HUD contractors. The firm reviewed tenant files and conducted interviews with DCHA's tenants. Results of this national survey have not yet been released, but DCHA is expecting to have attained a high degree of accuracy. In order to enhance its capacity in the rent determination process, DCHA will be implementing a more stringent "third party verification" process, which is encouraged by HUD. This initiative, as well as continued staff training in the re-certification process, will improve the Authority's ability to detect inaccuracies.

Tenant Assistance Program (TAP) –

Last year, DCHA reported that in 2002, as in previous years, the only District-appropriated funds administered by DCHA exist as a result of a memorandum of understanding executed with the Department of Human Services for management of the city-funded Tenant Assistance Program ("TAP"). The DCHA committed to continue to manage TAP on the city's behalf with $2,344,000 appropriated for FY-04. This same amount has also been proposed in the FY-05 budget. Although the District appropriated $2,344,000 for FY-04 and FY-05, DCHA will only requisition $899,000 for FY-04 and $274,000 for FY-05. This amount, which is the same every year, is a pass-through amount from a Federal Income Assistance Program. It is included in the District's budget under the Department of Human Services line. These annual amounts are designed to cover rent subsidy payments for four remaining multi-year contracts which extend through September 30, 2003. Of these contracts, three will expire in 2004, and the fourth will expire in 2006. **The Committee agrees that honoring these contracts is necessary, and that it is appropriate for DCHA to have entered into the MOU with the District's Department of Human**

Services. In 2003, DCHA absorbed TAP assistance where District funding had expired. Residents received tenant-based vouchers from DCHA.

Strategic Planning –

The Committee acknowledges the hard and dedicated work being performed by DCHA. The Authority is serving the District by establishing mixed income, diverse communities that are clean, livable, attractive, safe, and sustainable. DCHA has provided a considerable amount of information to the Committee about its strategic planning. As a result of the quality, quantity, and detail of the information provided by DCHA, the Committee is favorably impressed with the organization, planning, operational, and management expertise being exhibited by DCHA. The Committee received several documents produced by DCHA, including:

- Updates to Toward Excellence, Three-Year Strategic Plan (Oct. 1, 2000 to Sept. 30, 2003),
- Development and Modernization Administration's (DMA) Building Excellence - FY-2000 Annual Report,
- Goals and Accomplishments - 2003 report,
- Strategic Plan FY-2003 Year End Status Report,
- District of Columbia Housing Authority Financial Statements For the Year Ended September 30, 2002, and
- other documents and testimony.

In 2002, DCHA developed a Two-Year Strategic Plan to cover the period from October 1, 2002 through September 30, 2004. This plan replaced the original Three-Year Strategic Plan. There were no changes to this plan during 2003. Through methodical implementation of updates to its Three-Year Strategic Plan from 2000, which originally included ten goals, DCHA has accomplished a great deal and has built a solid foundation for the future. Despite updates to reflect industry changes, DCHA's ten goals have remained the same and continue to guide the Authority's daily performance. These goals (A through J) are as follows:

A - To achieve high-quality property management services that provide clean, livable, attractive, safe and sustainable ("CLASS") communities,

B - To increase the number of quality, affordable housing units in the District,

C - To increase housing opportunities for special needs populations,

D - To increase the Section 8 resources and the quality housing choices available to eligible families,

E - To create new opportunities to encourage resident self-sufficiency and self-determination,

F - To insure effective public safety services for DCHA residents,

G - To meet the highest expectations of the public housing industry,

H - To achieve a level of capacity among the support functions of the agency, which will enable the program functions to operate with excellence,

I - To develop a Human Resources Environment that attracts, retains, and supports a competent, service-oriented staff and improves the work life of all staff,

J - To establish practices which contribute to a healthy and sustainable environment.

In addition to these goals, DCHA continued to initiate adjustments designed to better address new challenges. DCHA refined its plans to enhance opportunities for residents to achieve self sufficiency and self determination, to ensure public safety, to increase housing choices for low-income families, to attain excellence in all aspects of operations, and to further efforts toward creating wholly-owned business-like operating subsidiaries.

For example, as a result of the invitation DCHA received in 2002 to participate in HUD's "Moving To Work" (MTW) Demonstration Program, during 2003, DCHA and HUD executed the Authority's Moving to Work Agreement, and the Authority began implementation of its first year plan. As already mentioned, only 30 other housing authorities have been permitted to participate in this program. HUD and the United States Congress will be watching closely to see how this program works in our nation's capital.

Housing Choice Voucher Program (HCVP) –

Over the past few years, due to private property owners opting out of long-term HUD contracts and other factors, there has been a steady increase in the number of vouchers required for the Housing Choice Voucher Program (HCVP). The number of people in the applicant pool, in need of housing, has also been on the rise. This is because as long-term HUD contracts, which pertain to entire buildings, end, the number of individual applicants (and units), for which an individual voucher may be required, rises correspondingly.

During 2003, the HCVP increased its capacity to provide assistance to families by a total of 832 vouchers. This total reflects the baseline increase from 8,132 vouchers in FY-02 to 8,964 vouchers in FY-03. As explained above, this increase was primarily due to HUD's opting out of contracts with private property owners and awarding DCHA, instead, with funding to issue vouchers to those families affected so that they are not displaced.

DCHA also received additional vouchers for relocations caused by Hope VI construction projects and demolition or disposition activities. DCHA plans to continue to apply for additional vouchers from HUD for opt-outs as HUD gives notification of its intent to award such vouchers.

The total number of vouchers available has dwindled, even as the number of applicants has increased. Despite this divergence, DCHA has continued to accept applicants on its waiting list for the HCVP. Over the past year, as the demand for housing continued to increase and rental prices in the District of Columbia soared, the number of applicants increased from 24,696 in November 2002 to 31,507 in November 2003. In recognition of this tightening rental market, DCHA has initiated and set-aside a portion of its allocated vouchers for project - basing. This places a specified number of units under contract with private owners where those units are designated for DCHA voucher participants. DCHA also plans to continue to apply for Fair Share vouchers when these are made available by HUD.

According to DCHA, there are a number of reasons for the increase in applicants and the decrease in the number of available units for the HCVP:

- rental housing is less available and rents are higher in low-poverty areas,
- fewer job opportunities,
- property owners and managers unfamiliar with Housing Choice Voucher Program,
- rise in cost of living in the District of Columbia,
- owners' and managers' screening practices,

- differences in race and ethnicity between participants and other tenants or neighbors may influence owner/manager decisions (discrimination),
- participants often lack information about housing availability in unfamiliar areas,
- participants may have literacy issues or may lack "social navigation skills,"
- participants may lack familiarity with housing search methods or have limited shopping skills,
- participants' credit problems may be more salient because landlords screen tenants more carefully, and
- lack of availability of funds to assist families with security deposits.

Although the factors noted above have impacted the growth in the number of applicants and a decrease in the number of available units, DCHA has taken a proactive approach to ensure that the maximum number of families can receive HCVP assistance by:

- sponsoring a “Housing Fair” in the DC Convention Center to promote the Housing Choice Voucher Program,
- educating families about the value of housing mobility at family briefings,
- conducting landlord outreach (education and marketing about the HCVP),
- having exception rents in low-poverty areas,
- sponsoring a Landlord Advisory Committee,
- discussing negotiating agreements or MOUs,
- supporting family mobility,
- linking mobility efforts to family self-sufficiency, job training, and working participants,
- hiring Mobility Counselors, and
- promotion of a Home Ownership Program.

DCHA has identified several problems with some payments to landlords. HCVP managers believe this may be due to several possible factors, including:

- failures and downtime with current database systems, including the Authority’s Memory Lane System (MLS),
- landlords who fail to timely return executed Housing Assistance Payment (HAP) Contracts,
- unit abatements due to landlords whose units fail to meet Housing Quality Standards (HQS) for inspections,
- the need for the HCVP staff to verify data integrity prior to releasing payments, and
- landlords not receiving their payments timely because of problems with the Postal Service.

Mr. Gary LeBlanc, Director of DCHA’s HCVP, clarified that DCHA currently tracks payments to landlords in a database known as the Memory Lane System (MLS). It captures all outgoing payments. Mr. LeBlanc noted that DCHA has been experiencing some problems with this system, but the Authority has purchased a new, state-of-the-art, Financial Management System. This new system will rectify the current system’s problems that are affecting DCHA’s ability to making timely payments to some landlords.

DCHA indicated that it also has developed new, internal control procedures to reduce the number of missed payments to landlords and has put resources in place to research, respond, and pay landlords when such payments have been missed in error. In addition, efforts are under way to provide weekly

payments to landlords, rather than the current policy of only scheduling Housing Assistance Payment (HAP) check-runs on the first and the fifteen of the month. DCHA has made "receiving HAP payments" by means of direct deposit mandatory. Presently, there are nearly 3,000 landlords participating in the HCVP, of which approximately 25% are receiving their payments in the form of direct deposit. The HCVP goal is to increase that percentage to greater than 98% by the end of FY-04.

Another innovative effort is the Authority's new Partnership Program for Affordable Housing, which utilizes our voucher program as a development tool. DCHA has initiated this project-based assistance program by allocating 20% of its vouchers under the HCVP, which is the equivalent of approximately 1,400 units. Early in 2004, DCHA competitively selected partners with whom it will implement this program. Owners of existing units, or units for which substantial rehabilitation or new construction is proposed, were selected.

The HCVP's Family Self-Sufficiency program has grown by 43% during the past year, and 3 families have graduated from the program by achieving economic independence. These families amassed over $12,000 in their escrow accounts, which will go toward their educational and/or home-ownership needs. In addition, DCHA continued to implement its HCVP Home-ownership program and is working with, and counseling, several families to help them achieve the American dream.

Accountability for Condition and Maintenance of Properties –

DCHA reported that it monitors the condition and maintenance of all properties and inspects and investigates any allegation of damage caused by either Public Housing residents or HVCP tenants to the Authority's, or a private landlord's, property. The Authority conducts Annual Housing Quality Standard Inspections and Compliant Inspections upon request. These inspections are conducted on all participating units. Tenant-caused deficiencies, if discovered, may be classified in two categories, and ordered to be corrected as follows:

- Emergency violations must be corrected within 24 hours, and
- Non-Emergency violations may have up to 30 days to be corrected.

In addition, an extension of time to complete repairs may be requested in writing by a landlord. Extensions are granted if warranted.

Any tenant-caused HQS violations that are not corrected within the specified time may result in a recommendation for termination of the tenant's participation in the HCVP. Once a decision has been made to terminate a tenant's subsidy, the tenant has 10 days from the date of the correspondence to request, in writing, an Informal Hearing. Even if an HCVP participant is terminated from the program, it is still the provisions of the lease that exists between the landlord and the tenant which will determine whether the tenant continues to remain in the unit or not. In most cases, as long as the tenant has abided by the conditions of the lease, including making the required rent payments, despite the lost of the public assistance voucher, there may not be any legal grounds for the landlord to remove the tenant.

DCHA has a total of 9 HCVP employees in its Compliance Department. DCHA's Office of Public Safety (police force) provides assistance to the HCVP Compliance Department with investigations, as required. In addition, DCHA has employed an Ombudsman, Diane Oliver, to address the concerns of its constituents. The HCVP Ombudsman also serves as the HVCP's liaison to the community. **The Committee commends DCHA for providing the Ombudsman program.**

Standards of Conduct and Behavior –

During 2003, DCHA continued to address drug-related activities, quality-of-life misdemeanor crimes, and other problems in and around DCHA communities and at addresses occupied by holders of HCVP vouchers.

Housing Choice Voucher Program –

The Code of Federal Regulations (CFR), under Family Obligations, sets forth the standards and rules that HCVP voucher-holders must maintain.

- Individuals who have been determined eligible to participate in HCVP are required to attend an orientation briefing where a comprehensive overview is given to the families highlighting their responsibilities and obligations as a program participant.
- Voucher holders are required to be re-certified annually to determine continued eligibility for continued participation in HCVP.
- Annual Housing Quality Standard inspections are conducted by the HCVP Inspection Department.
- All complaints are investigated expeditiously.
- Voucher holders are subject to termination from the program for failure to comply with their family obligations for participation outlined on their voucher.
- HCVP has an Administrative Review Specialist to ensure voucher holders are given due process. HCVP hearings are informal.

Public Housing (from DCHA rules) –

Lease Enforcement. Provisions in the current DCHA lease stipulate that all residents and guests of residents will conduct themselves in such a manner as not to disturb the peaceful enjoyment of neighbors. It further stipulates that residents will not engage in illegal activity and that they will be also responsible for the actions of their guests while on DCHA property. These provisions are strictly enforced, and action which may result in eviction is taken against residents who violate this or any other portion of their lease.

Fight Backs. When a resident is arrested for illegal activity, or illegal activity which results in an arrest can be associated with a particular resident's unit, the head of that household is deemed to have violated the lease provision which stipulates that they and their guests will refrain from illegal activity. In such cases, legal action is taken against the lease holder. The end result is a legally binding agreement, barring the offender, or eviction of the entire household.

Barring Notices. Often the offensive activity that may occur in or around public housing is not caused by DCHA residents, but by other nuisance individuals who frequent those areas and create nuisances. When repeat offenders are identified, a barring notice is issued stipulating that they are not to return to specific properties or all public housing property. If that person fails to adhere to the barring stipulation, an arrest may follow.

Community Involvement by DCHA Staff. DCHA management staff and the public housing property manager often attend community meetings, Patrol Service Area (PSA) meetings or the Mayor's Core Team Meetings to develop strategies for how to improve the District's public housing and other communities as a whole. At these meetings nuisance properties are identified and action plans are put in

place to resolve any outstanding issues. DCHA staff also often closely collaborate with neighborhood ANC leaders and Council members.

Community Living Standards. DCHA is in the process of adopting Community Living Standards, which will clearly stipulate what types of activities are acceptable in public housing communities. These standards may put restrictions on undesirable behavior, even though this behavior is not a crime, such as loitering or other nuisance behavior. These standards will be an amendment to the Dwelling Lease Agreement and will be as enforceable as would be any other portion of the lease.

ADA Requirements and Security Enhancements –

DCHA's initiatives to ensure the rehabilitation and modernization of its housing stock to meet the needs of District of Columbia residents has continued, especially in the programs under its Development and Modernization Administration.

In order to comply with the provisions of the American With Disabilities Act (ADA), DCHA has set a goal of completing the conversion of up to 324 existing public housing units into fully accessible units over a three-year period, and the addition of 241 newly-constructed, fully-accessible units by the end of 2007. This three-year period began in 2002. In addition, DCHA is including improvements in search assistance, marketing and reasonable accommodation for physically and mentally disabled residents and participants in the Public Housing and Housing Choice Voucher programs. **The Committee recognizes and commends DCHA for the progress it has made in this regard.**

To see a list of the name of each property, number of units, and bedroom sizes where wheelchair accessible units have been converted to date, one may refer to DCHA's web site (www.dchousing.org). The total number of units converted by April, 2003 was 139. Now the total is 234. The locations of units scheduled for conversion during 2004, distributed throughout the District, are also listed.

Property & Address	**Number of Units**	**Unit Size**
James Creek 1313 First Street, SW	1	One 1-bedroom
Claridge Towers 1221 "M" Street, NW	20	Two 1-bedroom Eighteen efficiency
Highland Dwellings 400 Atlantic Street, SE	5	One 6-bedroom One 3-bedroom Three 4-bedroom
Harvard Towers 1845 Harvard Street, NW	13	One 1-bedroom Twelve efficiency
Lincoln Heights 5015 Finch Street, NE	3	One 1-bedroom Two 2-bedroom
Lincoln Heights 400 50th Street, NE	2	Two 2-bedroom ??

Knox Hill 2700 Jasper Street, SE	7	Seven 1-bedroom
Potomac Gardens 700 12th Street, SE and 1229 "G" Street, SE	38	Thirty-eight 1-bedroom
Garfield Terrace 2301 11th Street, NW	13	Twelve 1-bedroom One 5-bedroom
Sibley Plaza 1140 North Capitol Street, NW	20	Fifteen 1-bedroom Five 2-bedroom
James Apartments 1425 "N" Street, NW	9	One efficiency Eight 1-bedroom
Judiciary House 461 "H" Street, NW	22	Twenty-two 1-bedroom
Barry Farm 1230 Sumner Road, SE	5	Two 2-bedroom Two 3-bedroom One 4-bedroom
Greenleaf Gardens 203 "N" Street, SW	14	Thirteen 2-bedroom One 3-bedroom
Carroll Apartments 410 "M" Street, SE	10	Ten 1-bedroom
Kenilworth Courts 4500 Quarles Street, NE	13	One 3-bedroom Twelve 4-bedroom
Langston Addition 2101 "G" Street, NE	2	Two 3-bedroom
Regency House 5201 Connecticut Avenue, NW	12	One 1-bedroom Eleven efficiency
Wheeler Creek 900 Varney Street, SE	10	Ten 1-bedroom
Montana Terrace 1625 Montana Avenue, NE	4	Four 3-bedroom
Horizon House 1150 12th Street, NW	10	Ten efficiency
Fort Lincoln 2855 Bladensburg Road, NE	6	Six 1-bedroom
TOTAL NUMBER OF UNITS:	**234**	

The remainder of the minimum annual requirement of 108 units per year for the three years, beginning in 2002, are distributed throughout the District at the following DCHA public housing developments:

Garfield Terrace	Greenleaf	Wade Apartments
Sibley Plaza	Lincoln Heights	Horizon House
Kenilworth Courts	Hopkins Apartments	Benning Terrace
Montana Terrace	Stoddert Terrace	Park Morton

DCHA is committed to implementing a comprehensive security plan that includes physical modifications. Physical controls (lighting, fencing, security doors, security booths, and alarms) are selected in order to recognize risks. During 2002, over $530,000 worth of security enhancements were completed. It is unclear what amount was spent by DCHA for security enhancements during 2003.

DCHA's Office of Public Safety, or Police Department (DCHAPD) –

DCHA maintains a police force, its Office of Public Safety, for the protection of its Public Housing residents. During 2003, this police force continued to work aggressively to ensure public safety within the boundaries of public housing communities. The Authority's Police Force is authorized a total of 42 sworn police officers. They receive better training than those of any other housing authority in the country. Sworn officers, assigned to the Authority's Office of Public Safety (OPS), are required to graduate from the Metropolitan Police Department's Institute of Police Science, where they receive the same, 7-month curriculum as MPD's sworn officers. DCHA's sworn officers have concurrent jurisdiction with MPD officers. They have full authority on the property to which they are assigned. As for the experience level of DCHA's sworn officers, two-thirds of them have had the benefit of more than 20 years with the MPD. When they joined the Authority's police force, they brought a wealth of law enforcement knowledge and experience with them.

DCHA's Police Force also has a total of 58 Special Police Officers (SPOs). In conjunction with MPD, DCHA's Office of Public Safety developed a special eleven-week training program for DCHA's Special Police Officers. They receive this training at, and become graduates from, the MPD's Institute of Police Science. They receive a total of 258 hours of training, far exceeding the national average. Upon completion of their graduation, the training of DCHA's Special Police Officers does not stop. They are required to attend In-Service Training bi-weekly, where they are updated on changes in laws, policies, and procedures. Also, once-a-year, they report to the MPD's Institute of Police Science firearm re-certification. On January 23, 2003, *USA Today* ran a front page story on the training of Special Police Officers in all fifty states and the District of Columbia. The conclusion of that study was that of the nation's one million plus special police officers, most of them are unlicensed, untrained, and not subject to background checks. The article reported that, in fact, most receive between zero and forty-eight hours of training. **The Committee commends DCHA for the impressive training its police officers are provided.**

DCHA's Office of Public Safety also employs 40 Resident Monitors. Resident Monitors are public housing residents who have the responsibility to sign guests in and out of DCHA's senior buildings. In addition to achieving an operational, public safety goal, this system also serves as a training program designed to acclimate DCHA residents to the work force. This program has been very successful in that several of DCHA's monitors have retained full time employment within the Authority, private industry, and other government agencies.

Voluntary separations from the Office of Public Safety were not as significant during 2003 and they had been in the past. Effective last year, in an effort to reduce the turnover rate, all new police and special police officers were required to sign a two-year service obligation agreement. The authority has hardly lost any officers who have entered into this agreement.

DCHA believes that its Police Department should continue to remain separate from MPD. The Authority's sworn officers are assigned to conduct high visibility patrols throughout DCHA's most active developments and to respond to radio assignments made by MPD dispatchers. They conduct preventive patrols in an effort to keep those who might otherwise cause problems for the residents out of trouble. Some people who live in public housing and in the community-at-large have a perception that public housing developments are crime-ridden. Nevertheless, since the inception of this department, crime has steadily decreased in the public housing areas, and residents are less fearful of crime in their neighborhoods.

In 2002, the Authority conducted a resident survey to see how safe they felt in their homes. This was accomplished as part of the Public Housing Drug Elimination Grant Program. Based on the results of the survey, there is an overall satisfaction with the presence of the DCHA police. The Committee was unable to find out if such a survey was taken again in 2003.

DCHA has made some progress in its efforts with the MPD and the Court Services and Offender Supervision Agency (CSOSA) on a broad range of issues. Although DCHA's Office of Public Safety and legal department are still meeting with CSOSA to finalize a Memorandum of Understanding (MOU), the authority is able to obtain the information required to remove unauthorized parolees and probationers from public housing, through the Assistant U.S. Attorney's office. DCHA is confident that an MOU between the two agencies will be finalized soon. DCHA, MPD, and CSOSA have conducted probation violator inspections and are embarking on other joint initiatives.

DCHA is constantly seeking and applying for grants for its Office of Public Safety. The Committee was advised that in 2003, DCHA obtained several grants, but the Committee has been unable to find out how many or for how much money.

Resident Councils –

The Authority monitors, and works closely with, 47 Resident Councils to ensure they are operating effectively and serving the needs of public housing residents. Each Resident Council's performance is assessed by monitoring its overall activities in relation to the requirements mandated by HUD and DCHA. Specifically, Resident Councils are expected to conduct regular Executive Board elections, monthly General Body meetings, and Executive Board meetings, maintain regularly-scheduled office hours, advocate for residents, and implement a variety of self-sufficiency programs.

DCHA provides ongoing technical assistance and training to Resident Council members in an effort to build their capacity and enhance their ability to accomplish their mission and satisfy their requirements. DCHA has developed a specialized training curriculum designed to better equip and empower Resident Councils to operate as small businesses and independently obtain the resources required to meet the needs of their communities. DCRA makes arrangements for Resident Council members to gain greater expertise in organization, running meetings, communications, correspondence, finances, and other skills. In addition, DCHA has been providing training and technical assistance to the Interim Citywide Advisory Board (ICAB). The ICAB is resident advisory board that represents all public housing residents

throughout the District. DCHA has assisted the ICAB to facilitate citywide elections in an effort to elect residents to the permanent Citywide Advisory Board. DCHA has established Resident Councils as non-profit organizations and obtained 501(c)(3), tax-exempt status from the Internal Revenue Service.

The growth of the Family Self-Sufficiency Program is but one example of DCHA's refined efforts to empower its residents. It is important that residents are empowered to exercise leadership over their lives and neighborhoods. The Authority has incorporated two methods to help achieve this end. The most noteworthy achievement has been the creation of the formal, permanent structure of a Citywide Resident Advisory Board. The members of the Interim Board successfully created the bylaws and the Articles of Incorporation for the permanent entity. In addition, the Interim Board, with assistance from the Authority, began the election process for the permanent Board in the Fall of 2003. DCHA is very proud of the progress being made by its resident leaders. DCHA staff is looking forward to working with the permanent Board members on a wide variety of issues in the future.

HOPE VI Projects –

DCHA has continued to carefully manage its HOPE VI projects, including investment plans, operational schedules, and game plans. An update on each of DCHA's "active" HOPE VI sites, as reported in its "Goals and Accomplishments for 2003," follows. Also included was a letter from HUD regarding a recent review of the Authority's progress in its HOPE VI program.

Townhomes on Capitol Hill. The final component of this hugely successful community on Capitol Hill is now complete. Thirteen market rate home ownership units were constructed and are now occupied. A portion of the sale proceeds will support the construction of a community facility for the neighborhood.

Henson Ridge. Last year, the Authority reported on the demolition and the start of new construction at the Henson Ridge HOPE VI site, formerly the Frederick Douglass and Stanton Dwellings developments. This year, DCHA reported that the homes at Henson Ridge have been built to meet industry standards, and the units have been inspected more times than homes built for the private sector. These homes have been built to meet all applicable code requirements and have been built "to standard." The builder has given a one-year warranty period on workmanship and materials. After this initial period the standard manufacturers' warranties will continue. During 2003, DCHA celebrated the true birth of a new community as residents began returning to the attractive, rental town homes completed on the site as part of Phase One. Seventy-one rental units are currently occupied. Fifty-five of the residents now living at Henson Ridge are former public housing residents. This is an over 77% return rate - a rate that is much higher than the national average in the HOPE VI program. Once complete, this site will boast 600 new homes, including 320 home ownership units targeted to households with a range of incomes, and 280 rental homes that will serve a mix of public housing and housing for moderate-income families. Demolition of Stanton Dwellings has also begun, with 20 of the 49 buildings having been demolished.

Capitol Gateway Estates. Progress continues at DCHA's "gateway" site. At East Capitol, which has been renamed the "Capitol Gateway Estates," relocation is complete, demolition is near completion, and construction has begun on the elderly facility. DCHA's team, with its partners, has also enhanced the site plan by increasing density on the site to include 227 additional units. When completed, there will be 742 mixed income units on the site.

Arthur Capper and Carrollsburg. Relocation and case management services are underway at the largest of the Authority's HOPE VI sites located near the Navy Yard in Southeast Washington. In addition, the resident-operated Community Development Corporation (CDC) is implementing an impressive economic development program. The "HOPE on the Hill" CDC is working with, and attracting new, companies that can train, and provide jobs to, residents. Once such venture in the creation of a resident-owned-and-operated moving company, which is currently operational during the relocation.

Relocation. DCHA has developed a comprehensive relocation plan to fit the unique needs of each community with a HOPE VI project. Each relocation plan has followed HUD regulations which require early and frequent notifications that relocation will be necessary. Notifications have been accomplished through letters mailed to every head of household, based on a schedule determined by HUD. In addition, community meetings have been held during the planning process and throughout the implementation of each HOPE VI project. Resident involvement has been sought in all stages of the planning and project implementation. This has included their participation on the committees and subcommittees assigned to various aspects of each project. A DCHA staff person or agent works closely with every relocated family or individual to ensure their successful relocation to a unit in another DCHA public housing development or to a unit through the Housing Choice Voucher Program. DCHA is responsible for covering all reasonable costs associated with moves to or from any site undergoing redevelopment.

Re-entry Criteria. Re-entry criteria, which is developed in consultation with the residents of each HOPE VI site, typically covers things like criminal background checks and credit history. As a requirement of the program, every HOPE VI plan includes a Community and Supportive Services Program (CSS) designed to meet the unique needs of each individual community. A comprehensive needs assessment is prepared for all the families impacted by each redevelopment. CSS plans provide for economic development and self-sufficiency programs like job training and placement, GED classes, business development, and home ownership opportunities. Additional support services include day care, transportation, violence prevention, after school programs for youth, and medical services for elderly residents. A case management program is put in place throughout each HOPE VI process to maximize the ability of individuals to benefit from the CSS plan, with the primary goal of the CSS plan to ensure the future success of residents whether they return to the redeveloped community or not.

Home Ownership –

James Creek. DCHA is conducting a home ownership feasibility study at the James Creek development. This study began in September, 2003 and included meetings with the residents, an architectural review of the units surveyed, rehabilitation cost estimates, a description of city programs that will enhance a home ownership program at James Creek, acquisition options, and an assessment of the resident population. The final report was completed in March, 2004.

Kentucky Courts. DCHA has begun vertical construction at the Kentucky Courts site. Completion of the 38 units, which will include both home ownership and low-income rental opportunities, is scheduled for completion by 2005.

Contracting, Procurement, and Construction –

The Authority has instituted several measures to monitor the performance of its construction contractors, especially to ensure compliance with air quality and other standards established by the federal Occupational Safety and Health Administration (OSHA). Construction and renovation work performed by DCHA's Development and Modernization Administration (DMA) contractors is monitored during all phases of construction. DMA project managers are responsible for monitoring all projects from inception through completion, while actual construction is checked daily by DMA construction inspectors. Inspections requiring a high level of expertise in each specific construction discipline are performed by the same construction inspectors aided by DMA's professional engineers. Sometimes, on larger, specialized projects, like roof replacements, outside professional consultants are retained to lend an added level of expertise. In addition, DMA is subject to year- end audit reviews by the Army Corps of Engineers that include a review of all contract documents as well as an evaluation of construction quality. DMA has consistently passed these reviews with no audit findings, and the Development and Modernization program continues to be rated as a high performer by HUD.

In matters relating to air quality or other environmental issues, the Authority has an Environmental Compliance Officer on staff in the Office of Risk Management. This individual has the responsibility of ensuring that the Authority is in compliance with all applicable environmental regulations.

DCHA takes the steps required to ensure compliance with standards established by the OSHA. DMA construction inspectors are familiar with applicable standards as they relate to modernization construction work, and they have full authority to close any job that they feel may be being performed in violation of those standards.

The Authority is subject to the same permitting and inspection process as all other commercial building owners and contractors, as regulated by the Department of Consumer and Regulatory Affairs (DCRA). Construction plans are submitted to DCRA for approval by DCRA and any other agency required (FIRE/EMS, WASA, Historic Preservation, Zoning, etc.). Applicable inspections are performed by DCRA during construction, and upon approval of the final inspection, a Certificate of Occupancy - C of O) is issued, if applicable to the job.

Drainage Issues –

Wheeler Creek. Last year, DCHA reported on its plans to address both ground water and water run-off at Wheeler Creek. These plans included the installation of a new storm water management system with new storm-captors, sand filters and water retention ponds. It was reported that indigenous to the site, and one of the more difficult issues to remediate, was ground water generated by an indeterminable underground source. DCHA reported that the homebuilder was working to correct all warranty issues related to individual homes. Also, last year, DCHA reported that, subject to available funds, the developer and DCHA would re-grade at the site and construct new drainage channels before the project is contractually closed out.

Henson Ridge. The storm water system for Henson Ridge is 100% new. The design for the system was submitted to all necessary District regulatory agencies for approval. The system incorporates a filtering system to clean the storm water before it leaves the site. The new system joins the existing city system at the intersection of Alabama Avenue and Stanton Road.

Scattered Sites –

DCHA continues to have a tiered plan for disposition of the units that remain in its scattered site portfolio. This plan includes partnerships with non-profit developers, the District of Columbia government, and the direct transfer of units to public housing residents. Of the 78 properties under the Home Ownership Demonstration Program, which is being completed in collaboration with seven local, non-profit development companies, 25 units are still in the redevelopment/construction phase. DCHA's subsidiary, D.C. Housing Enterprises, and its construction management company, Construction Services Administration, LLC, have completed the six units under this program. DCHA is continuing the implementation of its own 5(h) home ownership program. To date, 32 units have been sold to former public housing residents. DCHA continues its collaboration with the District, but there are no new, substantial updates to report. Information about the properties is communicated to the District's Office of Historic Preservation for review. In the event that any of these properties are deemed historic, conveyance includes information regarding historic site preservation requirements.

Historic Preservation –

DCHA continued to have just one historic property in its inventory. With encouragement from Councilmember Phil Mendelson, the Authority has increased its awareness and appreciation of the historic aspects of Langston Dwellings. Working with Councilmember Mendelson's office, Comcast, and the District's Office of Historic Preservation, the Authority was able to have much of the non-conforming wiring for cable that had been installed removed. Comcast presented a plan, which DCHA had submitted to the Office of Historic Preservation for approval. On approval, Comcast initiated work. New cable drops and moldings have been installed in the corners and shadows to hide the cable from view. The age of the buildings at Langston Dwellings presents significant challenges in the areas of general maintenance as well as capital repairs. Over the life of this particular property, relatively little capital work has been performed, with the notable exception of modernization of the heating plant. The buildings are in need of substantial rehabilitation; however, funding on the scale needed is not available. DCHA fully recognizes that Langston Terrace is historically significant to the District of Columbia and to the country as a whole. Currently, DCHA is balancing the challenges of maintaining this property against its financial limitations. As DCHA look to the future, it plans to explore every possible creative financing alternative to fund needed renovations.

Regulatory Initiatives –

During 2003, DCHA undertook several complex regulatory initiatives.

Admission and Re-certification. In July and again in December 2003, after conducting negotiated rulemaking with the stakeholders' community, DCHA published final rules which made changes to the application process for public and assisted housing. Because of the numerous changes made to the existing regulations, the final regulations, for convenience, completely restated Chapter 61 of Title 14 of the DCMR. The changes in July included providing notice of debt at the time a person is placed on a waiting list; revising the list of documents an applicant should bring to an eligibility interview; permitting individuals who have been determined ineligible to receive an informal conference and a review by an independent third party; simplifying the interim re-certification process; and reordering Chapter 61. The December changes included redefining the emergency category so that the Executive Director can waive application date and time for federally or locally declared natural disasters or civil disturbances; requiring

publications in the *D.C. Register* of these waivers of application date and time; applying income limits at the time of eligibility determination, not at the time of admission to public housing; adding new language so that a determination of ineligibility for drugs or alcohol abuse must be supported by signed documentation; and allowing offers of housing to be made for any property with a vacancy. Additional changes to Chapter 61, focusing on kinship care giving and re-entry to redeveloped properties, are planned for 2004.

Administrative Plan. HUD requires each public housing authority that manages a Housing Choice Voucher Program ("HCVP") to adopt an administrative plan setting forth how it implements the requirements of HCVP and any allowable local policies adopted for that program. To promote efficient operation of HCVP and provide the staff, clients and potential clients of HCVP with access to the procedures used to operate HCVP, DCHA formally adopted the Housing Choice Voucher Program Administrative Plan in a restated and amended form on October 8, 2003. The Administrative Plan is incorporated by reference at 14 DCMR, chapter 60. The only substantive changes to the Administrative Plan adopted in October are contained in 14 DCMR, chapter 4. These include adopting federal income targeting requirements; incorporating information on special and targeted admissions; adding a new preference in support of the Partnership Program for Affordable Housing; and reordering Chapter 4. DCHA anticipates revising one or more chapters of the Administrative Plan through negotiated rule-making with the stakeholders' community during the coming year.

Barring Policy. DCHA adopted barring regulations on an emergency basis in July and as a combined emergency and proposed rule-making in November. The regulations are expected to assist in providing safe and secure communities for DCHA residents. The regulations permit unauthorized non-resident persons to be barred from DCHA properties and permit any individual who violates a Bar Notice to be arrested for unlawful entry. The regulations derive from DCHA's statutory authority to bar unauthorized persons from DCHA property. The emergency action was predicated by the immediate need to protect DCHA's residents from unauthorized persons entering DCHA property to engage in criminal activity or otherwise disturbing the residents' right to quiet enjoyment of their homes. The barring regulations were the subject of intensive negotiations with the stakeholders' community and the DCHA residents. These negotiations will continue as the emergency and proposed regulations are converted to final regulations in 2004.

Site and Neighborhood Standards. DCHA plans to adopt Site and Neighborhood Standard regulations this year on an emergency basis at its December meeting in a combined emergency and proposed format. Those regulations govern the standards for site selection for new development and substantial rehabilitation projects and are the Authority's first use of its expanded local jurisdiction under its new status as one of HUD's Moving to Work agencies. These regulations will give DCHA more flexibility in site selection than currently allowed under federal regulations and are a critical tool in participating in the revitalization of changing neighborhoods to assure that there continues to be affordable housing in such communities.

Regulatory Initiatives for Calendar Year 2004. During 2004, the Authority will be considering several initiatives relating to its Moving to Work status, which may result in regulatory changes, including: flat rents, community service, site-based waiting lists, pet policy, and annual re-certification matters. While DCHA has notified HUD that it will be considering these issues in this fiscal year, DCHA has no

obligation to adopt local policies or regulations. DCHA anticipates that it will continue to work with the Council in connection with finalizing its procurement regulations and will be considering modifications to various personnel policies that may have a regulatory impact. DCHA provided to the Committee all the regulations enacted during 2002, as required, and reported that additional amendments to Chapter 61, "Admissions and Occupancy," are being discussed with residents and advocates and may result in proposed, or final regulations, later this year.

Summary –

The Committee commends DCHA, its Board of Commissioners, its Executive Director, and its staff on their achievements during the years since the new Authority was legislatively created. DCHA has continued to be responsive to citizen requests for service and information. It has been the Committee's continuing experience that, for the most part, whenever a problem is brought to the Authority's attention, the Chairman of the Board of Commissioners, the Executive Director, and the staff have tried to deliver service, solve problems, or provide information. The Committee enthusiastically supports the Authority's continued success with its HOPE VI projects, which have resulted in the award of millions of federal (HUD) dollars, and which stand to leverage twice that much in investment.

The Committee is pleased with the way the Authority is leveraging the resources they do have, such as the Kentucky Courts partnership with private developers. Chairperson Ambrose noted that this example offers the city and the Housing Authority a paradigm for future public-private partnerships, and partnerships with District agencies like the Department of Housing and Community Development.

With the awarding of an increase of 832 new vouchers in FY-03, the HCVP maintained a utilization rate of 100%. This was in spite of a tight rental market and barriers that prevent families from obtaining affordable housing. This is accomplished by HCVP remaining pro-active and hiring Mobility Counselors to assist families in their housing search, increasing payment standards to allow families to obtain units in low-poverty areas, and initiating a percentage of the HCVP's allocated vouchers to product-based. In addition, to improve its customer service, HCVP has made significant management improvements. These included Electronic Document and Storage Retrieval Systems, Enhanced Communications Systems, HQS Inspection Hand-held Devices, a Rent Determination System, and a Waiting Room Monitoring System.

While the Committee finds that DCHA is achieving high standards within HUD's guidelines, the Committee wants to ensure that the Authority identifies contact people within DCHA's Public Housing Program and the Housing Choice Voucher Program, with whom the Committee and citizens in the community can work closely. It is important that these contacts be available to respond to community concerns, especially to ensure that recipients of public housing and housing assistance are conducting themselves in a manner that is expected of good neighbors. In addition, the Committee is hopeful that DCHA will continue to ensure that housing providers are, in fact, providing shelter that meets housing code standards and HUD criteria.

The Committee compliments the Authority on its efforts to invigorate its Resident Councils and encourages DCHA to continue to support and listen to its resident panels and committees, as well as citizen groups in neighboring communities. The Committee is pleased that Regional Administrators and Resident Managers are maintaining an intimate familiarity with the concern of DCHA's clients, especially as voiced through representative bodies.

The Committee is pleased that, again this year, the Mayor's Neighborhood Service Coordinator in each Ward worked diligently, in cooperation with DCHA, to forge an Inter-Agency Core Team to ensure an integrated, multi-agency approach to problem solving. The Committee continues to believe that the Authority, as the District's largest landlord, has an important role to play in this regard. Neighborhood issues, concerns, and problems do not stop at the boundary of any DCHA public housing development or at the property line of a house occupied by the recipient of a Housing Choice Voucher. As part of DCHA's efforts to serve neighborhood residents in surrounding communities, it is important that A DCHA representative participates in each Ward's Core Team activities. The Committee was pleased to learn that the Authority's Office of Public Safety has assigned a representative to the Core Team in each Ward where DCHA has a public housing community or in which residents are using HCVP vouchers. This is providing a constructive perspective to the Core Team and results in broader neighborhood issues being surfaced at Core Team meetings.

There are many challenges ahead. While DCHA has accomplished a great deal, there is still a huge need for additional public housing and assisted housing in the District of Columbia. The needs of District citizens are still outpacing what we are given in support from the Federal level. The Committee thanks DCHA, its Executive Director, its staff, and, in particular, the nine-member Board of Commissioners for their dedication and service to the residents of the District of Columbia.

VIII. COMMITTEE REASONING, RECOMMENDATIONS, AND DIRECTIVES

Based on the discussion contained above, the Committee on Consumer and Regulatory Affairs makes the following recommendations and directives with respect to the agencies under the Committee's purview:

A. Agency Directives

1. *With respect to DCRA:*

The Committee on Consumer and Regulatory Affairs is recommending a total FY 2005 budget for DCRA of $36,834 million and 367 FTEs, which represents a variance of $4,882 million and 22 FTEs from the Mayor's proposed FY 2005 budget. There is also an issue of whether authority for 8 FTEs and $666,000 should be transferred back to DCRA from the new Office of Administrative Hearings.

The Committee remains concerned about all the vacancies at DCRA, especially in positions like inspectors and investigators. We do not want to lost the momentum of the last few years in improving compliance and enforcement activities, but we shall if we keep undercutting resources in this key regulatory agency that affects virtually every resident, business, property owner, and visitor. The Committee recommends that the Council attempt to find 25% of the $4 additional revenue this agency generates at present beyond its current expenditures in the FY 2005 budget to pay for the balance of the 28 positions the Mayor has not funded or authorized – despite their necessity and add this amount to the agency's budget authority.

With respect to loss of 44 FTE positions at DCRA: The Committee has recommended not accepting this reduction of FTE authority, both with respect to at least 11 of the 28 unauthorized and unfunded positions as well as the transfer to the OAH of 4 FTEs who hear or schedule rental housing cases and 4 others who do not adjudicate.

The Committee is troubled by this trend [of losing FTE authority] insofar as it does not match a decrease in a call for services. The budget needs to be responsive to changes in service requirements levels without decreasing performance. For example, while development projects abound and the real estate market is extremely active, there is a need for a corresponding maintenance (and even growth) in the government's ability to carry out plan reviews and inspections. To do otherwise would be penny-wise but pound foolish. Also, without adequate staffing levels in many areas in this agency, the potential risk of liability for the District expands to uncomfortable levels. There is discussion in this report of what the Committee perceives as understaffing issues that need to be addressed, particularly in Zoning and Building and Land operations.

To ensure that the new Construction and Zoning Compliance Management fund is sufficient to pay for all the uses earmarked for this fund and continues in the out-years to have sufficient funding, the Committee is recommending a new provision in the law that would pull $1 million from the FY 2003 fund balance in the Real Estate Guarantee and Education fund and $600,000 from the Basic Business License fund for this new restricted, non-lapsing fund. It is expected that the funding will be sufficient to continue to pay for these functions and positions in the out-years. The Committee would require the funding to be used in the following order; that is, for an illegal construction unit of 6 FTEs, the Development Ambassador position (position #11), the Zoning Administrator's

upgrade, and then in the agency's priority order, the rest of the 9 building and land and zoning positions and the 2 new zoning positions, and finally the Homeowners Center.

The Committee is recommending approval of a local funds budget increase by $192,000 and authority for 3 FTEs. The revenue would come from an increase of $1 in the rental accommodation fees. The FTEs would be a tenant ombudsman, a housing provider ombudsman, and an ANC liaison.

The Committee is recommending an increase in Special Purpose Funds authority for DCRA of $4,689,700. The majority of this increase is made up of transfers of fund balances in already-existing O-type funds. The Committee has recommended passage of title 6, subtitle F of the Budget Support Act which would establish a new Construction and Zoning Compliance Management fund. That new fund would be established to pay for additional FTEs and upgrades in certain positions handling building and land and zoning compliance activities. This Fund balance will consist of an estimated $550,000 in new revenue from construction and zoning infraction fines and penalties together with transfers of $1 million from the Real Estate Guarantee and Education Fund and $600,000 from the Basic Business License Fund balances. Also, at the OCFO and agency's requests, the Committee called for four technical "O" funds adjustments: (1) $2 million in nuisance abatement funds for overtime, re-inspections, and contract management; (2) another $139,700 from the Basic Business License Fund for 2 additional FTEs; (3) additional spending authority from the balances from the OPLA fund ($300,000) and (4) from the Board of Professional Engineers fund ($100,000). All the fund balances are sufficient for these transfers to occur.

At the agency CFO's request, the Committee will be making four technical adjustments for the mark-up process to increase budget authority by $2,539,709 for four of DCRA's O-Type Funds in FY 2005, namely:

1) **Nuisance Abatement (6006) – increase from $2,707,230 to $4,707,230, an increase of $2.0 million. Higher than anticipated collection levels in FY 2004 have created a large projected FY 2004 ending fund balance that will be available for the agency's use in FY 2005. The funding will be used for one-time expenses in FY 2005, namely the abatement of nuisance and vacant properties.**

2) **Occupations and Professions Licensing Special Account (6010) – increase from $1,292,884 to $1,592,884, an increase of $300,000. The funding will be used for conducting examinations and to cover the costs of supporting various licensing Boards and Commissions.**

3) **Professional Engineers' Fund (6020) – Increase from $71,155 to $171,155, an increase of $100,000. The funding will be used to cover the costs of producing and mailing the legislatively required roster of professionally licensed engineers and for supporting other costs of the Board.**

4) **Basic Business License – BBL (6013) – increase from $3,100,000 to $3,239,709, an increase of $139,709 and 2 O-type funded FTEs. The Business and Professional Licensing Administration's higher-than-projected revenues for FY 2004 have created a large funding balance that will be used for the agency for FY 2005 and beyond. The funding will be used for 2 investigators, operating out of the Office of Investigations, Weights and Measures, one at a DS-9 level, and one at a MS-12 level, with $20,000 overtime. The purpose is to increase**

investigations and licensing compliance with those businesses that require a BBL, and continue to flagrantly operate without one, threatening the safety and welfare of countless consumers and District residents.

Fund balances in each of these funds is sufficient to cover the requested level of expenses in FY 2005. The request was also forwarded to the Office of Budget and Planning and they are aware of it. The Committee approves these 4 technical changes in budget authority.

With respect to the Housing Assistance fund (otherwise known as the Condo Conversion fund), the agency shared (*see* the discussion under the Inspection and Compliance program) that there were 89 condominium conversions in FY 2003 and 43 in FY 2004. Nonetheless, there is a zero balance in this fund, because first the law needs to be amended to re-authorize this fund. A provision to re-authorize the Condo Conversion fund is included in the FY 2005 Budget Support Act.

With respect to the capital budget: It remains the belief of the Committee on Consumer and Regulatory Affairs that having adequate resources as a result of proper capital funding over the last few years was a major reason for the agency's success in more effectively addressing nuisance properties. Without this additional funding source, the agency would be forced to revert to its pre-1999 strategy of only undertaking the most basic repairs of substandard conditions that have plagued our neighborhoods and served as a catalyst for crime and further deterioration. The Committee approves the $8 million capital funding for this project.

The Committee on Consumer and Regulatory Affairs happily recognizes the new $8 million and is pleased to see that the Mayor has focused additional funding on this project, given the need. Nevertheless, we continue to have some concerns about the Mayor's long-range plan for funding this ongoing need. We just note for the record that the capital funding is needed since the operating budget for this part of the agency's responsibilities fund is a revolving fund – and while DCRA has improved its ability and capacity to collect on liens it has placed on violators – collecting the full amount due is arduous and not always successful against deadbeat property owners. Further, the Committee is pleased that the Mayor is poised to issue proposed rulemaking that would double certain civil infraction fines and hopes that once these are finalized, that the new rules might act as the deterrent that the fine structure is meant to be. The Committee understands that it is the Mayor's intent to promulgate these changes to the civil infractions regulations in time to take effect by the start of FY 2005 and the Committee would recommend that the executive make this so.

At the Committee's urging the agency has also begun to make some suggestions for how to reconfigure the Board of Condemnation and Insanitary Buildings to improve that Board's processes and results. The Committee is pleased with the direction that the agency is going in and looks forward to hearing more about this in time for this year's Budget Support Act. The legislation is more fully discussed in the analysis of the Inspections and Compliance programs.

The collection of fines and penalties from civil infractions like housing code violations and accounting for the revenue in the proper funds could become vastly more complicated once DCRA's civil infractions hearings are heard by the newly established Office of Administrative Hearings. The OAH will have to keep clear financial records so that the District government will be able to account

for which funds belong in which Special Fund, per the law governing these transfers. The Committee directs that the agency and Deputy Mayor continue to watch the need for funding in the Nuisance Abatement fund and plan for FY 2006 and the out-years. The Committee further directs OAH and DCRA and the respective Deputy Mayors and cluster or agency Chief Financial Officers work together to develop a protocol to track and account for any funds recovered due to civil infractions cited by DCRA's inspectors and investigators so that DCRA's revolving funds for its operations are not adversely impacted by the transfer of administrative hearings and the positions associated with them. The Committee would appreciate receiving a report of the nature of this protocol by August 15, 2004.

With respect to the real property database capital project: The Committee had previously approved this capital project at DCRA to establish a real property database. It is our understanding that after the "fly-off" was called off, the agency has focused its efforts on cleaning up its own database, and that OCTO intends to coordinate the overall database across District government agencies. <u>The main thing is to get this project accomplished</u>. The Committee is disappointed that the fly-off was not permitted to reach completion, but looks forward to completion of this project – hopefully in the near future.

As it did last year and the year before that, it directs DCRA (and any other District agencies involved in this project) to work on making sure that when the District government prepares this database that attention is paid to truly standardizing the method by which the District government, across all departments, refers to a particular address to avoid the inconsistencies that have occurred in the past. The Committee directs the agency in developing its plan for this database to continue to work with the Chief Technology Officer, the Office of Tax and Revenue, and other executive offices to ensure that a systematic check is regularly made to prevent the misuse of tax exemptions and reductions meant for qualified taxpayers but which could inadvertently be provided to owners of real property (and taxpayers) who no longer qualify for the exemption or reduction when the property is vacant.

In addition, the Committee urges DCRA to ensure that development of this real property database takes into account the needs for record keeping improvements in both the Housing Regulation Administration, particularly the Rent Administrator's office, and the Building and Land Administration and in the Office of the Zoning Administrator. The Committee approves completion of this capital budget project.

With respect to the capital project involving Digitization of Surveyor's plats maps: The other capital project funded in the Mayor's DCRA capital budget is the digitization of the surveyor's plats maps and field survey records (CO3). The project is budgeted at $1,928,000 over a two-year development schedule with an initial start-up budget of $1,174,000 for FY 2004 and a second year budget of $754,000 for FY 2005. The implementing agency is the Office of the Chief Technology Officer (OCTO). For the project, a computerized catalog with searching and reporting capabilities will be developed. It is expected to have printing capabilities for full size images from each survey document duplicated for archival back-up storage. The Committee approves the capital funding for this project.

With respect to 3 revenue enhancements proposed in the Mayor's budget: The Mayor has current authority to do the first and third of the enhancements. The Committee is aware that proposed changes to the civil infractions rules are drafted and will soon be published in the *D.C. Register* so they will be in effect in time for the start of the new fiscal year. The second revenue enhancement will require legislation and a provision is contained in the Budget Support Act to accomplish this. The Committee accepts the need for these revenue enhancements and approves them. The Committee would like to see the agency benefit more from the revenues it generates.

With respect to a study and re-engineering of the Certificate of Occupancy process: Director Clark indicated that the agency had planned to undertake several initiatives in FY 2005. One of these would include doing a complete study and re-engineering of the Certificate of Occupancy process. This project's budget enhancement was NOT approved by the Mayor, but the Department plans to continue to plan for this initiative and use in-house resources. The Committee agrees that this is a useful project, but has no additional resources to add. Hopefully, the agency can accomplish this initiative without additional budgetary support.

With respect to DCRA's need for additional vehicles: The Director also focused on the need for additional vehicles for the agency's inspectors and investigators. He mentioned that many of the field staff have to use their own personal vehicles or public transportation and this impact on productivity adversely. The agency did not receive approval for these additional vehicles and the agency is looking for alternative ways to address this issue. They have included DCRA's Labor-Management Partnership Council to help find a solution. The Committee agrees that this is needed, but again has no additional resources to add to the agency's budget.

With respect to street vending pilot RFP: The Mayor's Budget Office disapproved DCRA's request for funding to conduct a survey of the city for street vending. However, the agency, together with the Deputy Mayor for Planning and Economic Development and the Downtown Business Improvement District, will be implementing a pilot project on vending. The Committee looks forward to the results of the pilot project which will explore new ideas for street vending and the management of public space and is discussed in the Operations programs section.

With respect to the transfer of DCRA FTEs and budget authority to the Office of Administrative Hearings: The total transferred to OAH from DCRA was $1,058,650 and 15 FTEs. Of this amount, 7 FTEs and $463,413 (for salaries and benefits) would be transferred from the current Office of Adjudication at DCRA. The Committee approves this transfer.

Also, out of the total shown in the budget proposal as being transferred to OAH are 4 FTEs and $332,960 which was for the Rent Administrator's office staff – the transfer of which was a mistake, according to the OCFO. The Committee plans to return those non-adjudicatory positions and funding to DCRA's FY 2005 budget. The Committee feels that these positions and budget authority should not be transferred to OAH and should be returned to DCRA. Furthermore, the Committee is not entirely convinced that 4 other FTEs (representing one scheduler and 3 hearing examiners) ($332,959) from the Rent Administrator's office should be transferred to OAH in FY 2005. In the report we more fully discuss the Committee's desire for a more complete transition plan before this transfer occurs.

With respect to loss of positions at DCRA: The Committee requested, and DCRA has provided, a list of the 28 unauthorized and unfunded vacancies at the agency – in a priority order. Many (about 19) of these FTEs are in critical Building and Land positions, several are in the Neighborhood Stabilization Program (NSP), and others are in investigations, compliance, and enforcement. None of these positions should be lost, but unless money is both found and focused on these issues, they will be. These are key functions at this agency – development and enforcement activities depend on them. The Committee directs the agency to work with the rest of the Executive to determine how to save these positions in light of the fact that DCRA generates far more revenue than it expends and these are mainly key law enforcement positions that would be lost. DCRA needs to preserve all the inspectors and investigators positions it can.

The Committee has made a proposal to return the agency's authority for at least 11 of these positions – which are absolutely critical for operations. Title 6, Subtitle F in the Budget Support Act (with amendments adding in zoning) would establish a Construction and Zoning Compliance Management fund that would help fund these positions, starting with replacing the lost Development Ambassador position. The Development Ambassador program is one that works well at the agency – it needs to keep that program and improve it. The rest of the Building and Land positions in the Operations programs as well as zoning administration in the agency (also discussed in Operations) need further analysis to better manage these crucial functions. The Committee has made a proposal to upgrade the Zoning Administrator's position (to Excepted Service, grade 16), upgrade the rest of the positions in that office, and add 2 new positions to the office. The Committee would move the Zoning Administrator's office so that the Zoning Administrator would report directly to the agency Director as a deputy. This is discussed in greater detail in the discussion of Operations programs.

The Committee has also made a proposal to increase DCRA's FTE authority by 3. These FTEs would be a tenant ombudsman, a housing provider ombudsman, and an ANC liaison. The positions would be funded by a $1 increase in the rental accommodation fee. This is discussed in more detail in the Inspections and Compliance program and Budget Support Act sections of this report.

The Committee remains concerned about all the vacancies at DCRA, especially in positions like inspectors and investigators. We do not want to lost the momentum of the last few years in improving compliance and enforcement activities, but we shall if we keep undercutting resources in this key regulatory agency that affects virtually every resident, business, property owner, and visitor.

With respect to the illegal construction pilot program: The Committee is very supportive of the idea of better law enforcement and was very pleased with the success of the illegal construction pilot. The Mayor has submitted language in the FY 2005 Budget Support Act to fund this compliance program in the future. The Committee supports this legislative provision and the funding for this important and vital function at the agency.

With respect to communications at the Building and Land Administration: The agency's Director shared his ideas for how to achieve better communications at the agency, especially in the BLRA. DCRA's Director indicated that he wanted a position at BLRA dedicated to improving communications in this administration. Upon the Committee's questioning, we learned that there

is sufficient funding and FTE authorization and the agency has already begun recruiting for this person. The Committee is fully supportive of this and hopes that when we hear from the agency next year communications are improved at BLRA.

The Committee is pleased that its guidance has been instrumental in moving the agency forward so it is better situated strategically to accomplish its mission without additional cost to taxpayers. Notwithstanding, the Committee remains concerned about keeping a close focus on the resolution of the necessary balance between the desire to obtain cost savings while maintaining appropriate levels of risk, particularly given the high cost of any failures in several of DCRA's programs – and, most particularly, where this agency produces several millions of dollars more in revenues than it expends. The Committee believes that added focus will be needed in the years to come on programs involving building and land permitting activities, zoning issues, communications, rental and other housing concerns, nuisance property abatement activities and the management of vacant property, business licensing and registration operations, and cost of risk.

The Committee is very concerned about the prolonged vacancy and difficulty in recruiting for this position [of Zoning Administrator]. The Committee not only heard from many witnesses about this issue, but also has been pressing the agency to hire a qualified Zoning Administrator for some time. We asked DCRA's Director for a plan to increase salary levels for this position and the rest of the ZA office staff. The Committee Chair also spoke with the Deputy Mayor for Planning and Economic Development about the issue and he was to find funding for these increases. DCRA submitted a plan which is discussed later in this report where the Operations programs, including the Zoning Administrator's office, are discussed. Suffice it to say, the Committee Chair has made it very clear that the current status quo cannot remain. The District faces far too great a risk of liability and loss for bad zoning decisions at the level of DCRA to allow this position to stay as it is. The Committee will make its directives in the later discussion.

The Committee notes that DCRA is a "profit center," meaning that it generates about $ 4 million more in revenues than it expends, but the agency is not benefitting from its revenue generation in some key aspects. Several public witnesses, including Jim Smith ("Mr. Permit"), multiple Advisory Neighborhood Commissioners from ANCs throughout the city, and D.C. BIA, commented on this fact and voiced concern that the Mayor has failed sufficiently to fund the programs in DCRA, especially in Operations (BLRA), to meet the need for service. The Committee agrees that certain aspects of DCRA's Operations programs are stretched so thin in staffing and salary levels – particularly in Zoning and BLRA – that the District may be left in an unacceptably risky stance with regard to these areas.

In response to the testimony it received about the obvious need for additional resources in Operations programs at DCRA, the Committee is making several recommendations and directives. The Committee is seeking additional funds to replace funding for some, if not all, 28 positions that the Mayor has left unfunded and, in the FY 2005 Budget, not even authorized.

The Committee is seeking additional funds for a far higher salary level to attract and properly pay a qualified Zoning Administrator – a key government position that has not been filled for several years. The Committee believes that not only are some District personnel rules interfering with

getting the best and the brightest from among District employees, but also the salary levels currently set for this position is not sufficient to compete for talent with neighboring counties and the federal government. Filling this position with a talented FTE is extremely important to maintain the District's economic vitality and growth, especially while there is a construction and development boom the likes of which the District has never seen before. And where mistakes are very costly.

The Committee agrees with the Director and supports the creation and funding of a specific position that is devoted to significantly improving communications at BLRA, both across the agency and with the public. It is our understanding that recruitment has already begun for this. As we have already said, the agency needs more resources to allow it to do a better job of providing information without having to require citizens – including tenants in apartment buildings trying to determine their landlord's renovation plans; citizen associations; and even ANCs – make FOIA requests for basic information that should be available. Part of this problem has to do with simple understaffing. There are simply not enough counter staff, "war room" staff, and engineers and inspectors to go around. Again, the upfront costs of having residents' questions and concerns at BLRA answered appropriately and information flowing properly would be more than offset by the savings from creating fewer opportunities for mistakes and litigation. Also, if someone was better tracking and analyzing the communications BLRA was generating, the agency should be better able to spot and answer difficult zoning and land use issues earlier in the process.

The Committee is distressed to learn that the funding for one of the Development Ambassador positions had to be used for another need at the agency; the Development Ambassador program was one of those "tapped" because it is not legally mandated – no matter that it is one of the key reasons BLRA is at all successful in keeping up with the building boom the District is currently experiencing. The Committee directs that the funding for this position be restored and the position filled.

The Committee has firmly encouraged and supports the Director's call for an increased effort to enforce the construction and zoning codes, along with formation of a Home Improvement Center, that should be funded by a Construction Compliance fund. The Committee supports the legislative language in the FY 2005 Budget Support Act that would fund a Construction Compliance unit in BLRA – to follow up on the extremely successful illegal construction pilot begun by the agency. The Committee, with the agency's input, will be adding language to this provision that would expand this fund's sources of revenue to include zoning infractions as well. And the Committee will support raising civil infraction fines twofold when the Mayor's proposed regulations are published, hopefully in the near future. We cannot stay with the status quo – and keeping this agency underfunded and understaffed in key positions is unacceptable.

They [DCBIA] object to the reduction of FTEs at DCRA in the Mayor's proposed budget, particularly when so many of these positions are in BLRA, where increased manpower is needed. The Committee is also disappointed about the loss of authority for these 28 FTEs, mostly in BLRA. The Chair of the Committee has spoken plainly about how the District can ill-afford to lose any inspection, investigation, or other BLRA positions at this time. Moreover, it does not make sense to hinder an agency that not only protects public health and safety, but also generates more revenue than it expends. The Committee will recommend the dedication of some funds to rectify this problem and return authority to the agency for at least some of these positions, if not all.

We have thought about where a spun-off Zoning Administration program could be placed in the government, were it removed from BLRA or DCRA completely. If we placed it into a uber-Zoning Office, it might not sufficiently separate the *initial* zoning review process from the *appellate* process at the Board of Zoning Adjustment (BZA). Short of completely spinning the Zoning Administration program out of DCRA, one possibility that the Committee has explored with the agency is how to upgrade the Zoning Administrator's position so the salary level is sufficient for the city to aggressively recruit qualified candidates and even develop some competition for this position. A problem may exist with respect to leaving the Zoning Administrator position under the BLRA Administrator because of the relative salary levels.

With respect to the agency's plan to upgrade the Zoning Administrator's office: While this is an improvement and a step in the right direction, the Committee believes that the District needs to be even bolder in its tactics to improve the Zoning Administration office at DCRA. The Committee directs the agency to reclassify the Zoning Administrator (ZA) position so that the incumbent would report directly to the Director and the position would be classified as are other Deputies, as a Excepted Service employee, grade 16. In addition, the Committee believes that the position description for this position should include legal training and land use or urban planning experience as requirements in addition to the other skills, knowledge, and abilities noted therein. The rest of the Zoning Administration office – as described in the right-hand column in the chart above – would still report to the Zoning Administrator. The Committee believes strongly that this small investment in a highly qualified candidate will pay off in clearer, more consistent rulings from this office and in fewer costly mistakes. One performance measure for this position must be how often the ZA's decisions are overturned at the Board of Zoning Adjustment and in court and the attendant costs (or savings) of the results. This is probably one of the most important ways in which DCRA can manage its risk.

The Committee has learned that antiquated, inflexible District personnel rules have stymied efforts to promote from within District government. Apparently, the rules create some serious limitations when an District employee is being considered for a position more than 2 steps higher in salary range in how much of an increase can be offered. While this may have helped in the past to keep costs down by limiting how much an incumbent employee could increase in salary upon a promotion, the rules are not sufficiently flexible to take into account such a hard-to-fill position involving specialized knowledge and ability. And the agency cannot hire a qualified contractor, because a contract employee may not supervise FTEs. The Committee will talk to the Government Operations Committee to see if that Committee could make some recommendations for change to help not only DCRA, but also the rest of District agencies with such specialized hard-to-fill positions. The Office of Personnel should be in communication and consult with the federal Office of Personnel Management right here in town to learn how the federal government – which is due to lose ½ of its workforce in the next year or so – plans to find and retain employees. If we are to compete for effective staff with the federal sector as well as neighboring jurisdictions – like Fairfax and Montgomery counties – then we must be pro-active in our thinking about human resources. One possibility would be to create a new classification for "Specialty Jobs" and create criteria to identify which positions fit this new classification and provide some leeway to allow forgiveness of certain personnel rules. This listing then might have to be reviewed on an annual basis to take into consideration market conditions. The new positions would be Excepted Service, like MSS positions are now.

With respect to new civil infractions that double the fine structure: The Committee staff reviewed the draft regulations and believes that the agency – with the promulgation of these new civil infractions rules – will be moving in the direction in which the Committee Chair has stated she wants so that the fines act as real deterrents. The Committee directs the agency to publish the new rulemaking as quickly as possible so that the new rules can be in place before the start of the new fiscal year.

The Committee is committed to authorizing and funding these 11 positions [the highest priority positions of 28 FTEs for which DCRA is scheduled to lose authority in the Mayor's proposed budget]. Given the service demands and residents' needs and desires (which were clearly shown at the Committee's hearings on the subject), filling these key positions is crucial to get DCRA to function, even at a basic level. Again, this agency generates about $4 million more than it expends in revenues. The issue is to find the right level at which to fund and authorize FTEs and then to dedicate sufficient funds and FTE authority to the agency. By doing so, we should avoid many problems in both decision-making and communications at this level of government. To do otherwise is to delay the inevitable costs that would be incurred when we end up having to defend and correct mistakes later in the process – a much more costly endeavor than simply getting proper decisions and action at a lower cost and level of government. Of course, DCRA would have to demonstrate that it was using this funding appropriately, but that is the point in Performance-Based Budgeting.

The Committee believes that the revenue that would be generated by a new Construction and Zoning Compliance Management Fund together with adding in $1.6 million from the FY 2003 fund balances from the Basic Business License ($600,000) and the Real Estate Guarantee and Education($1 million) funds – per one of the titles in the Budget Support Act – will generate sufficient revenue to handle the accumulated salaries and benefits of these 11 positions (totaling $801,625) and it will add the FTE authority along with adjusting the appropriations level for the agency to reflect that in the FY 2005 budget. Also, the 9th and 10th positions – both investigators – fit into the Basic Business Licensing program and should be paid for out of that fund. The BBL fund has sufficient funding to support these positions in the balance. Thus, the Committee will be providing the FTE and spending authority for these two positions as well.

The Committee directs the Construction and Zoning Compliance Management fund be used (in priority order) for (1) an illegal construction unit, which could include up to 4 FTE's, a supervisor, and administrative support, including NPS funding; (2) filling the lost position in the Development Ambassador program; (3) filling the rest of the unfunded 11 positions and not-yet-funded new zoning compliance positions and upgraded salaries that are for construction and zoning compliance and enforcement; and (4) the Homeowners' Center (PS and NPS).

During the budget hearings, the Committee learned that one of the 3 positions in the Development Ambassador program had been lost when the funding for the position was used to fill other needs at the agency. The Development Ambassador position was "tapped" because it is one of only a very few programs at DCRA that is not mandated by law. Nevertheless, it is an extremely successful and useful program and needs to be funded. In approving the funding for the list of 11 positions, the Committee directs the agency to fill the position lost in this program.

The Committee asked the agency whether both the Development Ambassador program and the Homeowners' Center might not benefit from being managed as a single unit. Because of the need to set proper Performance-Based Budgeting measures for each of these units, it was requested to keep them separate. The Committee would appreciate a report from the agency by January 1, 2005, after the Home Center is established that thoroughly analyzes the pros and cons, including cost efficiencies, of bringing this staff together as a single unit for management purposes.

The Committee feels that there is still much work to be done, although the communications and constituent service delivery has improved at DCRA in the last few years. The Committee believes the agency needs to better focus on both the quality of the information it sends out and improving the coordination of information across program lines. The Committee is pleased that the Director recognizes this need, particularly in BLRA, and has already begun to recruit for a position to specifically address communications in that area of the agency. Further improvements that the Committee has explored include adding a Tenant Ombudsman and Housing Provider Ombudsman at the Housing Regulation Administrator's office to better assist tenants and housing providers by answering questions under the Rental Housing and Sales Conversion laws, coordinating records of Housing Violation Notices with ongoing cases before the Rent Administrator, and to produce and explain records of rent ceilings and other relevant computations of proper rents to be charged. DCRA will also need to coordinate with the new OAH that will be hearing civil infractions cases with respect to the production of Notices of Infraction and tracking completion of these cases and the collection of the fines and penalties. In addition, the Committee has added an ANC liaison position, to be housed in the customer service area.

The Committee directs the agency to look at its equipment for providing records to the public to see whether there is sufficient copy machines as well.

DCRA's Director also spoke to needing a new position in BLRA that would focus primarily on improving communications at that division. The Committee asked for a position description for this new position and agrees that improvement in this area of the agency is critical. Apparently, there is already sufficient funding and FTE authority to have started recruitment for this position. The Committee supports the agency's efforts to recruit and fill this position.

The Chair indicated her support for these changes to the ICC and suggested they needed to come sooner rather than later. She also spoke to her desire to see whether the new Construction Compliance fund – which is now in the Budget Support Act – would help with building code enforcement as well as aid in establishing a Homeowners' Center to improve code compliance and enforcement.

The Committee shares the Director's view that establishing such a [Homeowners]Center in the agency would be very helpful to improve the permitting process for smaller residential projects. It is envisioned that the Center would aid residents who wish to improve their property but who are not professional builders to comply with code requirements by making the permitting process work more smoothly.

The Committee approves of the establishment of this fund and will be bringing this subtitle forward

with some technical amendments suggested by the Council's General Counsel when the Council considers the Budget Support Act.

The Committee asked if there were not other revenue that could be added to this fund that could improve the zoning operations as well. The agency followed up with some additional language for the provision in the Budget Support Act. This additional language would add a zoning compliance aspect to the fund and a list of zoning infractions fines and penalties which would also be included in the fund. The fiscal implications of adding zoning infractions is estimated to be $120,000 annually. The Committee will be adding the zoning aspects to the law. Further, the Committee is recommending adding "seed" money for this fund of $1.6 million to come from the FY 2003 fund balances from the Basic Business License ($600,000) and the Real Estate Guarantee and Education($1 million) funds.

The Committee also wishes to thank the mainly volunteer members of the rest of the Boards and Commissions that are staffed by DCRA's Occupational and Professional Licensing Administration.

The Committee is concerned about the ratio of investigators to license holders. The Committee directs the agency to conduct a comparative study of staffing in similar sized jurisdictions as well as Virginia and Maryland. The Committee requests a report on the findings of the benchmarking by October 1, 2004.

With respect to some of the new PBB targets: There is no explanation for why this target does not increase over time so that we are ultimately at 100% compliance. The Committee recommends that the agency analyze its performance measures and resources for this part of the program to see if this goal could rise over time.

Besides concerns about staffing, the Committee believes that attention in this part of the agency needs to be placed on the impact of several key elements of the housing code compliance process – communications, technology (RAPIDS), contracting, and other tools (vehicles and cell phones) – all of which contribute to reaching actual results for District residents and Council offices working for residents. Furthermore, more emphasis is needed on not only increasing civil infractions fines (which is about to happen), but also on really dealing with repeat offenders by penalizing them for continually being out of compliance and thereby requiring calls for service and citations before they are willing to abate infractions. At some point NSOs cannot simply keep "warning" violators; they need to put some teeth into repeat problems to show that the District is serious about compliance. Finally, at the Committee Chair's urging, several improvements are underfoot to shorten and streamline the Board of Condemnation and Insanitary Buildings (BCIB). These amendments are being added to the Budget Support Act in a new title.

Given the difficulty that constituents and Council offices have had in getting complete answers from DCRA to their questions of where an investigation of any given complaint that this program handles, this measure needs to define what "completed" means. That is, a "completed investigation" should mean one in which both an initial investigation (and possible citation) together with any abatement and reinspection has been accomplished after the issuance of any initial violation notice. Further, as there is improvement expected over time, one would hope that the overall target for this

measure could rise. The Committee recommends that the agency analyze its performance measures and resources for this part of the program to see if this goal could rise over time

The Committee is pleased with the progress that this Department has made in the last few years in addressing nuisance properties. DCRA must persevere in working through these issues. There is need for ongoing funding for inspectors and investigative staff along with the tools to let them be effective. The Committee notes with concern that three NSO positions are among the 28 FTEs that currently are vacant and unfunded and in FY 2005 are scheduled to no longer be authorized, which already have been discussed earlier in this report. The Committee would not like to see these positions lost. The Committee reminds the Mayor that if the pace of improvement is not maintained, the progress made thus far can be undone.

Hiring and training the full complement of NSOs remains an important goal. The Chair of the Committee is most concerned about any vacancies in the inspector ranks. As the budget is currently presented for this agency, there are no more funds identified to fill the 3 NSO positions scheduled to no longer be authorized or funded in FY 2005. This Committee will be most eager for assistance in filling vacancies in the inspector and investigator positions.

The Committee recommends that the OCP [Mayor's Office of Contract and Procurement] work with DCRA to see how to get back the flexibility and responsiveness that was the case with the IQC contracts (which the Committee required to be used several years ago). We need to balance the need for scrutiny of contractors and their results with the need for speed and responsiveness when dealing with nuisance abatement. Requirements contracts appear to be a better fit with this kind of project than a full competitive bidding process. Ultimately, having a better tracking system for these projects also would aid in ensuring that we are reaping the full value of these contracts.

With respect to improvements in RAPIDS: As mentioned above, the Committee believes the Mayor needs to provide DCRA the equipment, training, and staffing necessary to complete their mission. The Committee believes that the current DCRA management agrees with this need and is taking appropriate steps to ensure sufficient personnel and nonpersonnel resources for deployment. The Committee has been pleased with the implementation of the Remote Access Property Inspection and Dispatch System ("RAPIDS") that has enabled DCRA to better utilize and manage its limited quantity of human resources.

The Committee believes this is a worthwhile investment and requests the agency to continue to provide quarterly written progress reports, starting at the beginning of the fiscal year 2005, as the agency moves forward with continued implementation and future expansion of this tool. In particular, the reports should indicate how to prevent the large numbers of "no cause found" entries, many of which may end up being glitches in RAPIDS rather than actual results of inspections. The reports also should indicate how much training is being provided to inspectors, particularly in the nature of cross training.

That said, it remains the sense of the Committee that ever more efficient abatement of nuisance properties and proactive enforcement of the housing and building codes should be a priority, including more effective use of NSOs, for the agency in FY 2005.

The Committee would remind the agency that this only works if the customer service intake information – all of it, with all the details – gets in the hands of the NSOs. The Committee is distressed that at times Council staff or residents will provide very detailed information, such as the violation is to the rear of a property, only to find out later that no one informed the NSO who went out and did not find anything – because they were not looking in the correct place. The Committee directs the agency to develop a plan to correct this problem and share its plan with the Committee by August 15, 2004.

With respect to the Office of General Counsel's suggestions for changes to the Board of Condemnation and Insanitary Buildings: They warned that the list they offered of potential changes was not definitive. Additional changes to both the statute and regulations could be necessary to fully implement the proposed changes. Nevertheless, the Committee believes that the DCRA General Counsel office is moving in the right direction with the legislative and regulatory changes they have so far suggested.

With respect to the idea of increasing the number of BCIB members so they may be ordered to sit in smaller panels of 3: The Committee thinks this idea will prove very useful to use Board members more efficiently and to speed up consideration of proceedings before the Board. Three member panels is an idea permitted under the Alcoholic Beverage Control statute and it is being used with good effect at present in ABRA.

The Committee Chair noted that she wanted the agency to explore how it could fund and manage a tenant advocate operation to assist tenants and tenant associations much earlier in the petition process than is now the case. The Committee has determined that there is a critical need for a Tenant Ombudsman to assist tenants and tenant associations, a Housing Provider Ombudsman to assist housing providers, and an ANC liaison to assist Advisory Neighborhood Commissions. We received considerable testimony about the difficulties tenants find with developing all the evidence they need to defend their positions vis a vis rent raises, including copies of Housing Code Violations and Notices of Infractions for other law infractions as well. There also is considerable unhappiness with how tenants are notified (or not) with respect to conversions to condominiums and other sales. Likewise, we have heard from small housing providers who have had difficulties with capital improvement and rent ceiling petitions. And given the amount of DCRA-related business over which the ANCs have official review responsibilities, there is also a need to ensure that they are able to get information from DCRA in a timely manner.

As a result, the Committee is directing the agency to develop a position description for each of these positions and to hire both a Tenant Ombudsman and a Housing Provider Ombudsman; classify these ombudsman positions as grade 13 with promotion possibilities to a grade 14; and have the positions report to the Housing Regulation Administration, not the Rent Administrator. Also, the Committee is directing the agency to develop a position description for an ANC liaison position and to hire an ANC liaison; to classify this position as a grade 10, step 1; and house the position in the customer service part of the department. These three positions shall be funded from a $1 increase to the Rental Accommodations fees. The Committee directs DCRA to provide these position descriptions, for which FTE authority will be given, by August 15, 2004, so that the positions may be filled as soon as possible after the start of the new fiscal year.

The Committee is very disappointed in the Rent Administrator's response and the absence of statistical information with which to track and measure results and performance. Soon she is supposed not to have control over the hearings and hearings examiners at all. We may push that transfer back, but, no matter if we do or do not do so, this kind of statistical information along with better record keeping and communications with members of the public – whether tenants or landlords or their representatives – is key.

The Committee would say that the planned transfer of the rental housing hearing examiner FTE positions to the new Office of Administrative Hearings (OAH) is the key problem facing the Rent Administration operation in FY 2005. Although the Committee finds the OAH Act's intended division of labor between the agencies – in which the Office of the Rent Administrator would collect and disseminate rent data among landlords and tenants and assist the parties in developing their evidential files for purposes of adjudication as well as performing certain other decision making functions in uncontested cases, while the OAH would adjudicate contested cases – to be of merit, the Committee does not believe that the District's tenants and landlords would be well-served by such a division until the Office of the Rent Administrator is better prepared for the transition. The Rent Administrator needs to have a better idea of what the functions that would remain are and how these would be performed with the remaining FTE and budget authority.

The Committee finds that the Mayor's lack of a transition plan for DCRA's Rent Administration operations upon the transfer of its adjudicatory functions to OAH to be problematical, given the delicate nature of landlord and tenant issues in the District and that there was time in which to raise these issues earlier. In addition, we are not clear why under the circumstances where one agency is not ready for the transition, the Mayor did not use the OAH Act's provision which allows the Mayor to temporarily exempt an agency's adjudication processes from inclusion in the Office of Administrative Hearings. Moreover, the Committee finds it unacceptable that District tenants and landlords would be the ones expected to incur whatever problems that would occur when no transition plan has been prepared by the Rent Administrator for her and her remaining staff's role.

For all of the foregoing reasons the Committee recommends that the District delay the transfer of the three hearing examiners and one scheduler FTE positions in the Office of the Rent Administrator to the Office of Adjudicative Hearings this coming fiscal year. (Previously, the Committee directed return of the non-adjudicatory staff – 4 FTEs and $333,000 – that were mistakenly transferred by the OCFO.) Nonetheless, the Committee expects the transfer to go forward in the following fiscal year. To that end, the Committee directs DCRA to present to the Council and Mayor a detailed transition plan for Rent Administration operations by October 1, 2004 to be ready for implementation by October 1, 2005. This plan shall include: (1) a vision for the new role of the Rent Administrator and the rest of that office upon the eventual transfer of its adjudicative functions to OAH; (2) the number of FTEs and appropriate job description that the Office of the Rent Administrator expects to need to carry out its aforementioned new role; (3) a complete list and description of all the conforming amendments together with draft language that will be required to properly structure the Office of the Rent Administrator for its new role; (4) a complete list of all other conforming amendments that are necessary to clear up any remaining conflicting provisions pertaining to OAH and the Rent Administrator's operations that exist in the code or regulations; and (5) a detailed analysis of how DCRA plans to keep track and record the

determination of rent administration cases upon their adjudication by OAH. This plan shall be done in consultation with the OAH.

The Committee recommends that the single goal [with respect to the Rental Housing Commission] should increase in value over time. Moreover, the Committee would suggest that another goal could be developed for this body; that is, to what extent the Commission's decisions are reviewed and either upheld, overturned, or altered by the Court of Appeals. The Rental Housing Commission has had a very strong track record in this regard over the years, although the number of appeals taken has declined.

The Committee recommends that there should be a measure [for Agency Management] for written communications, such as correspondence and electronic mail, as well as telephone responses.

2. *With regard to the Alcoholic Beverages Regulation Administration:*

The Committee on Consumer and Regulatory Affairs approves a FY 2005 budget of $4,876,708, for the Alcoholic Beverage Regulation Administration. This is an increase of $1,344,000 above the Mayor's Proposed Budget. Thus, the Committee is approving the agency's request for an additional $544,000 budgetary authority in PS spending for 5 FTEs. In addition, the Committee approves ABRA's request for an $800,000 enhancement in NPS spending to be used for increasing office space at 941 North Capitol Street, NE.

The Committee highly recommends that ABRA take all the necessary steps to ensure timely implementation and enforcement of the new regulations and increased fees.

The Committee commends the Board for developing and implementing a training program for new Board members and highly recommends that it continue the program during the next fiscal year.

The Committee commends ABRA's training of MPD on the importance of forwarding 251 Incident Based Reports and highly recommends the continuation of this practice.

The Committee commends the hiring of Chief Investigator Al Luna.

The Committee commends ABRA's efforts to train Investigators in financial investigations, report writing, and auditing techniques. The Committee highly recommends that ABRA continue to train its investigators in these areas during FY 2005.

The Committee commends the agency's efforts in providing language translation in its community outreach program. The Committee highly recommends that ABRA translate license applications into different languages. The Committee requests that ABRA submit a report to the Committee by June 15, 2004 detailing how the agency plans to come into compliance with its obligations under the "Language Access Act of 2004", as recently passed by the City Council. The Committee reminds ABRA that the Language Access Act requires the agency to be in compliance by October 1, 2004.

3. Commendations and Recommendations for DISB

The Committee is recommending a gross operating budget of $13,475,000 which is an increase in the Department's budget of $327,000 and 3 FTEs. This increase is mostly found in personal services to accommodate for several substantial changes to the Department.

The Committee commends the Commissioner and DISB for their hard work in obtaining the necessary reductions and in ensuring that DISB is funded solely on the monies taken in from the regulation of the businesses that are included in their oversight.

The effort to ensure that District students have the proper facilities in which to learn is a very good program being undertaken by DISB and the Committee recommends that DISB continue to work to ensure that there is funding to support the management of charter school facilities.

The Committee recommends that a legal assistant at DISB be charged with handling matters which are now handled on a low priority basis by the Office of Legal Affairs. In addition, the Committee recommends that the time of an OLA staff attorney be used for relevant training programs and to develop valuable institutional memory.

The Committee recommends that a junior attorney be included in the DISB budget and hired as soon as possible.

The Committee recommends that the necessary number of additional staff be hired at DISB including the insurance company examiner and their support staff.

The opening of the District's first self-chartered bank, WashingtonFirst, is a tremendous accomplishment for DISB and the Committee recognizes this achievement as a step forward in the regulation of the financial services in the District.

The inclusion of captive insurance companies in the District is a major new source of the revenue that is certain to grow over the next several years. This accomplishment is one that DISB should be commended for accomplishing.

The Committee commends the Commissioner for establishing the task force to address the problems that currently exist with regard to the District's health care network providers that are not covered by the Free Clinic Act.

The Board congratulated DISB for bringing in-house functions of licensing insurance producers. An outside vendor, ASI, had performed these functions. The District is one of two jurisdictions that now do in-house, on-line renewing of producer licenses. This saves time and money for the District and should generate millions of dollars in new revenues that will flow to the general fund. The Committee recognizes that in last year's budget process the Commissioner informed the Committee of these savings. The Committee commends DISB for this accomplishment.

4. With respect to the D.C. Housing Authority:

The Committee Chair notes with satisfaction how well the project at Kentucky Courts has come and reminds everyone that this is a special local public-private partnership. The Authority is to be commended for following through on this project.

Mr. Kelly highlighted that DCHA received a favorable AA rating from the Moody's rating company. And, DCHA received, for the second year, an "unqualified" opinion on its Annual Independent Audit, in which it was determined to be "in compliance" in all major programs. The Committee commends the Authority on this achievement and notes that this higher bond rating will be important as the Authority continues to implement its mixed income projects.

The Committee commends the Authority for its inclusion in HUD's Moving to Work Program. This is a significant achievement, particularly considering how much progress was made to reach this point in a short period of time.

The Committee agrees that honoring these [Tenant Assistance Program] contracts is necessary, and that it is appropriate for DCHA to have entered into the MOU with the District's Department of Human Services.

The Committee commends DCHA for providing the Ombudsman program.

In order to comply with the provisions of the American With Disabilities Act, DCHA has set a goal of completing the conversion of up to 324 existing public housing units into fully accessible units over a 3-year period, and the addition of 241 newly-constructed, fully-accessible units by the end of 2007. This 3-year period began in 2002. In addition, DCHA is including improvements in search assistance, marketing and reasonable accommodation for physically and mentally disabled residents and participants in the Public Housing and Housing Choice Voucher programs. The Committee recognizes and commends DCHA for the progress it has made in this regard.

The Committee commends DCHA for the impressive training its police officers are provided.

The Committee commends DCHA and its Board of Commissioners, Executive Director, and staff on their achievements since the new Authority was legislatively created. DCHA has continued to be responsive to citizen requests for service and information. It has been the Committee's continuing experience that, for the most part, whenever a problem is brought to the Authority's attention, the Board of Commissioners, Executive Director, and staff have tried to deliver service, solve problems, or provide information. The Committee enthusiastically supports the Authority's continued success with its HOPE VI projects, which have resulted in the award of millions of federal (HUD) dollars, and which stand to leverage twice that much in investment.

The Committee is pleased with the way the Authority is leveraging the resources they do have, such as the Kentucky Courts partnership with private developers. Chairperson Ambrose noted that this example offers the city and the Housing Authority a paradigm for future public-private partnerships, and partnerships with District agencies like the Department of Housing and Community Development.

With the awarding of an increase of 832 new vouchers in FY-03, the HCVP maintained a utilization rate of 100%. This was in spite of a tight rental market and barriers that prevent families from obtaining affordable housing. This is accomplished by HCVP remaining pro-active and hiring Mobility Counselors to assist families in their housing search, increasing payment standards to allow families to obtain units in low-poverty areas, and initiating a percentage of the HCVP's allocated vouchers to product-based. In addition, to improve its customer service, HCVP has made significant management improvements. These included Electronic Document and Storage Retrieval Systems, Enhanced Communications Systems, HQS Inspection Hand-held Devices, a Rent Determination System, and a Waiting Room Monitoring System.

While the Committee finds that DCHA is achieving high standards within HUD's guidelines, the Committee wants to ensure that the Authority identifies contact people within DCHA's Public Housing Program and the Housing Choice Voucher Program, with whom the Committee and citizens in the community can work closely. It is important that these contacts be available to respond to community concerns, especially to ensure that recipients of public housing and housing assistance are conducting themselves in a manner that is expected of good neighbors. In addition, the Committee is hopeful that DCHA will continue to ensure that housing providers are, in fact, providing shelter that meets housing code standards and HUD criteria.

The Committee compliments the Authority on its efforts to invigorate its Resident Councils and encourages DCHA to continue to support and listen to its resident panels and committees, as well as citizen groups in neighboring communities. The Committee is pleased that Regional Administrators and Resident Managers are maintaining an intimate familiarity with the concern of DCHA's clients, especially as voiced through representative bodies.

The Committee is pleased that, again this year, the Mayor's Neighborhood Service Coordinator in each Ward worked diligently, in cooperation with DCHA, to forge an Inter-Agency Core Team to ensure an integrated, multi-agency approach to problem solving. The Committee continues to believe that the Authority, as the District's largest landlord, has an important role to play in this regard. Neighborhood issues, concerns, and problems do not stop at the boundary of any DCHA public housing development or at the property line of a house occupied by the recipient of a Housing Choice Voucher. As part of DCHA's efforts to serve neighborhood residents in surrounding communities, it is important that A DCHA representative participates in each Ward's Core Team activities. The Committee was pleased to learn that the Authority's Office of Public Safety has assigned a representative to the Core Team in each Ward where DCHA has a public housing community or in which residents are using HCVP vouchers. This is providing a constructive perspective to the Core Team and results in broader neighborhood issues being surfaced at Core Team meetings.

There are many challenges ahead. While DCHA has accomplished a great deal, there is still a huge need for additional public housing and assisted housing in the District of Columbia. The needs of District citizens are still outpacing what we are given in support from the Federal level. The Committee thanks DCHA, its Executive Director, its staff, and, in particular, the 9-member Board of Commissioners for their dedication and service to the residents of the District of Columbia.

B. CRA Committee Recommended FY 2005 Budget Support Language

The introduced FY 2005 Budget Support Act had two titles for which comment was assigned to the Committee on Consumer and Regulatory Affairs. The implementing agency in both cases is DCRA. The Committee reviewed the Budget Support Act language at its budget and oversight hearings and that agency also appeared before the Committee of the Whole at that Committee's hearing on the entire FY 2005 Budget Support Act. The Committee recommends passage by the Council of both of these titles, with some amendments. The Committee also recommends adding three other titles to the Budget Support Act.

Each of these titles are discussed below:

1) **Title 6, subtitle F:**

The Committee on Consumer and Regulatory Affairs reviewed the Mayor's submission of title 6, subtitle F in the FY 2005 Budget Support Act of 2004. The purpose of title 6, subtitle F is to establish a Construction Compliance Management fund. This fund is intended to fund certain building and land activities, such as an illegal construction unit and Homeowners Center at DCRA. A recommended change has been shared with the Committee at its request with respect to adding zoning compliance to this title. The Committee recommends that the Council adopt the amended language, adding zoning to the construction compliance management fund established by this title. The Committee has also added language to the provision to provide additional "start-up" funds for this new "O" fund – $1 million from the Real Estate Guarantee and Education Fund and $600,000 from the Basic Business License fund – to ensure that the new fund has sufficient funding, particularly for the first and out-years. The Committee would direct the uses for this funding, which would primarily be used for paying for additional FTEs in building and land and zoning as well as other aspects of those activities.

Long title: to amend the Construction Codes Approval and Amendments Act to establish the Construction and Zoning Compliance Management Fund;

Amended title:

SUBTITLE F. CONSTRUCTION COMPLIANCE MANAGEMENT FUND.

Sec. 651. Short title.

This subtitle may be cited as the "Construction and Zoning Compliance Management Fund Amendment Act of 2004".

Sec. 652. The Construction Codes Approval and Amendments Act of 1986, effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code § 6-1401 *et seq*.), is amended by adding a new section 7a to read as follows:

"Sec. 7a Construction and Zoning Compliance Management Fund.

"(a) There is established a fund designated as the Construction and Zoning Compliance Management Fund ("Fund"), which shall be separate from the General Fund of the District of Columbia. All funds obtained from the penalties and fines assessed for illegal construction under section 113A of Title 12A of the District of Columbia Municipal Regulations and for violations of Title 11 of the District of Columbia Municipal Regulations, and all interest earned on those funds, shall be deposited into the Fund without regard to fiscal year limitation pursuant to an act of Congress and used solely to pay the costs of operating and maintaining the Fund. All funds, interest, and other amounts deposited into the Fund shall not revert to the General Fund of the District of Columbia at the end of any fiscal year or at any

other time, but shall be continually available for the uses and purposes set forth in this section, subject to authorization by Congress in an appropriations act.

"(b) The funds deposited in the Fund shall be used in the following order of priority:

"(1) To pay the costs of 6 full-time equivalent positions in the Construction Compliance Management division of the Building and Land Regulation Administration of the Department of Consumer and Regulatory Affairs;

"(2) To pay the costs for 9 full-time equivalent positions in the Building and Land Regulation Administration and the Office of the Zoning Administrator in the following order:

"(A) Program Specialist, DS-13;

"(B) Chief Zoning Inspection Branch, MS-12;

"(C) Manager Technical Plan, MS-14;

"(D) Structural Engineer, DS-12;

"(E) Structural Engineer, DS-12;

"(F) Supervisory Electrical Inspector, MS-13;

"(G) Electrical Engineer, DS-12;

"(H) Inspection Program, DS-12; and

"(I) Enforcement Branch, MS-13;

"(3) To pay the costs of raising the rate of compensation for 11 full-time equivalent positions, and adding 2 additional full-time equivalent positions in the Office of the Zoning Administrator of the Department of Consumer and Regulatory Affairs in the following order:

"(A) Increase the compensation rate of the Zoning Administrator, who shall report directly to the Director of the Department of Consumer and Regulatory Affairs, MSS-16;

"(B) Reclassify and increase the compensation rate of the Chief, Zoning Review, MSS-12, to Deputy Zoning Administrator, Chief of Zoning Review and Inspections, MSS-13/14;

"(C) Increase the compensation rate of the Zoning Technician from DS-11 to DS-11;

"(D) Increase the compensation rate of the Zoning Technician from DS-10 to DS-11;

"(E) Increase the compensation rate of the Zoning Technician from DS-11 to DS-12;

"(F) Increase the compensation rate of the Zoning Technician from DS-11 to DS-12;

"(G) Reclassify and increase the compensation rate of the Zoning Inspector, DS-9, to a Lead Zoning Inspector, DS-10;

"(H) Increase the compensation rate of the Zoning Inspector from DS-8 to DS-9;

"(I) Increase the compensation rate of the Zoning Inspector from DS-8 to DS-9;

"(J) Increase the compensation rate of the Zoning Assistant from DS-7 to DS-8;

"(K) Reclassify and increase the compensation rate of the Grants Management Assistant, DS-11, to a Zoning Assistant, DS-12;

"(L) Hire a Zoning Assistant, DS-7/8; and

"(M) Hire a Chief Zoning Branch, MSS-13; and

"(4) To pay the costs for a homeowners' center, which shall assist residential property owners to comply with permit application and inspection requirements for residential property renovation and rehabilitation projects.".

"(c) On October 1, 2004, notwithstanding the provisions of Chapter 28 of Title 47 of the District of Columbia Official Code, $600,000 shall be transferred from the Basic Business License Fund established by D.C. Official Code § 47-2851.13 to the Fund. On October 1, 2004, notwithstanding the provisions of the District of Columbia Real Estate License Act of 1982, effective March 10, 1983 (D.C. Law 4-209;

D.C. Official Code § 42-1706), $1 million shall be transferred from the Real Estate Guarantee and Education Fund established by section 29 of the District of Columbia Real Estate Licensure Act of 1982 to the Fund.".

Sec. 653. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Section by Section:

Section 651 provides the short title of the subtitle.

Section 652 adds a new section 7a to the Construction Codes Approval and Amendments Act of 1986 that establishes a Construction and Zoning Compliance Management Fund.

Subsection 652(a) establishes the Construction and Zoning Compliance Management Fund which shall be separate from the District's General Fund. The subtitle provides that all funds obtained from the penalties and fines assessed for illegal construction under section 113A of Title 12A of the District of Columbia Municipal Regulations and for violations of Title 11 of the District of Columbia Municipal Regulations, and all interest earned on those funds, shall be deposited into the Fund without regard to fiscal year limitation. The fund balance may only be used to pay the costs of operating and maintaining the Fund. None of the funds, interest, and other amounts deposited into the Fund will revert to the General Fund of the District of Columbia at the end of any fiscal year or at any other time. Instead, these funds shall be continually available for the uses and purposes set forth in this section, subject to authorization by Congress in an appropriations act.

Subsection 652(b) explains for what uses the funds deposited into the Construction and Zoning Compliance Management Fund may be used. The intent of the legislation is that these funds may only be used for paying the costs of the Construction Compliance Management division of the Building and Land Administration, which is the illegal construction unit discussed earlier in the report (which will have authority for 6 FTEs); for certain designated BLRA and Zoning Administrator office positions listed below, starting with a #11 which is a Development Ambassador position; certain designated upgrades in the Office of the Zoning Administrator, including an upgrade of the Zoning Administrator's position to an Excepted Service, grade 16, and adding 2 FTEs to that office; and for a Homeowners' Center – in that order.

Subsection 652(c) orders the transfer of funds totaling $1,600,000 on October 1, 2004, into the new Construction and Zoning Compliance Management Fund from two other Special Purpose Revenue funds, notwithstanding the legislative provisions that establish those two other funds. These other funds include $1 million from the Real Estate Guarantee and Education Fund and $600,000 from the Basic Business License fund. The intent of this provision is to provide sufficient start-up funding for the purposes for which the new Fund is being established for at least the first year and some portion of the out-years.

Section 653 provides the fiscal impact statement, indicating that the fiscal impact statement in the Committee's report is the required fiscal impact statement.

Fiscal impact analysis:

The Fund is expected to collect revenues in the amount of $550,000 in FY 2005. The fiscal estimates from the agency indicated that DCRA anticipates collecting $430,000 in construction code-related fines and $120,000 in zoning regulation-related fines. In addition, the Fund would have "start-up" funds transferred to it from two other Special Purpose Funds's FY 2003 fund balances – namely, $1,000,000 from the Real Estate Guarantee and Education Fund and $600,000 from the Basic Business License Fund. Thus, the anticipated total fund balance should amount to $2,150,000. This is new revenue to the agency for the purposes set forth in the legislation. The anticipated revenues will be sufficient to meet the required expenditures.

The Committee reviewed its recommendations for the Fund with both the agency and OCFO to be sure that these one-time transfers would not adversely impact the programs associated with those other special purpose funds. The OCFO and DCRA have responded:

1) Real Estate Guarantee and Education Fund – The Real Estate Guarantee and Education Fund was established to protect consumers against unscrupulous real estate transactions. It is believed that a $1 million dollars can be reduced from the fund without impacting the Real Estate Board's ability to protect the public.

2) Basic Business License – The Department believes that $600,000 can be taken from this fund, but warns against further reductions. As you may not be aware, the BBL Program was legislated in FY 2003, after City Council appealed the Master Business License (MBL) Law which had only been implemented a year previously. The agency has been in the process of making adjustments from the MBL to the BBL. This adjustment includes coordinating part of the licensing process for five other licensing agencies and the full cost of this effort has still not been realized. Further reduction of this fund can jeopardize the program as we continue to implement the BBL Program, incorporating licensing systems as they renew over the next few years.

The agency anticipates $850,000 in total construction code fine assessments which, after fines are adjudicated, are expected to bring in $430,000. Anticipated expenditures from the fund for the Construction Compliance Management division in BLRA are estimated at $430,000.

The agency further breaks down the anticipated expenditures, thus:

Staffing	$ 178,372
Equipment	$ 18,100
Other Costs and Materials	$ 112,000
Vehicles	$ 121,300
Total	$ 429,772

At the Committee of the Whole hearing on the Budget Support Act, Chairman Cropp asked DCRA for a breakdown of how much it cost to conduct a illegal construction compliance pilot project. The agency responded that the costs associated with the 8-month pilot project on illegal construction were $250,574 and the pilot had generated $691,750 in fines assessed, of which $299,605 had been collected thus far. (Hearings on the fines issued during the pilot are on-going. Thus, these figures do not reflect the total amount that will be collected due to enforcement efforts.)

In addition to staffing a new Construction Compliance unit of 6 FTEs (4 inspectors, one supervisor, and one administrative assistant) noted above, the Fund would also be used to fill 9 of 11 positions (salary plus benefits), for which DCRA was scheduled to lose authority and funding. To cover all 11 positions, DCRA's overall budget authority would be increased by $724,083. Nine of these 11 positions are in BLRA or Zoning and would be covered by the new Construction and Zoning Compliance Management Fund established in the Budget Support Act. (The other two are in Business Licensing and would be covered by the Basic Business Licensing Fund. The Committee's proposal would reinstate authority for the 11 FTEs.)

One position is in the Development Ambassador program. While that FTE is listed as number 11, the Committee is directing that this be the first position filled. The positions that would be re-authorized would be:

Rank	POSITION	Pay Plan	Grade	Proposed Salaries	Proposed Salaries + Benefits	Cumulative Salaries + Benefits
1	Chief Zoning Inspection Branch	MS	12	$52,363	$61,055	$61,055
2	Mgr Technical Plan	MS	14	$72,582	$85,797	$146,852
3	Structural Engineer	DS	12	$51,620	$60,189	$207,041
4	Structural Engineer	DS	12	$51,620	$60,189	$267,229
5	Supv Electrical Inspector	MS	13	$62,268	$72,604	$339,834
6	Electrical Engineer	DS	12	$51,620	$60,189	$400,023
7	Inspection Program	DS	12	$51,620	$60,189	$460,212
8	Enforcement Branch	MS	13	$62,268	$72,604	$532,816
9	Investigator	DS	9	$68,322	$40,046	$572,863
10	Investigator	MS	12	$68,322	$79,663	$652,526
11	Program Specialist	DS	13	$61,370	$71,557	$724,083

Note: a) The positions listed above are ranked by agency's priority & importance
b) The "Cumulative Salaries" column indicates the cumulative cost for the combine ranked positions
(Example: If DCRA could only hire the top 3 positions, positions #1, #2, and #3, it would cost $207,041)

The Committee also intends for the Fund to address the needs surrounding the Zoning Administration position and that office previously discussed in the report. The District has had difficulty

in recruiting and filling this position for over a year and we learned that part of the difficulty lay in the salary level being offered and the impact of some of our personnel rules. The Committee had asked the agency for how the Mayor would restructure the Zoning Administration office. The agency submitted a plan, which would have upgraded the positions already in this office and which also added 2 FTEs beyond the FTE authority currently authorized in the Mayor's proposed FY 2005 budget for DCRA. The Committee has approved the agency's plan, including authority for adding 2 FTE's and upgrading the Zoning Administrator to an Excepted Service, grade 16. These enhancements would be paid from the newly established Construction and Zoning Compliance Management Fund.

Finally, the Fund would be used to establish a Homeowners Center at DCRA's BLRA.

The Fund would be without regard to fiscal year limitations and would not revert to the General Fund. The funds collected would be used in the following fiscal year to pay for the costs of operation of the Construction Compliance Management division of DCRA's Building and Land Regulation Administration in monitoring and enforcing compliance with the construction codes and for certain other costs in BLRA and the Office of the Zoning Administrator. The Fund would be required to be used in the following order; that is, for an illegal construction unit; the Development Ambassador position (#11 in the list of 11 positions listed above); the Zoning Administrator's upgrade to an Excepted Service, grade 16; and then in the agency's priority order, the rest of the 9 building and land and zoning positions in the list of 11 positions and the 2 new zoning positions, and finally the Homeowners Center in BLRA.

Committee Recommendation: **The Committee recommends the Council adopt title 6, subtitle F, as amended.**

2) **Title 12**:

The Committee on Consumer and Regulatory Affairs reviewed the Mayor's submission of title 12 in the FY 2005 Budget Support Act. This title would establish registration and annual inspection fees for weighing and measuring devices. The Council's General Counsel has provided technical changes to the provision and these are noted herein. The fiscal impact would increase local funds revenue by $367,000. The Committee recommends the Council adopt title 12.

Long title: to amend An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures, and Markets of the District of Columbia; and for other purposes,

Provision with amendments:

TITLE XII. REGISTRATION AND INSPECTION OF WEIGHING AND MEASURING DEVICES.

Section 1201. Short title.

This title may be cited as the "Registration and Inspection of Weighing and Measuring Devices Amendment Act of 2004".

Section 1203. An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures, and Markets of the District of Columbia; and for other purposes, approved March 3, 1921 (41 Stat. 1217; D.C. Official Code § 37-201.01 *et seq.*), is amended by adding a new section 32a to read as follows:

"Sec. 32a. Registration and inspection fees for weighing and measuring devices.

"(a) The Mayor shall collect fees for the registration and inspection of weighing and measuring devices in the District of Columbia.

"(b) The following fees are established for the annual registration and inspection of weighing and measuring devices in the District of Columbia:

"(1) Scales with a capacity of up to 100 pounds, $75 (maximum fee per location, $900);
"(2) Scales with a capacity of more than 100 pounds, up to 2,000 pounds, $200;
"(3) Scales with a capacity of more than 2,000 pounds, up to 20,000 pounds, 500:
"(4) Vehicle scales, $1,500;
"(5) Retail engine fuel dispenser meter, $60;
"(6) Bulk petroleum fuel meter, $250;
"(7) Liquefied petroleum gas meter of ¾ inch diameter or less, $250;
"(8) Liquefied petroleum gas meter of greater than ¾ inch diameter, $375;
"(9) Wire/cordage or fabric measuring device, $50;
"(10) Compressed natural gas (per meter), $250;
"(11) Hopper scales, $250;
"(12) Prescription balance electronic/mechanical, $75;
"(13) Jeweler's balance, $75;
"(14) Yard sticks and tapes measures, $25; and
"(15) UPC Scanning (per unit), $25.

"(c) The Mayor, by rule, may amend the fees set forth in subsection (b) of this section and establish new fees as may be necessary for the registration and inspection of weighing and measuring devices. Fees collected pursuant to this section shall be deposited in the General Fund of the District of Columbia.".

Section 1203. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Section by Section analysis:

Section 1201 gives the short title of the title.

Section 1202 would add a new section 32a to An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures, and Markets of the District of Columbia; and for other purposes,. The purpose of the new section is to establish registration and annual inspection fees for weighing and measuring devices.

Subsection 1202(a) provides the Mayor the authority to collect fees for the registration and inspection of weighing and measuring devices in the District.

Subsection 1202(b) establishes specific fees for the annual registration and inspection of weighing and measuring devices in the District. Each of the 15 fees is listed separately in the provision.

Subsection 1202(c) provides that the Mayor may, by rule, amend the fees established by the title and establish new ones as may be necessary. The fees collected pursuant to the section will be deposited into the General Fund of the District.

Section 1203 provides the fiscal impact statement, noting that the fiscal impact statement in the Committee's report shall be the title's fiscal analysis.

Fiscal impact analysis:

The OCFO and the Mayor indicated that passage of this title would generate new revenue in the amount of $367,000 in FY 2005. This is new local revenue.

Committee Recommendation: **The Committee recommends that the Council approve title 12, with the amendments suggested by the Council's General Counsel. The Committee would point out that the agency generating the additional revenue will NOT benefit from it at all.**

3) New title – Board of Condemnation and Insanitary Buildings amendments

At the Committee's urging, DCRA's counsel reviewed the Board of Condemnation of Insanitary Buildings statute and noted some areas of the statute that should be modified to strengthen the Board and its operations. The recommended changes could be facilitated through legislative measures, amendments and rulemaking. They noted that the effectiveness of the Board and the prompt implementation of its decisions are directly tied to the efficiency of the administrative process. It is their judgment that these changes will improve the administrative process, and enhance record keeping and document maintenance. They suggest a proposed penalties and sanctions provision to give the Board the authority to ensure that owners will act promptly or risk sanctions. Finally, it is expected that the recommended changes will outline and track Board decisions and provide a status of the project's process.

With respect to the Board's membership, there was a suggestion to increase the number of Board members and change the agencies which sponsor members. This would involve a legislative change, adding new subsection that would call for the Board to be comprised of six members as follows: two Department of Consumer and Regulatory Affairs members, one of whom shall be the Chairperson; one member from the Office of Economic Development; one Office Property Management member; one Department of Housing and Community Development member and one member from the Office of Historic Preservation.

The point was made that with this larger number in membership, the chairperson would be able to direct the Board to sit in panels of three members – which number also would constitute a quorum – when the chairperson declares that the Board's business cannot be met by seating as a full Board. A decision of a panel established by this section shall have the same force and effect as a decision made by the full Board. Membership on the panels and sub-board activities will be handled by the chairperson.

They recommended development of guidelines to administer the Board proceedings though amendment of DCMR. These amendments could reduce the amount of time in which an owner could remedy the condition by restricting the number of extensions an owner may receive to one. The amendments would reduce the time in which the owner must act in the Order of Condemnation. The Board

would be able to provide the owner with the appropriate time frame in which to perform any work needed to repair or correct the condition outlined in the order to show cause and/or order of condemnation and the owner would be required to complete the work within the time period specified. The Board would be expected to develop a system that outlines and monitors each decision and order and the progress or status of each project.

There would be an amendment to the service of notice for absentee owners to simplify the Service of Notice. New penalties provisions would be added to the Civil Infractions Schedule.
This provision would order that all fees and penalties collected under the chapter would be deposited in the fund established under D.C. Official Code § 42-3131.01(b)(1) and would be used for the general administration of the Board. Other amendments would increase the civil infractions classification from Class 3 to Class 2.

Long title: to amend An Act to create a board for the condemnation of insanitary buildings in the District of Columbia, and for other purposes;

New title language:

TITLE ___. BOARD OF CONDEMNATION AND INSANITARY BUILDINGS.

Sec. 01 . Short title.

This title may be cited as the "Board of Condemnation and Insanitary Buildings Amendment Act of 2004".

Sec. 02 . An Act to create a board for the condemnation of insanitary buildings in the District of Columbia, and for other purposes, approved May 1, 1906 (34 Stat. 157; D.C. Official Code § 6-901 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 6-902) is amended as follows:

(1) A new subsection (a-1) is added to read as follows:

"(c) The Board shall be comprised of 7 members, as follows:

"(1) Two members designated by the Department of Consumer and Regulatory Affairs, one of whom shall be the chairperson;

"(2) One member designated by the Deputy Mayor for Economic Development;

"(3) One member designated by the Office of Property Management;

"(4) One member designated by the Department of Public Works;

"(5) One member designated by the Department of Housing and Community Development; and

"(6) One member designated by the Office of Historic Preservation.

(2) A new subsection (c-1) is added to read as follows:

"(c-1) The chairperson may direct that the Board shall sit in panels of 3 members, in which 3 members constitute a quorum, when there is a declaration by the chairperson that the business of the Board cannot be met by sitting as a full Board. A decision made by a panel established by this subsection shall have the same force and effect as a decision of the full Board. Decisions regarding membership on the panels and designation of panel activities shall be made by the chairperson.".

(b) Section 3 (D.C. Official Code § 6-903) is amended by striking the phrase "60 days" and inserting the phrase "30 days" in its place.

(c) Section 10 (D.C. Official Code § 6-910) is amended by adding a new subsection (c) to read as follows:

"(c)(1) For purposes of receiving notice required by this act, a person who is a nonresident owner of vacant property in the District of Columbia shall appoint and continuously maintain a registered agent for the service of process. The appointment shall be made by filing a statement with the Mayor. The registered agent shall be an individual who is a resident of the District of Columbia or an organization incorporated in the District of Columbia. If the nonresident owner changes the registered agent or if the name and address or any other information about the registered agent changes after the statement is filed with the Mayor, the nonresident owner shall file a statement notifying the Mayor of the change. A nonresident owner of vacant property in the District of Columbia who violates this section shall be subject to a penalty of $300.

"(2) The Mayor shall serve as the registered agent for a nonresident owner of vacant property if a registered agent is not appointed by the nonresident owner or if the individual or organization named as registered agent ceases to serve in that capacity or cannot be located after reasonable diligence.".

(d) Section 16 (D.C. Official Code § 6-916) is amended as follows:

(1) The existing text is designated as subsection (a).

(2) A new subsection (b) is added to read as follows:

"(b) All fees and penalties collected under this act shall be deposited in the fund established by section 1(b) of An Act to provide for the abatement of nuisances in the District of Columbia and by the Commissioners of said District, and for other purposes, approved April 14, 1906 (34 Stat. 114; D.C. Official Code § 42-3131.01(b)), and shall be expended for the general administration of the Board.".

Sec. 03. Section 1(b) of An Act to provide for the abatement of nuisances in the District of Columbia and by the Commissioners of said District, and for other purposes, approved April 14, 1906 (34 Stat. 114; D.C. Official Code § 42-3131.01(b)), is amended as follows:

(a) Paragraph (1) is amended as follows:

(1) The existing text is designated as subparagraph (A).

(2) A new subparagraph (B) is added to read as follows:

"(B) There is established within the fund established by subparagraph (A) of this paragraph an account in which fees and penalties collected under section 16(b) of An Act to create a board for the condemnation of insanitary buildings in the District of Columbia, and for other purposes, approved May 1, 1906 (34 Stat. 157; D.C. Official Code § 6-916(b)), to be expended for the purposes set forth in section 16(b) of An Act to create a board for the condemnation of insanitary buildings in the District of Columbia, and for other purposes, approved May 1, 1906 (34 Stat. 157; D.C. Official Code § 6-916(b))."

(b) Paragraph (2) is amended by striking the phrase "; and all other receipts" and inserting the phrase "; all fees and penalties collected under section 16(b) of An Act to create a board for the condemnation of insanitary buildings in the District of Columbia, and for other purposes, approved May 1, 1906 (34 Stat. 157; D.C. Official Code § 6-916(b)) (to be deposited in the account established under paragraph (1)(B) of this subsection);" in it place.

Sec. 04. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Section by section analysis:

Section 01 of the new title provides a short title for the title.

Section 02 would amend An Act to create a board for the condemnation of insanitary buildings in the District of Columbia, and for other purposes.

Subsection 02(a) would add a new subsection 2(a-1) to the act that would increase and change the Board of Condemnation and Insanitary Buildings membership. With respect to the Board's Membership, the provision would increase the number of Board members to 7 and change the agencies which sponsor members as follows: two Department of Consumer and Regulatory Affairs members, one of whom shall be the Chairperson; one member from the Office of Economic Development; one Office Property Management member; one Department of Housing and Community Development member and one member from the Office of Historic Preservation.

A new subsection (c-1) would be added that would allow the chairperson to direct the Board to sit in panels of three members, in which 3 members would constitute a quorum, when the chairperson has declared that the Board's business cannot be met by sitting as a full Board. A decision of a panel established by this section would have the same legal effect as a decision made by the full Board. Membership on the panels and sub-board activities would be handled by the chairperson.

Subsection 02(b) would reduce the amount of time in which an owner would be required to act in the Order of Condemnation from 60 days to 30 days.

Section 02(c) would add a new subsection 10 (c) that would amend the service of notice provision for absentee owners to simplify the Service of Notice. Nonresident owners of vacant property in the District would be required to appoint and continuously maintain a registered agent for service of process. This appointment would have to be filed with the Mayor. The registered agent would have to be an individual who is a resident in the District or an organization incorporated in the District. Violators of the section would be subject to a penalty of $300.

Paragraph 02(c)(2) would specify that the Mayor would be the default registered agent for a nonresident owner of vacant property if a registered agent is not appointed or if the individual or organization named as registered agent ceases to serve or cannot be located after reasonable diligence.

Subsection 02(d) amends section 16 by designating the existing text as subsection (a) and adding a new subsection (b) that would state that all the fees and penalties collected under the act would be required to be deposited into a fund established by section 1(b) of An Act to provide for the abatement of nuisances in the District of Columbia and by the Commissioners of said District, and for other purposes, approved April 14, 1906 (34 Stat. 114; D.C. Official Code § 42-3131.01(b)). These fees and penalties would be expended for the general administration of the BCIB.

Section 3 would amend section 1(b) of An Act to provide for the abatement of nuisances in the District of Columbia and by the Commissioners of said District, and for other purposes, by designating

the existing text as subparagraph (A) and adding a new subparagraph (B) that would establish an account within the fund that law established. That account would be where the fees and penalties collected that would go to be used to support the BCIB's operations would go. This is a conforming amendment to allow this part of the fund which is used for nuisance abatement to be used for the purpose of the general administration of the BCIB and to allow for tracking expenditures necessary for the Board's administration from year to year.

Fiscal impact analysis:

There would be no adverse fiscal impact as a result of this title. Rather, the use of multiple panels of 3 members to accomplish review of matters before this board and the shortening of time limits to review these matters would make the work of this board more efficient and cost effective. As all the members of the BCIB are current District of Columbia government employees, there would be no new personnel services costs. The Service of Process changes would enable the Mayor to more easily keep track and obtain service when necessary. The only fiscal impact is the extent to which the new title permits the collection of new fees and penalties to be deposited into the fund established under D.C. Official Code § 42-3131.01(b)(1) which would be used for the general administration of the Board. As this is a Board that has no other earmarked funding, any monies used for its general administration coming from this fund would necessarily save the District from having to expend other local dollars for the same purpose. Consequently, the fiscal impact of this title on the District's budget and financial plan should be positive.

Moreover, the agency and OCFO have shared the following fiscal impact of the amendments:

FISCAL IMPACT OF AMENDMENTS TO THE CIVIL INFRACTION STATUTE
FOR THE BOARD FOR THE CONDEMNATION OF INSANITARY BUILDINGS

DCRA anticipates the collection of approximately $70,000 in fines generated from non-compliance with the proposed amendments to the Civil Infraction Statute as it applies to the Board for the Condemnation of Insanitary Buildings statute.

The following is a breakout for the projected fine collections:

DCRA BUILDING CONDEMNATION DIVISION INFRACTIONS

VIOLATION	PROJECTED FINES
DC Code 6-904 (permitting the occupancy of a Condemned building without authorization by the Board for the Condemnation of Insanitary Buildings);	$2,000,00
DC Code 6-905 (failure to obtain any required permit when work is undertaken to repair, make habitable or demolish a condemned building.);	5,000.00
DC Code 6-911 (hindering, preventing or refusing to permit a lawful inspection of the premises.);	1,000.00

DC Code 6-903 (failure to show cause within the time specified why such building or part of building should not be condemned);	50,000.00
DC Code 6-907 (failure of the owner to cause such building to be put into a habitable and sanitary condition or to be demolished and removed within the time specified by the Board in the order of condemnation);	12,500.00
DC Code 6-912 (defacing, removing or concealing any copy of any order of condemnation which has been affixed to any condemned building.); or	1,500.00
DC Code 6-915 (tenants or occupants neglecting or causing to exist insanitary conditions which have led to the condemnation of a building.	1,500.00
TOTAL OF FINES	**$73,500.00**

The proposed amendments also includes a provision which requires the return of fines generated to the Board for the Condemnation of Insanitary Buildings for administrative costs associated with the day to day operation of the Board.

Committee recommendation: **The Committee on Consumer and Regulatory Affairs recommends that this title be added to the Budget Support Act and passed by the Council. The Committee thinks this idea of panels of three will prove very useful to use Board members more efficiently and to speed up consideration of proceedings before the Board. Three-member panels is an idea permitted under the Alcoholic Beverage Control statute and it is being used with good effect at present in ABRA. This Board's work would benefit from passage of this title.**

4) New title – Housing Assistance Fund re-authorized –

During the hearings and questioning of DCRA in this budget cycle, it came to the Committee' attention that the Housing Assistance Fund (also known as the "Condo Conversion" fund) has a zero balance. The agency also shared (*see* the discussion under the Inspection and Compliance program) that there were 89 condominium conversions in FY 2003 and 43 in FY 2004. Nonetheless, there is a zero balance in this fund, because first the law needs to be amended to re-authorize this fund. When we asked about the inconsistency between the number of condominium conversions and the fund balance, the reply was that the fund's authorization had been allowed to lapse. There still is a need for the assistance that this fund provides. Consequently, the Committee is seeking to have the fund be reauthorized in this Budget Support Act.

Long title: to reauthorize the Housing Assistance Fund;

Provision:

TITLE . HOUSING ASSISTANCE FUND.

Sec. 01. Short title.

This title may be cited as the "Housing Assistance Fund Amendment Act of 2004".

Sec. 02. Section 307 of the Rental Housing Conversion and Sale Act of 1980, effective Sept. 10, 1980 (D.C. Law 3-86; D.C. Official Code § 42-3403.07), is amended to read as follows:

"(a) There is established a fund designated as the Housing Assistance Fund ("Fund"), which shall be separate from the General Fund of the District of Columbia. All funds from collection of the condominium or cooperative conversion fee, shall be deposited into the Fund without regard to fiscal year limitation pursuant to an act of Congress and used solely to pay the costs of operating and maintaining the Fund. All funds, interest, and other amounts deposited into the Fund shall not revert to the General Fund of the District of Columbia at the end of any fiscal year or at any other time, but shall be continually available for the uses and purposes set forth in this section, subject to authorization by Congress in an appropriations act.

"(b) The funds in the Fund shall be used as follows:

"(1) For providing housing assistance payments as required by this act; and

"(2) In an amount not to exceed 50% of the funds deposited in the Fund each fiscal year, as follows:

"(A) For the District of Columbia Home Purchase Assistance Program; provided, that priority shall be given to those tenants who live in:

"(I) Buildings which have received certification for conversion under the provisions of this act, or;

"(ii) Housing accommodations in which the tenant association has signed a contract to purchase the accommodation under the provisions of this act; and

"(B) For relocation payments and housing assistance payments for tenants displaced under the provisions of An Act To create a board for the condemnation of insanitary buildings in the District of Columbia, and for other purposes, approved May 1, 1906 (34 Stat. 157; D.C. Official Code § 6-901 *et seq.*); provided, that:

"(I) The amount, method, and entitlement of relocation payments shall be in accordance with section 302(b), (c), and (d); and

"(ii) The eligibility, amount, and method of housing assistance payments shall be in accordance with section 304(b), (c), and (d).

"(c) The Mayor shall request an appropriation in the annual budget of the District of the funds within the Fund for its authorized purposes.".

Sec. 03. Applicability.

This title shall apply as of October 1, 2004.

Sec. 04. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)).

Section by section analysis:

Section 01 provides the short title of the title.

Section 02 amends section 307 of the Rental Housing Conversion and Sale Act of 1980 to re-designate a fund, known as the Housing Assistance Fund. This fund is separate from the General Fund of the District of Columbia. It includes all money collected from the condominium or cooperative conversion fees. These fees are deposited into the fund without regard to fiscal year and are used solely to pay the costs of operating and maintaining the fund. The money in the fund does not revert to the General Fund at the end of the fiscal year or at any other time.

Subsection 02(b) indicates the uses for the fund include housing assistance payments in an amount not to exceed 50% of the funds deposited in the Fund each fiscal year. The subsection further specifies that with respect to these payments for the District of Columbia Home Purchase Assistance Program, priority will be given to those tenants who live in: (1) buildings which have received certification for conversion under the provisions of this act, or; (2) housing accommodations in which the tenant association has signed a contract to purchase the accommodation under the provisions of this act; and with respect to relocation payments and housing assistance payments for tenants displaced under the provisions of An Act To create a board for the condemnation of insanitary buildings in the District of Columbia, and for other purposes, provided that the amount, method, and entitlement of relocation payments shall be in accordance with section 302(b), (c), and (d) of that act; and the eligibility, amount, and method of housing assistance payments shall be in accordance with section 304(b), (c), and (d) of that act.

Subsection 02(c) states that the Mayor will request an appropriation in the annual budget of the District of the funds within the Fund for its authorized purposes.

Section 03 provides that the title would apply as of October 1, 2004.

Fiscal impact analysis: Despite the fact that there were 89 condominium conversions in FY 2003 and 43 in FY 2004 for which fees should have been collected, and despite the fact that conversions continue to take place so that there remains a need for such a fund, there is a zero balance in this fund at present. In order to have money in this fund for the purposes for which it was established, the law is being amended to re-authorize this fund. The re-establishment of this fund should have no adverse fiscal impact on the District's budget or financial plan.

5) New title – Amend D.C. Official Code § 42-3504.01 –

The Committee is recommending an amendment to D.C. Official Code § 42-3504.01 which currently requires each housing provider to pay a $15 fee for each rental unit in a housing accommodation annually to the District government. The amendment would raise the fee by $1.00 to $16 and that dollar more would be designated to fund two ombudsman positions – one for tenants and the other for housing providers – in the Housing Regulation Administration at DCRA along with an ANC liaison position in the customer service division in DCRA. The new ombudsmen would be paid at a grade 13, with promotion potential to grade 14. The ANC liaison would be paid at a grade 10/step 1.

The positions are needed, based on years of testimony from tenants and housing providers and their advocates as well as from Advisory Neighborhood Commissions. The purpose of the tenant ombudsman would be to guide and assist tenants and tenant organizations and associations with preparing for petitions before the Rent Administrator (or the Office of Administrative Hearings and Rental Housing Commission). Some of this preparation involves retrieving information about Notices of Infractions, building code violations, corporation documents, licensing documents, and other information housed at DCRA and other District government agencies, including the courts.

The purpose of the housing provider ombudsman is similar. It is particularly needed for the small housing provider who needs assistance in working through the capital improvement and rent ceiling petition processes and other processes. These are the housing providers who often cannot afford additional legal services or membership in trade associations to assist them like larger providers can. The goal is to help those providers who are trying to preserve affordable rental housing in the District.

Both of the ombudsmen would report to the Housing Regulation Administrator and would be paid as grade 13's, with promotion potential to grade 14. They would not be in the Rent Administrator's office so they can avoid any appearance of conflict and yet truly assist both tenants and housing providers.

The purpose of the ANC liaison position would be similar, but would cover all the subject matter at DCRA. That FTE would primarily assist the Advisory Neighborhood Commissions when they have filing and information needs at DCRA so as to conduct official reviews of permits and other business. The FTE would be in the customer service part of the department and be paid as a grade 10/step 1.

According to the OCFO, the $1.00 increase in the rental accommodation fees is expected to generate a minimum of $612,000. The Committee would approve budget authority for DCRA for $192,000 to pay for these 3 FTEs from the fees collected.

Long title: to amend section 401 of the Rental Housing Act of 1985;

New title provision:

TITLE . TENANT AND HOUSING PROVIDER OMBUDSMEN.

Sec. 01. Short title.

This title may be cited as the "Tenant and Housing Provider Ombudsmen Amendment Act of 2004".

Sec. 02. Section 401 of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3504.01), is amended as follows:

(a) Strike the phrase "a fee of $15" and insert the phrase "a fee of $16" in its place.

(b) Strike the phrase "; provided, that fees collected during Fiscal Year 2001 shall be deposited in the fund established by section 1 of An Act to provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District to be used for the purposes of the fund." and insert the phrase "; provided, that a portion of fees collected shall be deposited in a special account to fund a

tenant ombudsman, a housing provider ombudsman, and an Advisory Neighborhood Commission liaison." in its place.

Sec. 03. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)).

Section by section analysis:

Section 01 provides the short title.

Section 02 amends the Rental Housing Act of 1985 to raise the rental unit fee by $1, from $15 to $16 and to provide that a portion of the fees collected will be deposited in a special account to fund a tenant ombudsman, a housing provider ombudsman, and an Advisory Neighborhood Commission liaison.

Section 03 provides that the fiscal impact analysis in the committee report will be the fiscal impact statement for this title. The OCFO has indicated that, at a minimum, the $1.00 increase in the rental accommodation fees is expected to generate $612,000. The Committee has approved budget authority for DCRA for $192,000 to pay for these 3 FTEs from the fees collected.

Fiscal impact analysis: According to the OCFO, the $1.00 increase in the rental accommodation fees is expected to generate a minimum of $612,000. The Committee would approve budget authority for DCRA for $192,000 to pay for these 3 FTEs.

Committee recommendation: **The Committee recommends passage of this title and authorizing these positions.**

XI. Committee Action

The Committee on Consumer and Regulatory Affairs met to consider the Committee's FY 2005 Budget Request and Budget Report on Thursday, April 29, 2004, in the Council Chamber, starting at approximately 10:10 am. Councilmember David Catania (R-At-Large) chaired the meeting due to the unavoidable absence of the Chair, Councilmember Sharon Ambrose (D-Ward 6). Councilmember Catania called the meeting to order and determined he had a quorum. The quorum consisted of: Councilmembers Catania (R-At-Large), Mendelson (D-At-Large), Brazil (D-At-Large), and Allen (D-Ward 8).

Councilmember Catania started his opening remarks by saying that the Committee staff had circulated an updated copy of its draft budget report for the agencies under the Committee's oversight for each Member. He noted that the agencies for which the Committee has oversight include: (1) the Department of Consumer and Regulatory Affairs, (2) the Alcoholic Beverage Regulation Administration, (3) the Department of Insurance, Securities, and Banking, and (4) the District of Columbia Housing Authority. He explained that while the Committee has oversight over DCHA and the budget report reflects what was learned at the oversight hearing in December 2003, DCHA is entirely funded by federal grant money from HUD and thus, it is not a line item on the District's budget. He noted that the Committee Members would only be voting on the budget and FTE authority for DCRA, ABRA, and DISB – the new agency formed by a merger of the former DISR and DBFI.

Councilmember Catania explained further that, among the agencies in the CRA Committee, two (ABRA and DISB) are entirely funded by Special Purpose Revenue or trust funds, and, in the case of DCHA, by federal grant money. ABRA is funded by alcoholic beverage license fees and DISB is funded by assessments from the industries it regulates. He emphasized that DCRA is the only agency in this Committee with any local funding.

Councilmember Catania stated that the Committee on Consumer and Regulatory Affairs held a total of 3 hearings on the FY 2005 Budget Request, including the FY 2005 to FY 2010 Capital Spending Plan and the FY 2005 Budget Support Act, as well as the Spending Plan for FY 2004 and oversight of the performance of the agencies under its jurisdiction. He then went through each of the agency's budgets in turn, including the budget and spending plan, any capital budget, and any Budget Support Act provisions.

He started with DCRA. Councilmember Catania explained that the Mayor's proposed budget for DCRA was essentially at the same level as it was for FY 2004. The FY 2005 budget increase of 3.3% simply would have covered salary increases required by union contracts. He noted that the Committee on Consumer and Regulatory Affairs is recommending a total FY 2005 budget of $36,834,000 and 367 FTEs for DCRA, which represents a variance of $4.9 million and 22 FTEs from the Mayor's proposed FY 2005 budget. There is also an issue of whether authority for 8 FTEs and $666,000 should be transferred back to DCRA from the new Office of Administrative Hearings. The Committee recommends approval of the budget now before the Members. The Committee also seeks Members' approval of the return of the transferred FTEs and the related budget from OAH.

He noted that although the agency generates about $4 million more than it expends and will be generating still more revenue based on 3 proposed revenue enhancements offered by the Mayor in the FY 2005 budget, the Mayor's proposal for DCRA's FY 2005 budget had authority for 44 fewer FTEs

than in FY 2004.

First, the Mayor had planned to eliminate authority for 28 FTEs – despite that many are crucial Building and Land and Zoning positions while the District is in a building boom and where the real estate market has been one sector that has kept the District's economy healthy after 9/11. The Committee determined that the agency is understaffed in the very areas (BLRA and Zoning) where we would be losing FTE authority. We heard this complaint from many public witnesses, including the D.C. Building Industry Association.

Councilmember Catania added that the Committee also heard many residents and ANC's concerns about the long-vacant Zoning Administrator position and the other vacancies in that office. We heard considerable testimony about the critical need to fill the Zoning Administrator's position with a qualified person. This is a critical risk management issue, since we are seeing increases in Board of Zoning Adjustment reversals of initial zoning determinations. The District has had difficulty in recruiting and filling this position for over a year and we learned that part of the difficulty lay in the salary level being offered and the impact of some of our personnel rules.

Councilmember Catania added that the Committee also heard praise of BLRA's Development Ambassador program, although DCRA had lost funding for one of that program's FTEs. Further, he noted, DCRA's Director had shared his vision for a Homeowners Center, much like the Development Ambassador program, which assists large developments and building projects, but for the average homeowner who is trying to work through the permitting and approval process for renovations to their home. The Committee's Chair supports this idea. Unfortunately, no funding was available in the Mayor's proposed budget for the Homeowners Center either.

Councilmember Catania explained that, to resolve these spending pressures, the Committee looked at ways to return FTE authority for the 28 FTEs – at least for the 11 most crucial positions – and how to effectively recruit a Zoning Administrator and to upgrade the positions in that office, and how to restore the Development Ambassador program, and how to fund a Homeowners Center. The Committee asked DCRA's Director, David Clark, for a list of the most important 11 of the 28 positions that need preserving. We also asked DCRA for a new staffing plan for the Office of the Zoning Administrator.

Councilmember Catania shared that the Committee is recommending and seeks Members' approval of an amended version of title 6, subtitle F of the Budget Support Act. This subtitle would establish a new Construction and Zoning Compliance Management Fund. This non-lapsing fund is expected to generate at least $550,000 in annual revenue and the Committee's version would "seed" that fund with $1.6 million from two other DCRA Special Purpose Revenue Funds' FY 2003 fund balances – $1 million from the Real Estate Guarantee and Education fund and $600,000 from the Basic Business License fund.

The new Construction and Zoning Compliance fund first will pay for a new construction compliance unit – of up to 6 FTEs – continuing the very successful illegal construction pilot that was at DCRA for 8 months this year. Then, the fund will allow DCRA to fill 9 (from the 11 listed positions) building and land and zoning positions, now unfunded. The first position to be filled is in the Development Ambassador program, although that FTE is listed as number 11. Next, the Committee is directing the funding of upgrades in the Zoning Administrator's office, including an

upgrade of the Zoning Administrator to an Excepted Service, grade 16 – and placing that position as a deputy reporting directly to the Director – and adding 2 new FTEs to that office, based on the plan the agency shared. Finally, the fund will support the Homeowners Center.

Councilmember Catania then stated that the balance (but for one CFO position) of the 44 positions that DCRA is scheduled to lose are adjudication and rental housing hearing examiners and related adjudication staff that are scheduled to be transferred to the new centralized Office of Administrative Hearings at the start of FY 2005. He explained that the Mayor's proposed budget would transfer $1,058,650 and 15 FTEs. Of this amount, 4 FTEs and $332,960 were for the Rent Administrator's *office staff* – which was a mistake, according to the OCFO, since these were FTEs whose responsibilities did *not* include adjudication. The Committee anticipates the return of those non-adjudicatory positions and funding to DCRA's FY 2005 budget.

Councilmember Catania explained that the Committee, after extensively questioning both the OAH's chief administrative officer and DCRA, had some reservations about some of the other adjudicatory transfers to OAH, most notably the 3 rental housing hearing examiners and scheduler ($332,959 and 4 FTEs). He shared that the Committee is recommending that these transfers be delayed for a year and would reinstate these 4 FTEs and the attendant budget authority back to DCRA, at least for FY 2005 with the caveat that we would require a clearer vision and plan to be in place before the transfer would occur.

Councilmember Catania then noted that the Committee is calling for the creation of 3 new positions: two ombudsmen – one for tenants and one for housing providers – to be placed under the Housing Regulation Administrator, and an ANC liaison to be placed in the customer service division of the agency, paid for from the rental housing registration fees collected by HRA which would be raised by $1.00. He stated that this will be proposed in the Budget Support Act and that the Committee seeks Members' approval.

Councilmember Catania reviewed the provisions in the Budget Support Act. He noted that the FY 2005 Budget Support Act has several provisions applicable to DCRA, to increase revenues and address other issues. The introduced version of the FY 2005 Budget Support Act included two titles applicable to DCRA. One (title 6, subtitle F) would establish a Construction Compliance Management Fund, and in the Committee's version, it would include zoning. This has already been discussed. The Committee would seek Members' approval for this.

The other introduced title (title 12) would create a new revenue enhancement creating a registration and annual inspection fee for weighing and measuring devices. This new revenue is estimated to be $367,000 annually. The Committee would recommend that it be approved.

He mentioned that 3 other titles would be added to the Budget Support Act, including provisions that would: (1) improve the operations and funding for the Board of Condemnation and Insanitary Buildings ("BCIB"); (2) create both a Tenant Ombudsman and Housing Provider Ombudsman position in the Housing Regulation Administrator's office as well as an ANC liaison position in the customer service division of DCRA, all three funded by a $1 increase in the Rental Accommodations fees (D.C. Official Code § 42-3504.01); and (3) re-authorize the Condo Conversion fund created at D.C. Official Code § 42-3403.07. The Committee seeks Members' approval for each of these titles.

Councilmember Catania explained that the Committee remains concerned about all the vacancies at DCRA, especially in positions like inspectors and investigators. We do not want to lost the momentum of the last few years in improving compliance and enforcement activities, but we shall if we keep undercutting resources in this key regulatory agency that affects virtually every resident, business, property owner, and visitor. He noted that the Committee recommends that the government attempt to find up to 25% of the $4 additional revenue this agency generates beyond its current expenditures in the FY 2005 budget to pay for the balance of the 28 positions that are not funded or authorized – despite their necessity and add this amount to the agency's budget authority.

Councilmember Catania reviewed 4 technical adjustments from DCRA's O-Type Funds. At the agency CFO's request, the Committee will be making four technical adjustments for this mark-up process to increase budget authority by $2,539,709 for four of DCRA's O-Type Funds in FY 2005, namely:

1) Nuisance Abatement – increase authority by $2.0 million, from $2.7 million to $4.7 million. The funding will be used for one-time expenses in FY 2005, namely the abatement of nuisance and vacant properties.

2) Occupations and Professions Licensing Special Account – increase authority by $300,000, from $1.3 million to $1.6 million. The funding will be used for conducting examinations and to cover the costs of supporting DCRA's licensing Boards and Commissions.

3) Professional Engineers' Fund – increase authority by $100,000, from $71,155 to $171,155. The funding will be used to cover the costs of producing and mailing the legislatively required roster of professionally licensed engineers and for supporting other costs of the Board.

4) Basic Business License – increase authority by $139,709 and 2 FTEs, from $3,100,000 to $3,239,709. These FTEs are two of the 11 FTEs on DCRA's list of must-restore positions. The purpose is to increase investigations and licensing compliance with those businesses that require a BBL.

He shared that fund balances in each of these funds is sufficient to cover the requested level of expenses in FY 2005. The Committee recommends approval of these increases.

DCRA's proposed FY 2005 budget for Intra-District funds is $93,117. There is one Intra-District FTE – which is unchanged from FY 2004. The Committee recommends approval of this budget.

Councilmember Catania reviewed the capital budget items in DCRA's budget. The Mayor's FY 2005 capital budget request for DCRA funds several projects: (1) a Digitization of the Office of the Surveyor and (2) a Real Property Database. The Real Property database project, originally approved in 2001, had $250,000 budgeted for FY 2004. This project is **not** funded in DCRA's capital projects for FY 2005. DCRA has been the implementing agency listed in the Budget Book. The project is described as a new state-of-the-art Real Property database. The Committee had previously approved this capital project at DCRA to establish a real property database. It is our understanding that a "fly-off" was started but called off, and that since then, DCRA has focused its efforts on cleaning up its own database, and that OCTO intends to coordinate the overall database across District government agencies. The main thing is to get this project accomplished.

The other capital project funded in the Mayor's DCRA capital budget is the digitization of the surveyor's plats maps and field survey records. The project is budgeted at $1,928,000 over a two-year development schedule with an initial start-up budget of $1,174,000 for FY 2004 and a second year budget of $754,000 for FY 2005. The implementing agency is the Office of the Chief Technology Officer. The Committee recommends Members approve the capital funding for this project.

In addition, a third capital project for "Neighborhood Revitalization" is part of the budget for the Deputy Mayor of Planning and Economic Development, with DCRA listed as the implementing agency. This is part of the agency's Nuisance Abatement funding. The Committee on Consumer and Regulatory Affairs happily recognizes the capital funding of $8 million and hopes that Members will approve this budget for this project, given the need.

Councilmember Catania next reviewed the three revenue enhancements in the Mayor's DCRA budget. The Mayor has proposed three revenue enhancements for DCRA and their estimated additional annual revenue include:

(1) An increase in civil infractions fines ($600,000);
(2) A registration and annual inspection fee for weighing and measuring devices ($367,000); and
(3) Implementation of re-inspection fees for housing code violations ($1,655,000).

The Mayor has current authority to do the first and third of the enhancements. The Committee is aware that proposed changes to the civil infractions rules are drafted and will soon be published in the *D.C. Register* so they will be in effect in time for the start of the new fiscal year. The second revenue enhancement will require legislation and a provision is contained in the Budget Support Act to accomplish this. The Committee accepts the need for these revenue enhancements and recommends that Members approve them.

Councilmember Catania asked if the Members had any comments or questions. Councilmember Phil Mendelson commented on two items. He asked if all the increases in PS expenditures were offset by revenues. Councilmember Catania replied that they were. Then, Councilmember Mendelson noted his concern about the current requirement in the construction codes that a FOIA request needs to be filed in order to review a permit. He explained that he had raised this with the committee staff and was pleased to find that it was addressed in the Committee's draft report. He stated that he would consider adding an amendment to the construction codes in the Budget Support Act to resolve this problem and planned to get a briefing on the topic. No other Members had comments or questions.

Then, Councilmember Catania called for a vote to approve the Committee's version of DCRA's FY 2005 budget, including the spending plan, FTEs, the capital budget, and the five Budget Support Act provisions. The motion passed unanimously.

Councilmember Catania continued with a discussion of ABRA's budget. He stated that the Committee on Consumer and Regulatory Affairs seeks Members' approval of a FY 2005 budget of $4,876,708, and 47 FTEs for the Alcoholic Beverage Regulation Administration. This is an increase of $1,344,000 above the Mayor's Proposed Budget. The Committee is seeking Members' approval of the agency's request for an additional $544,000 budgetary authority in PS spending for 5 FTEs beyond the

Mayor's proposed budget request of 42. In addition, the Committee is seeking Members' approval for ABRA's request for an $800,000 enhancement in NPS spending to be used for increasing office space at 941 North Capitol Street, NE. He noted that ABRA's fund balance is sufficient to fund both of these enhancements. He added that there was no capital budget proposal for ABRA, nor any Budget Support Act provisions.

Councilmember Catania pointed out that, in its report, the Committee strongly recommends that ABRA take all the necessary steps to ensure timely implementation and enforcement of the new regulations and increased fees. Further, the Committee would commend the Board for developing and implementing a training program for new Board members and recommends that it continue the program during the next fiscal year. He noted that the Committee commends ABRA's training of MPD on the importance of forwarding 251 Incident Based Reports and strongly recommends the continuation of this practice.

Councilmember Catania shared that the Committee commends ABRA's efforts to train Investigators in financial investigations, report writing, and auditing techniques. The Committee highly recommends that ABRA continue to train its investigators in these areas during FY 2005. Also, the Committee was happy with the hiring of Chief Investigator Al Luna. Finally, he noted that the Committee commends the agency's efforts in providing language translation in its community outreach program.

Councilmember Catania asked if Members had any questions or comments on ABRA's budget. Hearing none, he called for a vote to approve ABRA's FY 2005 budget. The motion passed unanimously.

Councilmember Catania next took up DISB's budget. He stated that the Committee is recommending a gross operating budget for DISB of $13,475,000 (and 129 FTEs), which is an increase in the Department's budget of $327,000. This increase is mostly found in personal services to accommodate for several substantial changes to the Department. There are no capital budget proposals or Budget Support Act provisions for this agency.

He shared that the Committee commends the Commissioner and DISB for their hard work in obtaining the necessary reductions and in ensuring that DISB is funded solely on the monies taken in from the regulation of the businesses that are included in their oversight.

Further, the effort to ensure that District students have the proper facilities in which to learn is a very good program being undertaken by DISB and the Committee recommends that DISB continue to work to ensure that there is funding to support the management of charter school facilities.

Councilmember Catania added that the Committee recommends that a legal assistant at DISB be charged with handling matters which are now handled on a low priority basis by the Office of Legal Affairs. In addition, the Committee recommends that the time of an OLA staff attorney be used for relevant training programs and to develop valuable institutional memory. Also, the Committee recommends that a junior attorney be included in the DISB budget and hired as soon as possible. Councilmember Catania noted that the Committee recommends that the necessary number of

additional staff be hired at DISB, including the insurance company examiner and their support staff.

Councilmember Catania pointed out that the opening of the District's first self-chartered bank, WashingtonFirst, is a tremendous accomplishment for DISB and that the Committee recognizes this achievement as a step forward in the regulation of financial services in the District.

He also stated that the inclusion of captive insurance companies in the District is a major new source of revenue that is expected to grow over the next several years. This accomplishment is one that DISB should be commended for accomplishing.

Councilmember Catania explained that the Committee commends the Commissioner for establishing the task force to address the problems that currently exist with regard to the District's health care network providers that are not covered by the Free Clinic Act.

He reported that the Board has congratulated DISB for bringing in-house the functions of licensing insurance producers. An outside vendor, ASI, had performed these functions in the past. The District is one of two jurisdictions that now do in-house, on-line renewing of producer licenses. This saves time and money for the District and should generate millions of dollars in new revenues that will flow to the general fund. The Committee recognizes that in last year's budget process the Commissioner informed the Committee of these savings. The Committee commends DISB for this accomplishment.

Councilmember Catania asked if Members had questions or comments on the DISB budget. Hearing none, he called for a vote to approve the Committee's version of the DISB FY 2005 budget. The motion passed unanimously.

Councilmember Catania then asked for the Members to vote to approve the Committee's draft report. The motion passed unanimously.

Councilmember Catania then commended the Committee for its work on the budget and the report. He sent all of the Members' best wishes and prayers to the Chair of the Committee, Councilmember Ambrose whose mother is ill. He adjourned the meeting at 10:35 am.