

GOVERNMENT OF THE DISTRICT OF COLUMBIA

DEPARTMENT OF BUILDINGS



Vacant to Vibrant Amendment Act of 2024

Testimony of
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Before the Committee of the Whole
Council of the District of Columbia
The Honorable Phil Mendelson, Chairman

John A. Wilson Building
1350 Pennsylvania Avenue NW
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Good morning, Chairman Mendelson, fellow Councilmembers, and staff. I am Brian Hanlon, Director of the Department of Buildings (DOB). I am pleased to appear before you today to discuss the Vacant to Vibrant Amendment Act of 2024.

Before I discuss DOB's views on the legislation, I want to spend a quick moment discussing our responsibilities. DOB's mission is to protect the safety of residents, businesses, and visitors, and to advance the development of the built environment in the District through permitting, inspections, and code enforcement. In summary, it is the pursuit of three overarching goals: to help keep the District's built environment safe, keep it green and as sustainable as possible, and keep it moving forward. This combination – safe, green, and moving – helps support the Mayor's Comeback plan and enables DOB to play a more concerted role in elevating the quality of life of District residents, businesses, and visitors and to support a thriving economy.

DOB is grateful for the opportunity to engage with the Council and stakeholders to enable the creation of legislation that helps to advance these goals. With that being said, I would like to share a few thoughts regarding the Vacant to Vibrant Amendment Act of 2024 and our current work with vacant and blighted properties.

Vacant to Vibrant Amendment Act of 2024

The legislation establishes measures to prevent extended vacancies, incentivizes property owners to minimize the duration of vacancies, and creates tools for District government to better position the District to prevent vacancy and blight, address violations of the law, and return vacant and blighted properties back into productive use in their respective communities.

DOB is the agency responsible for responding to complaints regarding vacant and blighted properties. Our first step is conducting an inspection to assess occupancy status. If we

find that a property is vacant or blighted, we send a notice to the property owner using the address on file with the Office of Tax and Revenue (OTR). Certain property owners might be eligible for several exemptions for reasons including active construction, active listing for sale or rent, or substantial undue economic hardship. Property owners may apply for exemptions through our website if their property qualifies for one of these categories. DOB takes each exemption request seriously and grants them, if applicable, for the appropriate periods currently dictated by law. Property owners may also dispute our determination and file an appeal with evidence to establish occupancy. Vacant buildings can only receive three years of exemptions, while blighted properties cannot receive any exemptions until the property owner remediates the blight.

If the vacant-blighted status remains unchanged and no exemption is granted, OTR will increase the tax rate to either a class 3 “vacant” or class 4 “blighted” rate. The Class 3 “vacant” tax rate is \$5.00 for every \$100 of assessed value and the Class 4 “blighted” tax rate is \$10 for every \$100 of assessed value.

Vacant and blighted properties must be registered with DOB to be tracked within our system. We track their classification and registration and maintain a complete inventory, updated daily, in the Vacant Building Map on DOB’s Public Dashboard found at DOB.dc.gov and within the “About DOB” tab at the top of our homepage.

DOB wants property owners to bring vacant buildings back to productive use in order to protect the District’s health, safety, and welfare, and to ensure positive outcomes for all parties involved. We have made positive strides; thanks to technological and process improvements, DOB and OTR can now collaborate more effectively—following our inspections, DOB transmits classifications of vacant or blighted properties digitally to OTR so they can update their records

and adjust property tax rates appropriately. We have also been working diligently with our District government and community partners in the Vacant and Blighted Property Working Group, which has been collaborating closely with the Council to develop this legislation and help positively advance our work with vacant and blighted property in the District.

Returning to today's topic, **DOB is generally in support of the legislation.** Some key aspects of the legislation have captured DOB's attention, which I will discuss briefly now:

First, Title II's Service of Process reforms will have a positive impact on DOB by reducing burdens of service and improving how we connect with property owners to encourage them to bring their properties back to productive use. DOB currently provides service of process via mail for corporate registered agents. The legislation proposes a modernized and more efficient policy which requires registered agents to accept service of process by e-mail; this removes the requirement to send special assessments by physical mail, with return receipt requested. This has been difficult at times and these reforms will help bridge that gap and increase the likelihood of connecting quickly with property owners. Secondly, updating the vacant property active construction exemption from two to three years will help give customers more time to account for delays and other issues that would prevent them from proceeding with construction. DOB still can revoke exemptions if they are being abused in any way.

Additionally, the codification of our vacant building dashboard is an excellent way to ensure that the agency will continue to maintain and publish this data publicly. It aligns with the District government's commitment to transparency for our operations. DOB's data transparency is a feature of our work.

Finally, the creation of a new vacant building receivership action can be an important tool for bringing vacant properties back into productive use. Enhanced cooperation with the Office of the Attorney General (OAG) would involve sharing lists of properties failing to meet registration requirements for compliance. This cooperation will address properties, for example vacant for a certain number of months. However, this would require extended iterative collaboration with OAG to determine what this would look like in practice.

While DOB supports the intent of this legislation, we have some suggestions we believe will strengthen it.

First, expediting and prioritizing permit reviews for vacant properties would heavily impact the operations of DOB's Office of Construction and Building Standards (OCBS). It is crucial that other customers' permits are still issued in a timely manner, and we are concerned if OCBS would have the necessary capacity to do so under this legislative proposal. Equity is also a concern; we question the fairness of letting owners whose properties have fallen into extended vacancy or disrepair a "jump" to the front of the permit line. I will note that DOB continues to examine and implement ways to improve the efficiency of all operations, and permitting remains one of our main areas of focus for all projects.

Secondly, the current process allows 30 days for owners to start the process of registering a building as vacant. DOB is in support of keeping this timeline. However, this legislation, as currently drafted, would extend that timeline to 180 days during which time the property may likely sit untouched, and DOB will also, more than likely, continue to receive complaints of inaction. This adds an administrative burden without the benefit of being able to point to a clear path for enforcement. DOB shares with Council the desire to push such properties into productive use. Therefore, allowing for a six-month waiting period slows down our ability to act

and decelerates the process of converting properties into productive use. Additionally, once the owner registers their property or applies for an exemption, another 30 days would be added on to allow for our inspections and vacancy determinations. Finally, if the property is determined to be vacant, the property owners would still have an entire year of automatic tax relief, which disincentivizes them to quickly bring the property back to productive use, or to take any of the actions that qualify for tax exemption, such as selling or renovating the property. Such a change may frustrate residents who are complaining to us and not seeing enforcement take place. While this provision is envisioned as helping owners dealing with legitimate hardships, we believe this can be accomplished through other means which I will expound upon below.

Thirdly, DOB requests that multifamily buildings continue to be defined as “three or more” units as opposed to the “two or more” definition outlined in the legislation. The existing “three or more” rule is consistent with industry standards in the International Building Code and International Residential Code developed by the International Codes Council (ICC), which is adopted by reference in the District of Columbia Municipal Regulations. Changing this definition may disrupt many existing regulations and render District law inconsistent with sister jurisdictions and with industry standards, increasing confusion and burden for the District and for businesses seeking to comply with our laws.

Moreover, we feel that additional requirements to deliver new vacant property information to Council in the form of a new report is duplicative and is satisfied already as DOB has a statutory requirement to send the Council a Strategic Enforcement Plan every three years and an Annual Enforcement Report yearly. These reports already address vacant buildings. Any additional reporting requirements should be integrated into those existing frameworks. Otherwise, a new report would unnecessarily require heavy amounts of staff time for data

collection and modeling, report creation, and review and approval processes. This would pull our team away from our primary mission-oriented work. DOB prides itself on transparency and will continue to provide the data and qualitative content that District residents, businesses, and visitors deserve.

Finally, as alluded to above, I am very interested in creating a more open-ended and definable hardship exemption that DOB can grant indefinitely and at our own discretion to any owner who demonstrates a legitimate and defensible need. This is a valuable flexibility measure that DOB could use in a variety of situations based on definable and defensible criteria which could protect the owners of certain properties where there is demonstrable hardship not of their own making. The current state and the bill's introduced provisions on exemptions are too limited to address these needs. If a broader DOB exemption ability were incorporated into this legislation, it would also address the spirit of the proposed year of vacancy with no tax consequences while ensuring there is proper oversight and tracking of vacant properties. Further, this broader type of exemption could specifically address areas where there are concentrated areas of commercial vacancy due to a variety of factors including the long-term impacts of the COVID-19 pandemic. This will allow DOB to avoid penalizing property owners Downtown and around the city who are otherwise acting in good faith. Giving us a broader ability to grant exemptions allows us to operate more holistically and with discretion to help DC's Comeback. DOB is eager to collaborate with the Council and our other partners to determine how an owner could qualify for this exemption to ensure safety and fairness remains paramount.

Conclusion

We urge the Council to consider these proposed adjustments in the markup period for this legislation. Despite our concerns with certain provisions, DOB believes this legislation presents several positive steps forward. A continued dialogue about responsibilities and code updates—in collaboration with the Council and other agencies—is critical to ensure the District becomes an even better place to live, work, and play for residents, businesses, and visitors.

Thank you for inviting me to testify, and I look forward to addressing any questions today and continuing this valuable dialogue together.