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RE: 21-0079R Informational Hearing-Mold in Housing

Health, Environment, and Technology Committee

The Public Justice Center is a non-profit, civil legal aid organization that provides legal information, advice, and representation to over 700 Baltimore City tenants each year. The bulwark of our tenant representation occurs in District Court eviction defense and in actions in which our clients seek court-ordered repair of their rental housing. Those cases are called “rent escrow” actions. In both eviction and rent escrow matters, mold is a persistent issue. For many of our clients it is the root cause of their absence from work, increased medical appointments for themselves and their children, chronic illnesses and now, the cause for prolonged suffering from the COVID-19 virus.

In a 2015 study of 300 renter households facing eviction, Public Justice Center found that nearly three-quarters of these renters had complained of a severe housing defect to their landlords and were then sued for non-payment of rent despite the landlord's failure to repair. In that study, **mold ranked fourth among all severe defects reported by these tenants**, superseded by infestation (insects or rodents), peeling or flaking paint, and leaks. Of these high-prevalence hazards, mold is the only one omitted from Baltimore City's Property Maintenance Code ("PMC").

City Code and Agency Regulations

This omission leads to questions that go well beyond whether and when indoor mold should be cited as a code violation. Baltimore City law does not prescribe how mold should be remediated. There are no standards or guideposts, and importantly for City renters, there are no black-letter protections, no certain safety nets. What is the appropriate method of remediation? What precautions must be taken to remove indoor mold without increasing exposure to the tenants? What is the acceptable exposure of a tenant to indoor mold? When should a tenant be released from the rental agreement and reimbursed for relocation expenses? There are no answers, and consequently, already vulnerable renters are suffering without relief or remedy.

It's not just City Code that leaves renters in the lurch. The state's mold remediation licensing law sunsetted in July of 2018. Even when it was in effect, the law did not apply to mold remediation performed by residential property owners.

The question before the Committee is not just whether the City can do something about mold – we should also ask, what happens if the City won't do something? PJC knows from our clients that Baltimore renters struggle with mold defects without any acknowledgment or recognition of this persistent hazard from the court system or government agencies. Their doctors and health professionals inform them that the mold in their rental housing is causing illness to them and to their children. But then they are told by landlords, home inspectors, City agencies, and judges that mold poses no danger or that their suffering does not matter enough to trigger an action. They find that for lack of clear laws and enforcement policies, the City has conceded to mythmaking. Our clients hear these myths everyday:

- This mold is your fault. Learn how to keep your house.
- This mold is not a threat to health or safety. You just have allergies.
- Buy a couple fans and dehumidifiers. Problem solved.
- We used bleach and painted over it. Problem solved.
- And since the City says there is no violation, what else can be done? Pay the rent or move out.

Public Justice Center urges the Committee to explore and ultimately to enact measures that bring about consistent and effective investigation of mold. Following the guidelines and comprehensive mold legislation of other jurisdictions like [New York City](#) (NYC Local Law 55) and [Washington D.C.](#), (D.C. Code. Residential Indoor Mold Assessment and Remediation, § 8-241 (2014)). Baltimore can legislate a comprehensive mold bill that prescribes the detection, assessment and professional remediation of mold and its root causes.

1. Create standards that enable HCD or the Health Department to cite mold as a violation in an inspection and an outlined prescription for its remediation.

Standards do not need to be based on scientific consensus of whether certain types of molds are toxic. Rather, standards should promote a consistent approach among HCD inspectors to identify instances of mold. Under such standards, empower inspectors to know when an instance of mold is a violation and to identify the severity of the violation (5-day, 10-day, 30-day violation). For instance, a “class 1” mold defect may be a 30-day violation while a “class 2” mold defect is a 10-day violation.

2. Require training and provide tools for HCD inspectors to investigate mold beyond surfaces on which mold is visible.

The bill should set a minimum standard for the conduct of inspectors and remediation. Inspectors should be trained and certified. Inspectors should be empowered by law to conduct air quality testing and to know under what conditions air quality testing is

necessary. HCD should be empowered to require that landlords abate any condition that is causing the mold or air quality pollutant.

3. Create remediation requirements to ensure that repairs of mold defects are conducted safely and in a workman-like manner.

City law must prescribe how mold should be remediated and set forth precautions that limit the exposure of occupants and workers to airborne mold during remediation. We need a statutory scheme for mold remediation that establishes timelines, tiers of hazardous exposure, requires permitting, and sets forth mandatory methods of repair and testing. The City should look to the New York City Council, which in 2018 passed the Asthma-Free Housing Act (Intro 385) requiring certain remediation steps based on the tenant's asthma, chronic obstructive pulmonary disease, or lung cancer. City Code should answer questions such as: When, if ever, is surface-cleaning sufficient to remediate mold? When is an inspection required to identify the cause of the mold and the landlord's obligation to eliminate that condition.

4. Provide for tenants' temporary/permanent relocation when mold defects are severe.

The City must require that landlords provide temporary alternative housing in certain instances of mold remediation or pay for the tenant's permanent relocation. HCD should be empowered to bear such costs, if necessary, and then pursue reimbursement from the landlord.

5. Enable medical professionals to initiate HCD or Health action to correct mold defects.

City law should enable medical professionals to report to HCD or to the Health Department instances in which asthma and other illnesses are impacted by mold defects in residential rental housing, and such reports should trigger departmental action to notify the property owner and/or to inspect the property.

The Public Justice Center, Baltimore Renters United (BRU) and tenants are happy to continue working with the Council and our City to ensure that these measures are taken and that we work to eliminate the exposure to this hazard.

If you have any questions, please contact Charisse Lue, Public Justice Center, at (410) 625-9409 ext. 245 or at Luec@publicjustice.org