



STRATEGIES TO ADDRESS UNSAFE AND UNHEALTHY HOUSING IN PHILADELPHIA

*Regulatory Enforcement Practicum
Temple University Beasley School of Law*

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Executive Summary

This report includes recommendations of how to strengthen regulatory enforcement to address unsafe and unhealthy housing in Philadelphia. They were developed by students enrolled in a practicum at the Temple University Beasley School of Law entitled, “Regulatory Enforcement to Improve Housing,” taught by Visiting Law Professor Nan Feyler. Prior to drafting these recommendations the students discussed relevant reports, articles and laws. They interviewed thirty people from Philadelphia and around the country who have knowledge, experience and insight into the problem of substandard housing and potential regulatory solutions. Local stakeholders included tenant action groups, landlords, the legal community, and City officials. Municipal governments from around the country were chosen to be interviewed based on code enforcement innovation and histories similar to that of Philadelphia. A summary of the interviews begin on page 12.

Based on the information compiled, the students developed four primary recommendations which are intended to provide useful ideas for L+I and its partners as they work to address unsafe and unhealthy housing in Philadelphia. These recommendations are:

I. STRENGTHEN LANDLORD COMPLIANCE WITH THE RENTAL LICENSE REQUIREMENT

A fundamental component of effective housing code enforcement is having a comprehensive registry of licensed landlords. This is important to effectively enforce the housing code, plan initiatives, and prioritize resources. Specific recommendations to strengthen compliance with Philadelphia’s rental license law include: a) taking steps to increase the number of registered landlords; b) instituting a penalty for renting property without a license; c) implementing the rule restricting license of properties with open code violations; and d) requiring landlords to inspect their property and certify its safety when getting or renewing a rental license.

II. STRENGTHEN ENFORCEMENT OF THE PROPERTY MAINTENANCE CODE

Strong and consistent enforcement of the housing code helps hold bad landlords accountable and acts to deter others. Conversely, weak enforcement unfairly rewards noncompliant landlords who spend less to keep their rental properties up to code. Specific recommendations to strengthen enforcement in Philadelphia include: a) adding a fine for a failed reinspection (or charging for the cost of reinspections); b) aggressively collecting fines in a timely manner; and c) addressing the delays in the enforcement process.

III. ADOPT A PROACTIVE APPROACH TO HOUSING CODE ENFORCEMENT

By relying solely on complaint based inspections for most rental properties the City is missing an opportunity to protect housing from falling into disrepair and address housing problems of tenants who don’t know about L+I’s services or are afraid to complain. Many cities interviewed have discovered that proactive housing inspection leads to greater landlord code compliance and safer homes. The report recommends that the City adopt one or more of the models of proactive code enforcement identified. These models include: a) targeted inspections in a high risk neighborhood; b) enhanced enforcement of property owned by landlords with code violations; c) health-related code enforcement to reduce asthma and the risk of lead poisoning; and d) inspection of properties based on a schedule.

**IV. DEVOTE INCREASED FUNDING TO THE DEPARTMENT OF LICENSES AND INSPECTIONS
ENFORCEMENT OF THE HOUSING CODE**

Mayor Kenney should be applauded for requesting additional funding for L+I in his recent budget. The combination of budget cuts and the focus on commercial buildings after the tragic collapse of the Salvation Army building has left the resources to address the problem of unsafe housing depleted. The report recommends additional funding for L+I with significant money invested in the steps necessary to enhance housing code enforcement.

The crisis of housing quality and safety in Philadelphia cannot be overstated. Far too many Philadelphians live in unsafe housing in a state of disrepair with code violations that put their health, safety and wellbeing at risk. While code enforcement and related strategies are not the only answer, it is hoped that the recommendations outlined in this report, if implemented, will go a long way in helping to solve this difficult and pressing problem.

Introduction

Poor housing quality in Philadelphia threatens the health and safety of residents and the public at large. Dangerous housing code violations, including leaking roofs, broken windows, rodents, non-functioning heaters or stoves, peeling paint, exposed wiring, and other unsafe conditions are common in rental units across the city. According to the US Census Bureau, Philadelphia ranks higher than the national average in homes with moderate to severe physical problems particularly in homes of low income residents.¹ Children are commonly exposed to lead hazards in Philadelphia's older housing. Leaks and water damage can cause or exacerbate asthma and other respiratory problems. Poor housing quality is also linked to emotional harm to children, truancy, missed school and poorer school performance.²

This report includes recommendations of how to strengthen regulatory enforcement to address unsafe housing in Philadelphia. They were developed as part of a practicum at the Temple University Beasley School of Law entitled, "Regulatory Enforcement to Improve Housing." The practicum was led by Visiting Law Professor Nan Feyler who is former Deputy Commissioner for Public Health Programs at the Philadelphia Department of Public Health. As part of the practicum law students learned about the rental housing situation in Philadelphia, the correlation between quality housing and public health and the importance of enforcement of the housing code to deter noncompliance. They also interviewed thirty stakeholders in Philadelphia and around the country. Local stakeholders included tenant action groups, landlords, the legal community, and city officials. Municipal governments around the country were chosen based on code enforcement innovation and histories similar to that of Philadelphia.

Based on the interviews and a variety of reports, articles, and presentations, the students developed a list of recommendations aimed at attacking the issue of poor rental housing opportunities across a variety of disciplines. This report reflects these recommendations. A summary of the stakeholder interviews follows the recommendations.

Recommendations

The city is currently well poised to make strategic changes that can create healthier and safer housing opportunities for its residents. Mayor Kenny has spoken of his global policy to create an "effective and efficient city government that can change people's lives."³ The initiatives outlined in this proposal are steps toward that change. It is time to transform the way the city and its citizens think about rental housing. Philadelphians deserve to live in a healthy and safe home.

This proposal outlines recommendations of strategic changes in four key areas:

- **Enhancing Landlord Registration**
- **Strengthening Property Code Enforcement**
- **Adopting Proactive Enforcement Strategies**
- **Adequately Funding Licenses and Inspections.**

¹United States Census Bureau, American Household Survey, 2009

² Rebecca Coley, et al, *Relations Between Housing Characteristics and the Well-Being of Low-Income Children and Adolescents* Developmental Psychology Vol 49(9) 2013

³ Mayor Jim Kenney Inaugural Address, January 4, 2016

RECOMMENDATION ONE: STRENGTHEN LANDLORD COMPLIANCE WITH THE RENTAL LICENSE REQUIREMENT

Increase the Number of Landlords with a Rental License

A complete and up-to-date registry of licensed landlords is essential to identifying landlords within our city and promoting more effective enforcement. It allows municipalities to track landlords to effectively plan initiatives and prioritize resources and generate additional revenue for L+I's services.

Currently, a Housing Rental License is required for any rental property and new tenants must be presented with a Certificate of Rental Suitability upon renting a home. The License is \$50 per year and the Certificate is free.

Philadelphia has a well-documented hardship ensuring that all landlords operating in the city have up-to-date rental licenses. This results in an incomplete database of who exactly is renting out homes within the city and how to contact them.

While it can be challenging to locate unregistered landlords, a more comprehensive effort to identify and license landlords could yield improved participation in the system. In its guide, *Raising the Bar*, Alan Mallach of the Center for Community Progress suggests cities should aim for registration of 80 to 90 % of landlords.⁴ He outlines some simple methods for cities trying to contact landlords.⁵

- **Mass Mailing:** create a list of potentially unregistered landlords by comparing the addresses where the city sends tax bills with L+I records. Send an information packet which includes an explanation of the purpose of the license requirement; a licensing form to return with the appropriate fee; and an affidavit of non-rental status, which an owner should complete and return if the property is not being used as a rental property. A follow up reminder letter should be sent in 45 to 60 days.
- **Transaction Driven Mailing:** send the same packet to new owners of record of each property sales transaction.
- **Resident Reporting:** utilize eyes and ears of residents to report unlicensed landlords by highly-visible posting on websites and public spaces. Reports can be made to 311 for follow up.

Other ideas include partnering with HAPCO, the local landlord association which has a significant membership list of landlords, many of whom may be unregistered. This could include asking to compare HAPCO's membership list to L+I records so L+I can send the packet described above or asking HAPCO to send out the packet or changing their policy to require their members are licensed.

Institute a Penalty for Failure to have a Rental License

Currently, there is no financial penalty for failing to have a license while renting a property. In order to strengthen landlord incentive to register, a penalty should be imposed when an unregistered landlord with existing tenants is identified. This would also increase the amount of Licenses purchased, already L + I's largest revenue generator. In Los Angeles, if a property owner fails to pay their annual registration fee of \$43.32 per unit, a 200% penalty assessed.

⁴ Alan Mallach, *Raising the Bar: A short guide to landlord incentives and rental property regulation*, Center for Community Progress (December 2015) (available at www.communityprogress.net).

Allan Mallach from the Center for Community Progress suggests an amnesty period during which no landlord is penalized for failing to have a license for six months after which the jurisdiction issues penalties to landlords who rent unlicensed properties.⁶

Implement the Rule Restricting Licenses of Open Property Code Violations

The City has an opportunity to use the licensing requirement to ensure safer rental properties. The City should prioritize implementation of the Philadelphia law which forbids issuance of a Rental License when the property has open active code violations.⁷

Require Landlords to Self-Inspect their Property and Self-Certify its Safety When Applying for a New or Renewed License

To capture landlords who have not had a recent inspection, all landlords should be required to conduct a self-inspection of their property and self-certify that it is safe as a condition of getting or renewing a license. This should include landlords' completion of a checklist of common safety and structural violations. When enacted in 2006, the Certificate of Rental Suitability had a number of clauses which promote safe and up-to-code rental homes. For instance, to be issued a certificate the landlord must attest that the property is fit and habitable. However, certificates are widely ignored, are only required once and are not compiled by L+I. This attestation should be given teeth by being attached to the Rental License and formalized into a self-certification checklist.

Sacramento, California employs a similar model. When a landlord applies for a rental license it triggers an initial inspection. If no violations exist on the property at the time of the initial inspection or if violations are quickly fixed, the property is placed in the Self-Certification program.⁸ Landlords then self-inspect their properties by filling out a checklist which contains common safety and structural violations.⁹ The city randomly inspects 10% of the properties enrolled per year. If a property passes inspection it can stay in the program indefinitely. If a property fails it returns to the normal yearly inspection program, at a fee of \$127.¹⁰

Although Philadelphia currently does not have the capacity to inspect all properties, self-certification reinforces that properties should not have critical violations. As troubled landlords often apply for a Rental License because it is required to initiate eviction proceedings, the checklist and attestation could ensure that the property at issue meets legal standards of safety.

⁶ Id.

⁷ See Philadelphia Property Management Code Chapter 9-3901(2)(B)(iii) "The Department shall issue or renew a license if it finds: There are no outstanding violation notices associated with the property for which the application is made." (available at: [http://library.amlegal.com/nxt/gateway.dll/Pennsylvania/philadelphia_pa/title9regulationofbusinessstradesandpro/chapter9-3900propertylicensesandowneracc?f=templates\\$fn=altmain-nf.htm\\$q=\[field%20folio-destination-name:%279-3903%27\]\\$x=Advanced#JD_9-3903](http://library.amlegal.com/nxt/gateway.dll/Pennsylvania/philadelphia_pa/title9regulationofbusinessstradesandpro/chapter9-3900propertylicensesandowneracc?f=templates$fn=altmain-nf.htm$q=[field%20folio-destination-name:%279-3903%27]$x=Advanced#JD_9-3903))

⁸ City of Sacramento Rental Housing Inspection Program (Available at: <https://www.cityofsacramento.org/Community-Development/Code-Compliance/Programs/Rental-Housing>.)

⁹ The 20-Point checklist includes: "Exterior premises, exterior walls, vent screens, stairway/landing/treads/risers/guardrails/handrails, roof and ceiling, exterior lighting, electrical panel, common areas, entry doors, windows and window locks, heaters, kitchen counters and sink surfaces, floor coverings, plumbing fixtures, water heaters, bathroom ventilation, smoke detectors, electrical, GFCI required locations, carbon monoxide detectors." (Available at: <https://www.cityofsacramento.org/Community-Development/Code-Compliance/Programs/Rental-Housing>)

¹⁰ Id.

RECOMMENDATION TWO: STRENGTHEN ENFORCEMENT OF THE PROPERTY MAINTENANCE CODE

Strengthening enforcement of the code is integral to short term changes in the rental housing landscape and sets a solid foundation on which future changes in this area can be realized. It is important for the City, across the many departments that touch this issue, to legitimize the code enforcement process. From L&I inspecting in the field, to judges issuing fines, to the Law Department collecting the fines, each piece of this process supports the others and validates each department's authority to regulate rental housing. There are a lot of landlords in Philadelphia who follow the rules and offer safe and healthy rental units to their tenants. Strengthening enforcement can deter those landlords who are inclined to ignore the housing code and risk the health and safety of their tenants. The following are recommendations that can correct for these shortcomings and begin a process that results in the City making housing code enforcement a top priority across departments.

Issue fine after failed Re-Inspection:

Currently, when an L&I inspector observes a violation the inspector immediately makes the owner of the property aware of the violation and mandates that the violation be corrected within 35 days of that notice. If the violation has not been corrected by the time L&I returns for a re-inspection, the landlord is given an additional 35 days to come into compliance. Only after an additional re-inspection is a violation ever sent to court. We believe that a fine should be issued to the property owner after the landlord fails the first re-inspection.

In Boston a property owner must pay for a failed second inspection and if the property fails a third inspection, the owner will be fined at minimum \$300 and a lien is put on the property, or the inspector can issue a violation under the state sanitary code and take the property owner to court and file charges against the owner for the previous violations

In Grand Rapids, MI. we interviewed their Code Compliance Manager who described a robust system of notices and inspections to tackle this issue. Their system involves: 1) a notice of violation issued to the property owner with 10 days to correct; 2) a re-inspection after 10 days. If corrected, the case is closed. If not corrected, a fine and another 10 days' notice to correct is issued and 3) if the violation is still not corrected after 10 days, the city dispatches a vendor to fix the problem and sends the property owner a bill with a large administrative fee.

This system is not currently possible in Philadelphia due to the amount of rental units in the city and the amount of funding it would take to operate a system like this. However, a more realistic 35 day notice to correct a violation plus a collected fine (if the violation is not corrected) could go a long way to change landlord behavior and generate additional revenue for the city to run these programs. Alternatively, this fine could be assessed as a charge to the landlord for the cost of the re-inspection.

Collect All Fines in a Timely Manner

In order to hold non-compliant property owners and landlords accountable and deter future misconduct, it is imperative that the City works aggressively to collect fines issued against them. Currently many landlords take advantage of the City's weak collection system by disregarding their obligation to follow the housing code.

According to several people we interviewed, the City has contracted or will soon be contracting with a new third party vendor to enhance collection of fines. This is an important step which we believe is a priority. Collecting fines will not only make landlords who ignore violations throughout the lengthy enforcement process pay for their malfeasance; it will signal to the landlord community that the City is serious in holding them to the letter of the law. Finally, collecting the fines in a timely manner will provide the City with more revenue that can ideally be used to increase enforcement of the housing code.

Reduce the Time When Code Violation Cases are Resolved

Housing code cases are continued and delayed multiple times from when they are referred to Municipal Court by L+I until tried in front of a judge. Currently, after a property fails a second reinspection, L+I refers it to Municipal Court at which point the Law Department schedules a series of hearings with the property owner/landlord until there is compliance. If the property owner/landlord fails to comply after the third or fourth hearing, the case is scheduled for trial before a judge. It is often several more months before a trial date is set. In total, the process takes many months and in some cases up to a year. L+I and the Law Department should work together to address delays and identify solutions to speed the process from a first notice of violation through resolution in court.

RECOMMENDATION THREE: ADOPT A PROACTIVE APPROACH TO HOUSING CODE ENFORCEMENT

Nationwide, large and small cities have adopted proactive inspection programs specifically to address rental housing problems. Currently, L+I has programmatic inspections each year for high-rise buildings, public and charter schools, and daycares. They also proactively inspect vacant buildings and lots. However, L&I only inspects rental-housing units that are not in a high-rise – which is the vast majority of rental properties - if a tenant submits a formal complaint. This exacerbates the adversarial relationship between landlords and tenants and fails to address substandard homes that are noncompliant when a tenant does not complain.

Many cities we spoke with have discovered that proactive housing inspection leads to greater landlord code compliance and safer homes. Some cities, including Boston and Los Angeles inspect almost all rental housing on a rotating schedule. This may currently be uneconomical given the number of rental units and limited number of code inspectors in Philadelphia. However there are several other models which Philadelphia can adapt.

The following case studies demonstrate several proactive methods, which used alone or in combination can create a manageable and effective program, perhaps beginning as a pilot program, to address the Philadelphia housing stock. These include targeting

- **Targeted Inspections in a High Risk Neighborhoods,**
- **Enhanced Enforcement of Property Owned by Landlords with Code Violations**
- **Health-Related Code Enforcement to Reduce Asthma and the Risk of Lead Poisoning**
- **Rental Properties Inspections Based on a Schedule**

Models of Proactive Code Enforcement:

Targeted Proactive Inspections in a High Risk Neighborhood

Oakland, CA is transforming its code enforcement program to be proactive to address major housing related public safety and health problems, as well as facilitate economic revitalization opportunities. According to the City, “[w]ith the reduction in public resources and major problems in Oakland that require code enforcement as a problem-solving tool, the City has an opportunity to strategically align its limited code enforcement services, create proactive referral and resource pipelines, and partner with other agencies throughout the City organization and community-wide.”¹¹

The Mayor of Oakland created a Housing Cabinet and an additional staff position was added to their Healthy Homes Department. They created a proactive enforcement pilot program focused in the East Lake neighborhood of Oakland, which is primarily a low-income, Asian-American enclave. They have completed the first quarter of the pilot and in the coming year, they plan to propose a city ordinance giving the city inspection department the authority to conduct the proactive inspections, which they currently lack. At this stage, data collection is very important in order to determine if this program is scalable across larger neighborhoods and to assess the long-term impacts. During the pilot, displacement has resulted in some cases where renters lived in illegal units that needed to be condemned, so the city had to prioritize tenant outreach and education first, and then introduce the pilot.

Enhanced Enforcement of Property Owned by Landlords with Code Violations

In 2005, Portland, OR was struggling with persistent health and safety issues in the city’s rental housing stock. Like many low-income people in Philadelphia, renters lived in homes with lead based paint, excessive mold and rodents, and general air quality problems. Following a media exposé showing the uninhabitable conditions in some rental units and new research from local government and nonprofit organizations, Portland City Council commissioned the Quality Rental Housing Workgroup. The Workgroup, made up of representatives of tenants, landlords, public health advocates, and community organizations, alongside Portland’s Bureau of Housing and Community Development and Bureau of Development Services, developed a list of recommendations that would aid in creating safe and healthy homes in Portland.

The Workgroup based its recommendations on several principles: bad actors should be held accountable; rental housing is different than owner occupied housing and the unique issues need to be handled differently; owners of rental housing are engaged in a serious business that impacts public health; code enforcement and nuisance abatement in rental housing have broad public benefits and both landlords and tenants both need education about their rights and responsibilities. The group agreed that funding required to enforce healthy rental housing should be largely provided by bad actors, with start-up support from the rental housing industry and the public.¹²

¹¹ City of Oakland Office of Planning, Building & Neighborhood Preservation Proposed Program Design for Proactive Code Enforcement Operations, available at <http://www2.oaklandnet.com/oakca/groups/ceda/documents/report/oak033410.pdf>

¹² Portland Oregon Quality Housing Working Group Final Recommendations, adopted September 22, 2008. Available at http://oregonon.org/files/2009/03/qrhwh_report_final2.pdf

Their key recommendations included updating the City’s Housing code, restructuring fines and strengthening collections, increasing educational opportunities for tenants and landlords, developing alternative landlord/ tenant dispute resolution processes, and, most notably, an enhanced system of code inspections. In this enhanced system, complaints still drive inspections, but the city inspects additional property in the landlord’s portfolio once a certain threshold of violations is met. This model has worked in the two districts that comprised the pilot program in Portland between 2010 and 2012 leading to a nearly 75% increase in improvements made to rental units.¹³

Health-Related Code Enforcement to Reduce Asthma and the Risk of Lead Poisoning

Boston, MA

The city of Boston has developed a program called *Breathe Easy Boston* to address the rising asthma rates among poor children. If a child visits any one of 32 health centers or 4 major hospitals with asthma symptoms, doctors inquire about their housing conditions to determine whether asthma triggers in the child’s home could cause or exacerbate the child’s symptoms. If so, referrals can be made through the hospitals’ electronic medical record system to the city’s code enforcement department to have an inspector generate a case and visit the home. As part of this program, city inspectors are trained to inspect homes according to state code and with additional health hazard awareness. Because the referral and Inspections are electronically linked, the physician can track the case from referral to closing. Starting with their public housing agency, *Breathe Easy* has since aligned with the Office of Fair Housing, local Medical Legal Partnerships, and parent and tenant advocacy groups. As the program produces more data, *Breathe Easy* will be able to measure success. The *Breathe Easy* model can be easily replicated and proves to be more successful when multiple departments and private stakeholders collaborate to address the relationship between poor health and poor housing. Philadelphia has a unique opportunity to implement a program like this because of the existing PhilaKids Medical Legal Partnership and Healthy Homes Healthy Kids programs that have already partnered with St. Christopher’s Hospital.

Rochester, NY

Rochester has had unprecedented success at eliminating lead paint through a strong compliance program based on a lead paint law. In 2005 the City passed a law which targets housing that is high-risk for lead poisoning. The law added to the City’s already existing housing inspection program lead hazard inspection – specifically visual inspections for chipping and peeling paint –as a condition of a certificate of occupancy for all pre-1978 housing. In addition to the visual test, in neighborhoods that are high-risk based on past high blood lead levels, the law also requires an additional dust-wipe test. If a lead hazard is detected, landlords have the option of using interim controls, like repainting, instead of the more costly full lead abatement option. However, interim controls require periodic inspections to ensure continued compliance. Once the remediation has been done, a third party performs a test to confirm that the problem has been corrected. After studying the effects of the law, the City found no noticeable impact on the housing rental market, and a 94% passage rate for visual inspections and an 89% passage rate for dust-wipe inspections, which exceeded the city’s expectations.

¹³ Steve White and Moriah McSherry McGrath, Rental Housing and Health Equity in Portland: A Health Impact Assessment of the City’s Rental Housing Inspection Program, Oregon Public Health Institute

Rental Properties Inspections Based on a Schedule

Boston, MA

Boston's Rental Ordinance requires rental units to be registered annually and inspected on a five-year cycle. Owner-occupied buildings of six or less units are exempt from the inspection requirement, because the hope is that owners who live on the property will maintain their property. Inspections are randomly selected from the registration database across all 22 neighborhoods of Boston to avoid pushback from people who might claim the inspections are targeted. The inspections are conducted by the Housing Division of the Inspectional Services Department Rental Division, which has 10 inspectors and 2 managers assigned to the rental units throughout the city. The goal is to inspect 20% of the housing properties each year, and to cycle that 20% across the five-year timeline. There are about 20,000-22,000 out of a total 110,000 registered rental units in compliance since the proactive inspections started in 2015. This is about 20%, as the city hoped.

Los Angeles, CA

With the support of City Council and the Mayor, the City of Los Angeles has had a systematic inspection program of all rental properties since 1998. Through the local municipal code, inspectors have the authority and responsibility of inspecting about 750,000 rental units on about 100,000 properties. The LA Housing Department, which is only responsible for housing inspections, has a core staff of 60 inspectors for the proactive program and 15 supplemental inspectors to handle any complaints that arise between scheduled inspections. In order to fund the proactive inspections, landlords pay an annual fee of \$43.32 per unit. The inspections are completed on a four-year cycle, and according to Robert Galardi, the Department could move down to a three-year cycle if they had 15 more full-time proactive inspectors.

One interesting component of code enforcement in Los Angeles is their Rent Escrow Assistance Program (REAP). If a property owner fails to correct violations following an inspection, there are two enforcement options utilized by the Code Enforcement Department. First, the city attorney can take a property owner to criminal court and request the judge to levy a fine for failure to comply. Second, the department can refer a property to REAP. Depending on the severity, number, and length of violation, tenants can be entitled to a reduced rate of between 10-50% of their monthly rent. In addition to the reduced rent, landlords are also required to pay \$50 per unit per month for the length of time their property is enrolled in REAP, in order to pay for the administration of the program. REAP has been a successful deterrent, driving most landlords to fix their properties before the inspection to avoid penalties.

In Los Angeles, there was support from state and local law to pass the rental ordinance in 1998, which established the proactive inspection program. Additionally, tenants could withhold rent under state law, so REAP adapted that authority locally. The City began with extensive outreach to landlords, in order to show them that housing improvements were a good business investment. The rate of vacancy is reduced when a property is in good condition and the life of the property is extended, benefitting the landlord for a longer time. By treating housing rentals like a business, the City was able to get the authority to regulate.

RECOMMENDATION FOUR: DEVOTE INCREASED FUNDING TO THE DEPARTMENT OF LICENSES AND INSPECTIONS HOUSING CODE ENFORCEMENT

The Department of Licenses and Inspections was one of the hardest hit by the economic downturn of 2008. L+I's total budget and staff were greatly diminished in the years following. By 2013, L+I's total budget was decreased by 30 percent and its staff drifted to barely above 300, a 20 percent drop. However, in recent years the budget has increased, with Mayor Kenney announcing pre-2008 funding (\$31.4m) for the first time in nearly a decade. In his budget address, Mayor Kenney also recommended increased Code Enforcement Unit staff and the opening of two new district offices.

This news is encouraging, but L+I staff has stated that in order to implement our recommendations, they need more inspectors requiring continued increased funding. In addition, much of the new funding has been earmarked for commercial properties understandably in response to the tragic collapse of the Salvation Army building. However, it is imperative that funding is also directed toward strengthening housing code enforcement and other strategies outlined in this report.

We also recommend that the City budget office allow L+I to keep proceeds from fines and rental license revenue to the City's already existing housing inspection program. According to the 2013 Annual Report, Housing Licensing Revenue has overtaken Building Permits as the strongest revenue generator in the department, generating \$13,803,179 in 2013.¹⁴ Use of these funds by L+I to enhance housing code enforcement and adopt other recommendations in this report should go a long way to improve Philadelphia's housing safety.

¹⁴ Philadelphia Department of Licenses and Inspections, Fiscal Years 2012 and 2013 Annual Report, p. 13.

Summaries of Interviews

We wish to thank all the people who so generously shared their time, insights and feedback to help us understand the challenges and opportunities of housing code enforcement to improve housing health and safety.

Philadelphia Interviews:

ALEJANDRO BARRETO, Case Manager, Healthy Homes Healthy Kids Program, Philadelphia Department of Public Health, Alejandro.barreto@phila.gov

**CATHERINE KLINGER, FORMER DIRECTOR HEALTHY HOMES HEALTHY KIDS PROGRAM, PHILADELPHIA DEPARTMENT OF PUBLIC HEALTH
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This program is a collaboration with St. Christopher's Hospital for children with severe asthma. It integrates clinical, environmental and educational strategies to successfully mitigate and manage a child's asthma, prevent lead poisoning and address other health and safety hazards. Health Department lead and healthy homes inspectors conduct a detailed healthy homes assessment of the child's home. Based on the results they prepare a personalized Environmental Actions Plan for the residents and remediate the property. The average cost to remove asthma triggers and other health and safety hazards is \$3500 per house. A study of the initial 93 families enrolled in the program found a 67% reduction in hospital visits and 57% reduction of ER visits after enrollment in the program.

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JOANNA L. KLEIN, Attorney

The Law Department's main goal in code enforcement is to obtain compliance although they will seek fines in some cases where compliance is delayed throughout the enforcement process. Currently, all cases begin in Municipal Court (MC) where they are sent by L+I. When the Law Department is notified of a case it decides whether to keep in in MC, remove it to the Court of Common Pleas for more severe code violations, or withdraw the case where the code violations appear frivolous. After deciding to enforce, the Law Department holds several status hearings with owners seeking compliance. Many times property owners will not comply, or will take their chances of getting a favorable outcome in front of a judge. At this point, all MC trials are held on Thursdays with long delays in available court dates. One challenge the Law Department faces is locating owners for proper service or to issue fines where they do not appear in court. Many property owners have multiple, if not hundreds of units that are all separately licensed under a different LLC. This makes it difficult to enforce the code against them for their code violations, and subsequently collect the fines issued against them.

**ANN PASQUARIELLO, Deputy City Solicitor of the Housing Code Enforcement Unit
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Ms. Pasquariello is a prosecutor for violators of the Philadelphia property code on behalf of the City. The purpose of her job is to assist in protecting the safety of the citizens of Philadelphia by seeking to get code violations corrected.

DARYL ZASLOW, General Counsel for HAPCO:

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Daryl Zaslow spoke on behalf of HAPCO, which is a membership organization of about 3000 local landlords who own single family or small unit buildings. While HAPCO members are required to be in “good standing” with rental licenses the organization does not check its members’ compliance. HAPCO is concerned that increasing regulation of rental homes might lead to overregulation through ordinances and laws that are unfair to landlords, and which will make renting homes an unprofitable and unattractive business practice. Mr. Zaslow recommends taking the time to evaluate and understand the unintended consequences of proposed housing changes to landlords.

JENNIFER KATES, Chief of Staff for Councilwoman Helen Gym

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Ms. Kates believes that housing has been overshadowed by concerns within L+I regarding vacant property and construction to the detriment of housing safety. She recommends a comprehensive review of all housing related laws to ensure they are up-to-date with adequate enforcement. She suggest more consistent rigorous enforcement of the Housing Code to act as a more effective deterrent and an audit of open code violations with a plan to systematically prioritize enforcement. She thinks it is an important step that rental licenses are no longer permitted when a property has open code violations The new computer system eCLIPSE would make checking for code violations a simple process.

MELVIN CARRASQUILLO L&I Operation Supervisor for the Central District and JOHN

GRACE L&I Operation Supervisor for the South District.

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As L&I employees, Mr. Carrasquillo and Mr. Grace were able to speak about what challenges the department faces in their pursuit to facilitate effective code enforcement. Most complaints come through a call to 311 and involve no license, no smoke detector, CO detector, electrical, plumbing problems, lack of heat, leaking windows and roofs or pest infestation. The fact that there are only 300 L&I employees for all of Philadelphia prevents the department from being as effective as they would like to be. They think that if there was enough funding and manpower, it would be ideal to inspect a rental property as soon as the rental license was requested. However, the lack of adequate staffing makes that goal unachievable. They also said that access to a property or finding the address of the property owner are major hurdles to enforcement.

PAUL BADGER: HAPCO Board Member

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As a HAPCO Board Member, Mr. Badger provided the landlord perspective. He said that there is not much of a profit for landlords in Philadelphia after factoring in upkeep, maintenance, repairs, mortgages, and taxes. Generally, smaller landlords maybe make an average of \$200-\$300 a month. He thinks that a proactive or enhanced rental inspection program would put a greater burden on the City, and since the code enforcement program is already overwhelmed and landlords would probably be against such an initiative. His opinion is that more programs

like the Healthy Homes Healthy Kids would better serve to improve healthy living conditions in the City.

PHIL LORD, Executive Director of TURN (Tenant Unit Representative Network)

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Mr. Lord believes that the response to code violations is inadequate, because of lack of inspectors and inconsistent consequences for violations. He also believes that no more than half of violations are ever reported because people don't know how to contact L+I or they are afraid. Tenants in Philadelphia are particularly vulnerable to retaliatory eviction if they complain about repairs with little legal recourse. One of Mr. Lord's recommendations for better code enforcement is to allow attorney's fees for tenants who bring suits against their landlords, so that individual tenants could advocate for themselves. He believes that if the city was to follow up on violations and collect fines, then that would create more revenue, which could be plugged back into inspections and enforcement.

JOSEPH FLANAGAN, L+I Operation Supervisor for Northeast District

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Mr. Flanagan pointed out some of the same problems that his colleagues, Mr. Carrasquillo and Grace described. Since the workload for each inspector is so high, there is an inherent tension between doing a quality inspection and managing the quantity of complaints. Mr. Flanagan described the process for inspecting commercial buildings, which requires annual inspections and also requires that the owners complete and pay for their own façade, fire and elevator inspections which they submit every three years. Inspectors go out to "double check" the reports. In his opinion, that method works very well, because it saves L+I time on each inspection and places more accountability on the landlords. He would love to see those same type of requirements expanded to owners of smaller residential buildings and single unit homes.

RASHEDAH PHILLIPS, Attorney for Community Legal Services (CLS)

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Ms. Phillips works directly with clients who are seeking legal assistance with their housing problems. She thinks that there is uneven enforcement that stems from having subjective L+I inspectors and greater emphasis on commercial buildings than residential. More generally, she believes that there should be more emphasis placed on enforcement of the code and collection of fines, which would demonstrate to both landlords and tenants that Philadelphia takes the health and welfare of its citizens seriously.

REBECCA SWANSON, Director of Planning for L&I

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Ms. Swanson sees L&I's ultimate goal as achieving compliance with the housing code. She believes that the value of fining non-compliant landlords comes from deterrence, but that fines are not the ultimate objective. Ms. Swanson's reservations about instituting a proactive inspection program in Philadelphia are lack of resources to dedicate to more inspections. She

also sees gaining access to properties to perform an inspection is a challenge to more proactive inspections.

RUE LANDAU, Executive Director of the Fair Housing Commission (FHC)
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The Fair Housing Commission enforces the Philadelphia Fair Housing Ordinance which prohibits certain unfair rental practices and gives the Commission the authority to address unsafe and unhealthy conditions in rental property. The Fair Housing Act also prohibits retaliation taken against a tenant for exercising a legal right including making a complaint to L+I. The Commission holds hearings on cases brought by tenants twice a week, for a total of about 350 cases a year. One of the goals of the Commission is to compel landlords to repair violations and cases involving Housing Code violations are not closed until the tenant has obtained a compliance certification from L+I. Ms. Landau sees this work as beneficial to the mission of L+I acting as an adjunct “enforcement arm” of L+I.

THERESA BRABSON, Esq., Staff Attorney and Project Director PhilaKids, Medical Legal Partnership, St. Christopher’s Hospital for Children:

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Ms. Brabson provides legal services for low-income patients of St. Christopher’s Hospital for Children, including clients with housing and habitability issues. Ms. Brabson works directly with clients and learns firsthand the negative health consequences of poor living conditions. Specifically, she helps children who are repeatedly admitted for preventable asthma-related conditions most often caused by substandard housing. Ms. Brabson’s work includes advising tenants needing repairs, helping them set up rent escrow accounts, and representing tenants in landlord/tenant court. Ms. Brabson said about 50% of the families that go to the health center have unmet legal needs. Almost everyone rents their home with most having a month-to-month lease. She finds housing problems underreported because tenants are hesitant to admit there are problems in their home to clinic staff. She thinks there are too many slumlords who take advantage of people who don’t know their rights or who are afraid of complaining. She said the housing situation in some neighborhoods is “unbelievably bad” and there needs to be systemic change.

[Out of Town Interviews:](#)

BOSTON, MASS

EUGENE BARROS, Associate Director of Breathe Easy Boston

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Breathe Easy Boston is a multi-sector partnership which works with all of Boston’s Health Centers and major hospitals in addressing unhealthy living conditions that worsen asthma. Doctors who suspect that a child’s asthma is aggravated by their environmental conditions at home can use a web-based database to refer the patient to the Breathe Easy program, which then sends out city inspectors to inspect the property for asthma triggers. The city inspectors

complete a yearly training which focuses on the links between housing and health, with a special focus on asthma triggers. Breathe Easy has been very successful in their goal of addressing asthma triggers and has wide community support in Boston. Breathe Easy Boston has been recognized as an excellent model that is easy to replicate. This program was created after Boston adopted a Proactive Rental Inspection program in 2012.

BOSTON, MA

INDIRA ALVAREZ—Chief of Staff for the Boston Inspectional Services Department

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Over the last five years, the City of Boston has developed and implemented an aggressive landlord education, registration, and rental inspection program with the goal of improving compliance with the housing code. Separate from the policing of overcrowded student housing, the 2014 Rental Ordinance was passed to enforce minimum habitability requirements in all rental housing with a scheduled proactive inspection program. The Inspectional Services Department also employed an aggressive campaign to encourage landlords to register their rental properties. The plan paid off as registration increased rapidly. Another focus of the program is the 5-year inspection cycle. Beginning in 2015, the Inspectional Services Department Rental Division set the goal of inspecting 20% of the rental housing each year. As of April 2016, they have reached their goal for year one and have certified 20-22,000 rental units in compliance with the housing code. Through extensive landlord outreach, aggressive enforcement, and the collection of fines, the City of Boston has successfully changed the rental housing culture in a very short time period.

GRAND RAPIDS, MI

VIRGINIA MILLION, Code Compliance Manager in the Housing and Nuisance Inspections

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Grand Rapids runs a successful proactive rental inspection program, which Ms. Million credits to the seriousness with which they enforce the housing code. The city requires that a property be inspected and “certified” prior to being occupied, and uses fines and even criminal penalties as deterrence for non-compliance. A property can be certified for a 2, 4 or 6 year time period, depending on the condition of the house and the compliance of the landlord. Ms. Million stresses that consistency is key in using fees as effective deterrence against bad actors.

GREENSBORO, NC

BRETT BYERLY, Greensboro Housing Coalition, Greensboro, NC

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Greensboro Housing Coalition is a non-profit group that advocates for fair, safe, and affordable housing. After the North Carolina state legislature preempted Greensboro’s proactive inspection program in 2011, the city returned to a Complaint-based model. Under the new policy, a tenant calls code enforcement to make a complaint, and if the city inspectors find a violation, the city issues a hearing notice and an order to repair. If a landlord is found non-compliant after a hearing,, the landlord has an additional 90 days to fix the violation, all the while incurring \$10 per day fine for each day of non-compliance. If they are not complaint by

the end of those 90 days, the city would then refer the landlord to the Minimum Housing Commission. The Minimum Housing Commission, has the authority to send contractors to a house to repair the outstanding violation and attach the cost of repair as a lien on the property. While the idea is still in its infancy, the goal is to incentivize landlords to repair on their own, as it will be more expensive if the city has to do the repairs.

KANSAS CITY, MO

LUKE GARD, Safe and Healthy Schools Program Coordinator. Kansas City, MO.

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Mr. Gard's program aims to have healthier homes, and educating cities about improving their code inspection programs. Regarding funding of proactive programs, Mr. Gard says that one thing leads to another: Proactive inspection programs lead to finding more violations, which leads to more revenue from fines. These revenues will be able to help support more inspections and more staff.

KANSAS CITY, MO

JOHN WOOD, Director of Neighborhoods and Housing Services. Kansas City, MO

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Kansas City, like Philadelphia, is currently a complaint-based city, meaning inspectors will only inspect a property if a complaint is made. With that in mind, Kansas City is making efforts to have a more proactive rental inspection program. One successful approach they have taken is to do "targeted enforcement", where inspectors focus on specific neighborhoods that were on the tipping point of disrepair. They capped the caseload at about 250 cases per inspector which resulted in closing violations more quickly. Because they targeted certain neighborhoods and had fewer inspections, they were able to address violations before they escalated and they were able to resuscitate neighborhoods, which were previously decreasing in property value.

LOS ANGELES, CA

ROBERT GALARDI, Chief inspector of Code Enforcement Department,

ROYA BABAZADES, REAP Program Director of Compliance

LA has had a Systematic Code Enforcement Program since 1998. They have separate departments for inspecting housing and commercial properties. Given their current staffing of 60 inspectors, the City inspects all the rental housing units on a 4 year cycle. They also have a staff of 15 who are responsible for the complaints that occur in-between inspections. They also have created a program called Rent Escrow Account Program (REAP, which is for landlords who fail to correct their housing code violations. Instead of going to criminal court, the City's Code Enforcement program can refer the landlord to the REAP program, which uses fines to deter non-compliance. If a landlord is in the REAP program, their tenants are entitled to reduce their rent payments anywhere from 10-50%, depending on the severity, number, and length of unsolved violations. In addition, the landlords are required to pay a \$50 per unit administrative fee for each month that that landlord is in the program. Because of the high financial penalties that come from non-compliance, a majority of the referred properties are brought into compliance before even starting the program, in order to avoid the fines.

MARION COUNTY, IN

DANIEL FRIES, Team Leader & Project Director of Marion County Health Department. Marion County, Indiana.

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Mr. Fries runs the Healthy Homes Program for the Marion County Health Department. The Healthy Homes program does inspections in response to complaints by residents, or by referrals from doctors. They have a small number of their own inspectors, who have the authority to issue orders, however, their program differs from the standard city inspections, because their focus is on identifying and correcting housing conditions that have negative effects on health. Success for the program is measured by eliminating those negative health-triggers.

OAKLAND, CA

ETHAN GUY, Housing and Habitability Fellow. City of Oakland, CA

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Oakland is in the beginning of transitioning to a proactive rental inspection program to address health and safety problems and facilitate economic revitalization opportunities. Mr. Guy said in particular proactive code enforcement was the housing crisis displacing tenants to substandard housing and increasing asthma rates in children. They have completed the first quarter of a yearlong pilot program, which was designed to collect data, such as the costs of implementing the program, and also to identify any potential adverse effects for example increased rents and potential tenant displacement. Before beginning the pilot they analyzed census and housing data and interviewed local stakeholders and housing coordinators in other cities to gain their perspective on what would be a successful strategy in implementing a proactive program. In California code enforcement is a state function so instituting proactive enforcement requires a new ordinance which they hope to introduce in 12 to 18 months. During the pilot the fire department, which has the authority to do a fire safety inspection of a home for smoke detectors, etc. During that inspection, if they see in plain view a potential habitability issue, the fire department sends a referral to the planning and building department.

OMAHA, NEB

KAREN EASTMAN, President and CEO, Omaha Healthy Kids Alliance

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The Omaha Healthy Kids Alliance is celebrating its 10th year and has progress to report. Created in response to Omaha being named the largest residential superfund site in the country because of soil lead levels, their mission is to address all environmental issues in the home. OHKA has a close working relationship with the landlord advocacy group and the City's planning department to educate tenants and landlords. The Omaha Code Enforcement Department utilizes software called Accela Mobile Inspector which automatically notifies a Healthy Homes Inspector, funded by OHKA, when certain issues are present and triggers a visit.

PORTLAND, ME

ART HOWE, Housing Safety Administrator. Portland, ME

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The city of Portland experienced a great tragedy when a fire killed 6 young people. It was later found out that the smoke detectors were not functioning and the fire exits were obstructed, leading to charging the landlord with manslaughter. The tragedy was a triggering event, leading to an evaluation and improvement of their housing code inspection and enforcement programs. Most importantly, the city made prosecution of non-compliant landlords a priority.

PORTLAND, OR

STEVE WHITE, Project Manager of the Oregon Public Health Institute, Portland, OR

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Mr. White is the project manager for the Quality Rental Housing Workgroup in Portland, OR, which is a diverse workgroup consisting of citywide stakeholders who worked to address the dire housing conditions in Portland. Mr. White's focus was punishing bad actors and creating a more equitable rental housing landscape for all of the city's residents. Notably, this group's advocacy shifted Portland from a complaint based inspection system to an enhanced system. In the enhanced system, complaints still drive inspections, but the city will begin to inspect a landlord's entire property portfolio once a certain threshold of violations is met.

ROCHESTER, NY

GARY KIRKMIRE, Director of Inspection and Compliance Service. Rochester, NY.

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Rochester has had unprecedented success at eliminating lead paint through a strong compliance program. The law, which was adopted in 2005, targets housing that is high-risk for lead poisoning. The law requires a visual inspection, which looks for peeling or chipping paint by adding lead hazard inspection to the City's already existing housing inspection program. This is required for all pre-1978 rental units to receive a certificate of occupancy. In addition to the visual test, in neighborhoods that are high-risk based on past high lead blood levels, the law also requires an additional dust-wipe test. If a lead hazard is detected, landlords have the option of using interim controls, like repainting, instead of the more costly full lead abatement option. However, interim controls require periodic inspections to ensure continued compliance. Once the corrections are made, a third party performs a test to confirm that the problem has been corrected. After studying the effects of the law, they found no noticeable impact on the housing rental market, and a 94% passage rate for visual inspections and an 89% passage rate for dust-wipe inspections, which exceeded the city's expectations.