

NAVIGATING PROPERTY DISPUTES



When Civil Litigation May
Be Necessary

DC GOVERNMENT | DEPARTMENT OF BUILDINGS
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Introduction

The Department of Buildings (DOB) regulates construction activity, property use, and property conditions in the District of Columbia. DOB enforces a variety of codes and regulations to protect the safety of residents, businesses, and visitors to our city within the built environment. This guide provides information and resources for attorneys, advocacy groups, and others who may represent individuals or entities in disputes connected to DOB's enforcement authority. While DOB cannot represent the interests or advocate on behalf of persons engaged in civil litigation, the agency maintains records that may be useful in litigation or alternative dispute resolution.

Common Scenarios

Landlord and Tenant Disputes

The following is a non-exhaustive list of common scenarios where DOB's enforcement activity may result in useful information or evidence.



Disputes Over Responsibility for Property Conditions or Damage

- A landlord receiving a Notice of Infraction (NOI) from DOB may assert that because the tenant caused the damage, the landlord should not be responsible for the repair or the fine.
- DOB issues NOIs primarily to landlords because they are responsible for property conditions under the housing code and property maintenance regulations.
- DOB does not make determinations of causation, and an NOI is not proof that a landlord caused a cited condition—it only shows that an infraction existed at the property at the time of inspection.
- A landlord may be able to prove that a tenant caused the condition and may be able to recover the costs of repairs, and/or the amount of any fine paid by pursuing a civil action against the tenant.
- DOB maintains records of inspections, including NOIs and photographs that can be obtained through the resources listed at the end of this guide.



Housing Conditions Court

- If property maintenance issues exist in a rental unit, DOB may issue an NOI to the landlord and seek a fine for each infraction present after an inspection.
- DOB's fine cannot compel a landlord to make repairs.
- In Housing Conditions Court, a DOB inspector will work with litigants and the Court to assess the existence and subsequent abatement of any violations at the rental property. However, the Court has the power to compel compliance, not DOB.
- Additional information and forms regarding the Housing Conditions Court may be found [here](#).



Access to Rental Property

- Landlords may assert that they should not be held responsible for infractions when they cannot obtain access to a rental unit to make repairs or inspect conditions.
- In addition to lease provisions for access to rental property, [District of Columbia law](#) allows a landlord to access a dwelling upon reasonable notice for a reasonable purpose. A tenant may not unreasonably prevent the landlord from accessing the unit to assess and/or abate an alleged housing code violation.
- A documented delay in repairs due to access issues might be something that DOB or the Office of Administrative Hearings (OAH) may consider when resolving, settling, or imposing a fine on an NOI. However, DOB cannot compel a tenant to provide access for repairs.
- If efforts to access a rental property are frustrated, a landlord may use the Court to compel access to fulfill their duty to inspect, maintain, or make repairs.



Unauthorized Occupants or "Squatters"

- DOB receives reports from tenants, landlords, and property owners about unauthorized occupants or squatters in private property.
- DOB does not determine whether an occupant of private property is a tenant or a squatter.
- DOB will only order individuals to vacate a building if it is structurally unsound or is otherwise dangerous to occupy. These determinations are made without regard to whether the occupants are tenants or squatters.

- Closing a building deprives the occupants of the place they are living, and the owner of the property's economic use. As a result, the threshold for such a determination is very high.
- Only a court can determine whether occupants of a property are tenants or squatters, and their attendant rights.

Condominium or Cooperative (Co-Op) Disputes

DOB cannot adjudicate disputes between condominium owners and Unit Owners' Associations, or between co-ops and their Boards. Only a court of competent jurisdiction, such as the District of Columbia Superior Court's Civil Actions Branch, can resolve these disputes.



Disputes Over Responsibility for Property Damage

- The housing and property maintenance codes require owners to maintain their own property in accordance with certain minimum standards, so when an infraction is found on the owner's property, the owner is responsible for making repairs and/or paying any fine.
- However, in a condominium or co-op, the responsibility for the source of the damage may lie with another party. Damage or problems occurring in a common area may have been caused by a unit owner, or damage or problems in a particular unit may have been caused by an issue with the common elements or a neighboring unit.
- Condominium/co-op unit owners and Unit Owners' Associations/Boards may disagree on who is responsible for the root cause of property damage or a particular condition.
- DOB does not determine causation, and an NOI is not proof that the cited party caused damage—it only shows that an infraction existed at a particular location at the time of a DOB inspection.

What Are Condominiums?

Condominiums are created by Declarants and governed by Condominium Instruments, including the Condominium Declaration, Bylaws, and Plats. The Declaration and Bylaws can typically be found recorded among the Land Records for the District. The Plats are recorded with the Office of the Surveyor. Taken together with the District of Columbia Condominium Act, [D.C. Code § 42-1901.01, et seq.](#), these instruments form a contractual relationship between and among the individual unit owners and dictate the responsibilities of an individual unit owner and the Unit Owners' Association, including who is responsible for which portion of the building or grounds.

What Are Co-Ops?

Cooperatives, or "co-ops", operate similarly to condominiums, with individuals generally having a right to occupy a single unit, and sharing the right to use various common elements or a building or group of buildings. The legal structure is slightly different. In a co-op the residents are shareholders in a corporation that owns the entire property, and the rights to their individual units are defined by individual contracts between shareholders and the corporation. The corporation is usually governed by a Board of Directors that operates similarly to a Unit Owners Association in a condominium.



New Condominium Warranties Against Structural Defects

- When a developer/declarant creates or converts a new condominium in the District, the Condominium Act requires that the developer post security in the form of a bond, letter of credit, or cash in the amount of 10% of the construction or conversion costs to satisfy a potential claim of a structural defect.
- Structural defects are specifically defined by [statute](#) and can arise or first become apparent after a property receives its final building inspection.
- A structural defect may or may not arise from a failure to comply with the [Construction Codes](#).
- The District of Columbia Department of Housing and Community Development (DHCD) handles [claims of structural defects](#) in condominiums.
- The warranty period
 - ⇒ For individual units runs for two years from the day that the unit is purchased from the developer.
 - ⇒ For common elements runs for two years from the date that the first unit in the building is purchased from the developer or the common elements are completed, whichever is later.
- If DHCD cannot process a warranty claim because the defect is not structural, is not identified within the warranty period, did not occur within the warranty period, or for any other reason, an aggrieved unit owner or Unit Owners' Association may file suit against the developer in DC Superior Court for damages.
- A structural defect may still exist despite an approved final building inspection because the defect could have been hidden or caused by a later failure of a properly installed but defective component.
- Please consult with DHCD for more information on Condominium Warranties against Structural Defects.
- To access records, plans, and other documents on the construction of a condominium, please use the DOB and DC resources listed below.

Disputes Between Neighbors

DOB has limited ability to intervene in disputes between neighbors, but often, DOB's authority falls short of completely resolving the concern. When that happens, an injured party may need to file a lawsuit. Here are some common scenarios:



Fence Encroachment/Lot Line Disputes

- Except for formal wall checks in the construction process, DOB has little ability or authority to determine if there is an encroachment onto neighboring property or to compel its removal.
- Contact a [registered land surveyor](#) to conduct a survey of a property and its boundaries to determine whether an encroachment exists.
- Historic plats and survey documents may be recorded with DOB, but those documents may not show the location of a new encroachment.
- Only a court can compel a property owner to remove an encroachment.



Trees and Vegetation

- [DOB regulates](#) several types of excessive vegetative growth including weeds, grasses, kudzu, poison ivy, oak, sumac, plants with obnoxious odors, and any other plants causing hay fever.
- DOB also enforces grass height because tall grasses and weeds can have negative implications for individual and public health.
- DOB does not regulate the natural growth of trees in the District.
- The [Urban Forestry Division](#) under the District Department of Transportation is responsible for the health, care, and maintenance of trees located in public space.
- Property owners are responsible for maintaining trees on their private property.
- District law [criminalizes](#) the willful topping, cutting down, removal, girdling, breaking, wounding, destroying, or in any manner injuring any vine, bush, shrub, or tree not owned by the person performing such action.



Neighbor Damage to Property – Construction

- The [Construction Codes](#) require that property owners and their contractors take steps to protect adjoining property during construction.
- DOB will issue an NOI to a property owner who: fails to protect adjoining property as required, fails to obtain a necessary permit, works outside of allowable construction hours, or performs work beyond the scope of a permit.
- DOB cannot compel the person performing the construction work to pay for repairs.
- While DOB may be able to order corrective action including repairing damage, DOB does not and cannot dictate how they choose to comply with the order. For example, DOB cannot dictate that repairs be done in a specific way or by a specific contractor.
- Only a court of competent jurisdiction can order recovery of damages related to the construction and/or dictate how the damage is addressed.



Nuisances and Ongoing Damage or Disturbance

- A property owner may be using their property in a way that disturbs the ability to enjoy another's property or causes damage to other property over time.
- This could be in the form of odor, smoke, noise, vibration, or engaging in other activity that affects a neighboring property.
- DOB will investigate most complaints, but if the use or activity is intermittent, DOB may not be able to observe the disturbance.
- Even if DOB can observe a disturbance, the activity might not be one that DOB regulates, e.g., smoking, arguing.
- If the activity can be observed, and DOB regulates it, even then DOB can only issue NOIs, revoke Certificates or Permits that it issues, or take other enforcement actions within its authority.
- DOB cannot directly compel a property owner to cease the offensive activity or compensate anyone for damages they may have suffered.
- Only a court can compel a property owner to cease the activity or pay damages.



Easements

- Easements are a limited nonpossessory right to use or access another property for a particular purpose.
- Easements come in many varieties and for multiple purposes.
- An easement may or may not be recorded with the Office of the Surveyor or with the Recorder of Deeds. An easement's recordation or lack thereof is not dispositive of its existence or enforceability.
- Though certain easements may be recorded with the Office of the Surveyor, DOB does not typically enforce easements on behalf of private property owners unless it directly implicates another area of DOB authority, such as permitting or zoning. Permit applicants are required to disclose any existing easements of record, and failure to do so may result in revocation of a permit if brought to DOB's attention after the issuance of a permit.
- DOB does not determine whether an unrecorded/implied/prescriptive easement exists, and DOB cannot declare, determine, or establish an easement that is not of record. Likewise, DOB cannot extinguish an easement of record.
- Only a court can issue a declaration establishing or extinguishing an easement, compel someone to remove an obstacle or barrier, or issue orders determining rights.
- Self-help enforcement may result in criminal or civil penalties.

Contractor Relationships

DOB regulates construction activity by ensuring that persons performing construction are doing so responsibly and that the construction is up to code. DOB does not enforce contracts between property owners and their contractors. Further, DOB does not determine causation or find fault between contractors and property owners. Compliance with the Construction Codes is the responsibility of the property owner. Any contractual relationship between a property owner and their contractor is outside DOB's authority.



Dissatisfaction with a Contractor's Work

- DOB is not responsible for the licensing and professional regulation of contractors—that is the purview of the DC Department of Licensing and Consumer Protection (DLCP).

- DOB may inspect a contractor's work for compliance with the Construction Codes, but if the work is not up to code or outside the scope of a permit, the property owner may be responsible for fines.
- DOB does not enforce the contract between the property owner and the contractor.



Unlicensed Contractors

- The District has strong longstanding consumer protections for homeowners who hire unlicensed contractors.
- A homeowner can obtain a building permit in their own name, but only a licensed contractor can obtain a permit on a homeowner's behalf.
- DOB is not responsible for the licensing and professional regulation of contractors—that is DLCP's purview.
- If a homeowner chooses to obtain the permit in their own name and hires an unlicensed contractor to perform the work, a homeowner may be able to recover all money paid to the contractor and/or damages for poor performance of the contract.
- A homeowner remains responsible for the work performed and may be subject to fines and permit revocation if the work is not up to code.

DOB/DC Public Resources

DOB and the District maintain numerous publicly available resources with information and documentation that may help litigants and potential litigants evaluate and pursue their private claims.

Access DC

- This platform enhances security and improves access to all of DOB's online services.
- Many of the resources described below require an Access DC account, which is free and easy to obtain.

DOB Public Dashboard

- This platform provides data in several categories.
- The [Inspections section](#) allows customers to see District building inspection data across several business units.
- Under the [Violations and Abatement section](#), the Landlord Violation Tool can be used to see unabated property maintenance violation records by property.
- The [Enforcement section](#) allows customers to check the status of NOIs, view data about fines, and determine whether a matter has been filed with OAH.
- The [Vacant Properties section](#) allows customers to view vacant and blighted property classifications in the District.

eRecords

- DOB's eRecords Management System provides online access to the following records:
 - ⇒ Building Permits
 - ⇒ Building Plans
 - ⇒ Certificates of Occupancy
 - ⇒ Determination Letters
 - ⇒ Electrical Permits
 - ⇒ Final OAH Orders
 - ⇒ Invoices
 - ⇒ Mechanical Permits
 - ⇒ Neighbor Notifications
 - ⇒ Permits
 - ⇒ Plumbing Permits
- DOB has an [eRecords Guide](#) to assist users in navigating this resource.
- Additional information on DOB's records management may be found [here](#).

PropertyQuest

- This is a searchable property records system maintained by the Office of Planning.
- It includes an interactive map that allows a customer to find specific data about properties.
- This resource compiles information from multiple District agencies including:
 - ⇒ The Office of Planning
 - ⇒ The Office of Tax and Revenue, Real Property Tax Administration
 - ⇒ The Office of Zoning
 - ⇒ The Office of the Chief Technology Officer's Geographic Information Systems team
- PropertyQuest searches provide important information including, but not limited to:
 - ⇒ Square, Suffix, Lot (SSL): Can be used to efficiently search other resources, such as Land Records and SurDocs, for additional information concerning a property.
 - ⇒ Advisory Neighborhood Commission (ANC) and Single Member District (SMD): ANC and SMD information identifies the neighborhood-level elected representative for a particular property.
 - ⇒ Zoning District: Defines limitations on uses and construction in designated areas of the District.
 - ⇒ Owner: Identifies the record owner of a particular property.
- Information found on PropertyQuest, such as SSL and Owner information can assist in searching other online resources.

Scout

- The online consolidated database serving customers of DOB and DLCP.
- It contains information on permitting, inspections, licensing, enforcement, and compliance information drawn from DOB and DLCP databases.

SurDocs

- SurDocs, short for Surveyor Document System, is DOB's Office of the Surveyor's Land Record Management System.
- This publicly available online research tool enables the public to search all digital land surveys, including field survey records and surveyor plats recorded with the Office of the Surveyor.
- It provides online access to a number of records, including:
 - ⇒ Assessment and Taxation Plats
 - ⇒ Condominium Books
 - ⇒ Subdivision Books
 - ⇒ Wall Checks
- DOB has a [SurDocs User Guide](#) that can assist users in navigating this resource.

Office of Tax and Revenue Real Property Search (MyTax DC)

- DC's Office of Tax and Revenue maintains a database of real property with information derived from land records.
- Properties can be searched by address or SSL.
- Searches can return important information including:
 - ⇒ SSL
 - ⇒ Premise Address
 - ⇒ Owner Name
 - ⇒ Owner Mailing Address
 - ⇒ Tax Assessment
 - ⇒ Tax Classification
 - ⇒ Ownership Transfer Instrument Number

CorpOnline

- DLCP maintains a database of registered business entities in the District.
- CorpOnline requires an AccessDC account (see above).
- It can be used to search for information about a business entity such as a corporation or limited liability company.
- Searches can return important information including:
 - ⇒ Registration Date
 - ⇒ Entity Status
 - ⇒ State of Organization
 - ⇒ Business Address
 - ⇒ Registered Agent Address
 - ⇒ Business Filing Information
 - ⇒ Beneficial Owners or Governors of the Entity

Occupational and Professional Licensing Lookup

- DLCP maintains a database of non-health occupational and professional licenses.
- Many occupations and trades require a license, such as architects, plumbers, electricians, engineers, real estate agents and brokers, among others.
- More information on which occupations and trades require a license may be found [here](#).

District of Columbia Land Records

- The Office of Tax and Revenue's Recorder of Deeds is the official repository of all land records and recorded instruments for the District.
- Searches can be conducted by SSL, Owner Name, and Instrument Number.
- Images of recorded instruments, including but not limited to deeds, covenants, condominium instruments, and liens may be viewed for free, and copies can be downloaded for a minimal charge.
- A free account is required to view these documents.

Freedom of Information Act (FOIA) Requests

If you are unable to locate documents or information after using the resources above, you may submit a [FOIA Request](#) to DOB through the [District of Columbia Freedom of Information Act Public Access Portal](#), in writing via mail, fax, or email.

Subpoenas to DOB

If you have already commenced litigation and are seeking documents and records from DOB, you may be able to obtain information through a subpoena. DOB reserves the right to object to any subpoena, and nothing herein constitutes a waiver of any right, privilege, or objection.

Serving a Subpoena on DOB

If a subpoena seeks the testimony of and/or seeks documents from an individual DOB employee, DOB cannot accept service on the employee's behalf. The issuing party must personally serve the individual employee with the subpoena unless that individual expressly authorizes DOB to accept a specific subpoena on their behalf.

- **Subpoena for Records:** If your subpoena only seeks documents from DOB's Custodian of Records, please email the request to DOB.filing@dc.gov. DOB will often accept service of a properly executed records subpoena via email after an opportunity for review. DOB does not waive its right to challenge service or raise objections or other defenses to a subpoena submitted in this manner.
- **Subpoena for Testimony:** If your subpoena seeks in-person or virtual testimony of a DOB representative on behalf of the agency, commonly referred to as a Rule 30(b)(6) subpoena, with or without a request for documents, you must serve the subpoena in person at DOB to the Office of the General Counsel (OGC).
 - ⇒ Before DOB OGC can accept service of the subpoena, you must pay the required witness fee. DOB does not waive its right to challenge service or raise other defenses.
 - ⇒ To avoid undue burden or expense on DOB, before serving such a subpoena, DOB strongly encourages the party to email a draft of the subpoena to DOB.filing@dc.gov, with the subject line in all capitals "30(b)(6) SUBPOENA." In the body of the email, please include the court case number, the names of the parties, and a description of the requested testimony to begin the process of discussing the proposed scope of topics for examination.

How to Deliver Your Subpoena to DOB In Person

As stated above, subpoenas seeking in-person or virtual testimony of a DOB representative or Custodian of Records must be served in person at DOB to the Office of the General Counsel (OGC). The following is a step-by-step guide on serving your subpoena:

1. Come to DOB's Offices located at 1100 4th Street SW, Washington, DC 20024.
2. Once onsite, enter DOB through security and visit the Customer Service Center located on the 2nd Floor. Check in with a customer service representative and indicate that you wish to serve a subpoena on OGC. That representative will contact OGC, and an OGC representative will come to meet you on the 2nd floor.
3. OGC will review the subpoena and provide you with the required payment voucher to pay your witness fee. You will then be directed to make payment to the Office of the Chief Financial Officer (OCFO), Central Collections Unit, Cashier's Office, located directly across the street at 1101 4th Street SW, Washington, DC 20024. (Cash, credit card, money order or check is accepted, and payment must be made out to the DC Treasurer).
4. Pay the required witness fee at OCFO and obtain a receipt.
5. Return to DOB and repeat step 2. The same OGC employee will meet you to determine whether OGC can accept service of your subpoena after a final review of the subpoena and payment receipt.

Conclusion

DOB is ready to assist you within the scope of our regulatory authority. We also provide a shorter guide [\[LINK\]](#) geared toward residents.

How to File a Complaint with DOB

Problems in Residential Buildings/Units: Go to dob.dc.gov/insp/pm or call 202.671.3500.

Illegal Construction: Call 311 or go to dob.dc.gov/insp/ic.

Vacant or Blighted Properties: Call 311 or go to dob.dc.gov/insp/vb.

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