

RHC PERFORMANCE OVERSIGHT QUESTIONS FY20 AND FY21, TO DATE

General Questions

1. Please provide a current organizational chart for the agency, including the number of vacant, frozen, and filled positions in each division or subdivision. Include the names and titles of all senior personnel and note the date that the information was collected on the chart.

See Attachment 1.

- a) Please provide an explanation of the roles and responsibilities of each division and subdivision and how each role and/or responsibility contributes to the mission of the agency.

The RHC is a small agency that does not have divisions and subdivisions. Instead, the RHC operates through the following 4 programs:

- **Agency Management – provides for administrative support and the required tools to achieve operational and programmatic results.**
 - **Appellate Resolution – resolves appeals by tenants and housing providers to decisions from the Rent Administrator or the Office of Administrative Hearings through written, legal decisions-making or mediation.**
 - **Rent Regulation – issues, amends, and rescinds rules and procedures for the administration of the Act and for the resolution of disputes arising under the Act.**
 - **Rent Adjustments – Annually publishes a certified notice of allowable adjustments for covered rents.**
- b) Please provide a narrative explanation of any changes to the organizational chart made during the previous year.

Pursuant to A22-0492, the Rental Housing Commission Independence Clarification Amendment Act of 2018, the organization chart identifies Commission members as administrative judges instead of commissioners. The Chairperson, in coordination with DCHR, also announced a Clerk of the Court vacancy at a grade 13 to justify the additional work the incumbent would be expected to perform and to bring parity with similar positions at the Contract Appeals Board and the Office of Administrative Hearings. The Commission also filled its vacant Attorney Advisor position on November 12, 2019.

- c) Please provide your most current strategic plan and identify each goal and strategy. Explain how each division and subdivision contributes to that plan.

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2. Please provide a current Schedule A for the agency which identifies each position by program and activity, with the employee's title/position, salary, fringe benefits, and length of time with the agency. Please note the date that the information was collected. The Schedule A should also indicate if the position is continuing/term/temporary/contract or if it is vacant or frozen. Please separate salary and fringe and indicate whether the position must be filled to comply with federal or local law.

See Attachment 2.

3. Please list all employees detailed to or from your agency. For each employee identified, please provide the name of the agency the employee is detailed to or from, the reason for the detail, the date of the detail, and the employee's projected date of return.

The RHC does not have any employees detailed to or from our agency.

4. Please provide the Committee with:
 - a) A list of all employees who received or retained cellphones, personal digital assistants, notebooks, laptops, iPads or similar communications devices at agency expense during any part of FY20 and FY21, to date; and the annual cost to the agency for each device;

Three (3) members of the Commission, the General Counsel and the Clerk of Court received a government-issued cellphone.

- b) A list of all vehicles owned, leased, or otherwise used by the agency and to whom the vehicle is assigned, as well as a description of all vehicle accidents involving the agency's vehicles in FY20 and FY21, to date;
The Commission does not own, lease, or use any vehicles.
 - c) A list of travel expenses and reimbursements, arranged by employee for FY20 and FY21, to date, including the justification for travel; and

The Commission incurred the following travel expenses in FY20:

Judge Lisa M. Gregory in FY20, so she could participate in the National Association of Women Judges 41th Annual Conference in Los Angeles, California. Travel expenses (registration, travel costs, hotel) totaled \$2,482.55.

- d) A list of the total workers' compensation payments paid in FY20 and FY21, to date, including the number of employees who received workers' compensation payments, in what amounts, and for what reasons.

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There were no workman’s compensation payments paid in FY20 and FY21, to date.

5. For FY20 and FY21, to date, what was the total cost for mobile communications and devices, including equipment and service plans?

In FY20, the agency’s cost for mobile communications and devices was approximately \$6,576. In FY21, to date, the costs are estimated at \$3,288, but have not yet been assessed.

6. For FY20 and FY21, to date, please detail all intra-District transfers to or from the agency.

In FY20, the agency had intra-District charges related to the purchase card of \$11,399, and \$12,896 with OCTO.

In FY21, to date, the agency has advanced \$15,172 to OCTO for IT Services, \$7,871 to DCHR and \$20,438 for the use of the purchase card.

7. For FY20 and FY21, to date, please identify any special purpose revenue funds maintained by, used by, or available for use by the agency. For each fund identified, provide:
- a) The revenue source name and code;
 - b) The source of funding;
 - c) A description of the program that generates the funds;
 - d) The amount of funds generated by each source or program;
 - e) Expenditures of funds, including the purpose of each expenditure; and
 - f) The current fund balance.

The RHC did not maintain, use or have any special purpose revenue funds available for use in FY20 and FY21, to date.

8. For FY20 and FY21, to date, please list any purchase card spending by the agency, the employee making each expenditure, and the general purpose for each expenditure.

FY 2020

Date	Purchase	Vendor	Cost	Authorized User
11/15/2019	General Office Supplies	Standard Office Supplies	1,528.52	LaTonya Miles
01/13/2020	Notebooks, Dividers and Supplies	Staples	358.57	LaTonya Miles
01/28/2020	Postal Stamps (No Postage Meter)	U.S. Postal Service	275.00	LaTonya Miles
02/07/2020	Training: Rising Leaders – Daniel Mayer	Leadership Greater Washington	3,000.00	LaTonya Miles

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02/11/2020	Occupational Forensic Psychiatry	Dr. David Fisher	5,000.00	LaTonya Miles
05/13/2020	Copier Paper	Standard Office Supplies	359.94	LaTonya Miles
07/24/20	Telework Office Supplies	Staples	516.66	LaTonya Miles
08/17/2020	Copier Paper	Standard Office Supplies	359.94	LaTonya Miles

FY 2021

Date	Purchase	Vendor	Cost	Authorized User
11/20/2020	General Office Supplies	Staples	184.16	LaTonya Miles
02/16/21	Laptops	Apple	6,691.00	LaTonya Miles

9. Please list all memoranda of understanding (“MOU”) entered into by your agency during FY20 and FY21, to date, as well as any MOU currently in force. For each, indicate the date on which the MOU was entered and the termination date.

In FY20, the Commission entered an MOU with OCTO, in the amount of \$20,334.83, to obtain technology-related services and support. The MOU terminated on September 30, 2020.

As for FY21, to date, the Commission entered an MOU with OCTO, in the amount of \$15,172, to obtain technology-related services and support. The MOU will terminate on September 30, 2021.

The Commission also entered an MOU with DCHR, in an amount of \$7,871, to obtain human resources support. The MOU will terminate on September 30, 2021.

10. Please list the ways, other than MOU, in which the agency collaborated with analogous agencies in other jurisdictions, with federal agencies, or with non-governmental organizations in FY20 and FY21, to date.

The Commission has not collaborated with analogous agencies in other jurisdictions, with federal agencies, or with non-governmental organizations in FY20 or FY21, to date.

11. Please provide a table showing your agency’s Council-approved original budget, revised budget (after reprogrammings, etc.), and actual spending, by program and activity, for FY19, FY20, and the first quarter of FY21.

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- a) For each program and activity, please include total budget and break down the budget by funding source (federal, local, special purpose revenue, or intra-district funds).

See Attachment 3.

- b) Include any over- or under-spending. Explain any variances between fiscal year appropriations and actual expenditures for FY20 and FY21 for each program and activity code.

See Attachment 3.

- c) Attach the cost allocation plans for FY20 and FY21.

Not applicable to RHC.

- d) In FY20 or FY21, did the agency have any federal funds that lapsed? If so, please provide a full accounting, including amounts, fund sources (e.g. grant name), and reason the funds were not fully expended.

Not applicable to RHC-- RHC does not have any federal grants.

- 12. Please provide as an attachment a chart showing the agency's federal funding and expenditures by program for FY19, FY20 and FY21, to date.

The Commission is not supported by any federal funds.

- 13. With respect to capital projects, please provide:

- a) A list of all capital projects in the financial plan.
- b) For FY19, FY20, and FY21, an update on all capital projects under the agency's purview, including a status report on each project, the timeframe for project completion, the amount budgeted, actual dollars spent, and any remaining balances, to date.
- c) An update on all capital projects planned for FY21, FY22, FY23, FY24, and FY25.
- d) A description of whether the capital projects begun, in progress, or concluded in FY19, FY20, or FY21, to date, had an impact on the operating budget of the agency. If so, please provide an accounting of such impact.

The Commission does not have any capital projects.

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14. Please provide a list of all budget enhancement requests (including capital improvement needs) for FY20 and FY21, to date. For each, include a description of the need and the amount of funding requested.

The Rental Housing Commission did not request any budget enhancements for FY20 or FY21, to date.

15. Please list, in chronological order, each reprogramming request and each reprogramming in FY20 and FY21, to date, that impacted the agency, including those that moved funds into the agency, out of the agency, and within the agency. Include the revised, final budget for your agency after the reprogrammings for FY20 and FY21, to date. For each reprogramming, list the date, amount, rationale, and reprogramming number.

In FY20, the Mayor's Supplemental Budget request reprogrammed \$64,700 from RHC to other District-wide needs.

In FY21, the only reprogramming processed to date is as follows:

- **REPROG-305 12/2/2020 Reprogram \$11,000 from training to equipment to refresh RHC laptops to support telework.**

16. Please list each grant or sub-grant received by your agency in FY20 and FY21, to date. List the date, amount, source, purpose of the grant or sub-grant received, and amount expended.
- a) How many FTEs are dependent on grant funding? What are the terms of this funding? If it is set to expire, what plans, if any, are in place to continue funding the FTEs.

The Commission did not receive any grants or subgrants in FY20 or FY21, to date. No FTE at the Commission is dependent on grant funding.

17. Please list each contract, procurement, and lease, entered into, extended, and option years exercised by your agency during FY20 and FY21, to date. For each contract, please provide the following information, where applicable:
- a) The name of the contracting party;
 - b) The names of the individual principals constituting that contracting party;
 - c) The nature of the contract, including the end product or service;
 - d) The dollar amount of the contract, including amount budgeted and amount actually spent;
 - e) The term of the contract;
 - f) Whether the contract was competitively bid and/or the explanation for it being non-competitive or sole source;
 - g) The name of the agency's contract monitor and the results of any monitoring activity; and
 - h) The funding source.

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In FY20, the Commission used its purchase card to procure services and goods in the amount of \$9,511.54. In FY20, the Commission procured services and goods by entering purchase orders with Midtown Personnel (approximately \$59,800) Xerox (approximately \$6,708.00) and Summer Interns (Caitlin Conflenti and Sarah Schwietz in the amount of \$5,000.00 each). All funds are local.

In FY21, to date, the Commission spent \$6,875.16 on its purchase card, and entered purchase orders with Xerox for \$6,507.00 and Lexis for \$3,240.00. All funds are local.

18. Please list all pending lawsuits that name the agency as a party. Identify which cases on the list are lawsuits that potentially expose the District to significant financial liability or will result in a change in agency practices, and describe the current status of the litigation. Please provide the extent of each claim, regardless of its likelihood of success. For those identified, please include an explanation about the issues involved in each case.

The agency is not a party to any lawsuit.

Shari Acosta, former Staff Assistant at the Commission, however, has an active lawsuit against the District of Columbia Government in the D.C. Court of Appeals. On February 9, 2021, Ms. Acosta appealed Superior's Court's order granting the District of Columbia's motion for summary judgment in Shari Acosta v. District of Columbia et al., 2018 CA 005008, filed July 13, 2018 (complaint for employment discrimination)).

Ms. Acosta's generally alleges that she was discriminated against and subjected to a hostile work environment based on family obligations and disability, retaliated against for reporting said discrimination, and denied leave she was entitled to under the D.C. Family and Medical Leave Act.

Ms. Acosta also has an active lawsuit against the District of Columbia Government in the United States District Court for the District of Columbia. She filed that lawsuit in May 2020. Shari Acosta v. District of Columbia, et al., 20-CV-01189. Ms. Acosta alleges that her termination from employment was retaliatory for her past complaints of discrimination, etc.

19. Please list all settlements entered into by the agency or by the District on behalf of the agency in FY20 or FY21, to date, and provide the parties' names, the amount of the settlement, and if related to litigation, the case name and a brief description of the case. If unrelated to litigation, please describe the underlying issue or reason for the settlement (e.g. administrative complaint, etc.)

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Neither the Commission nor the District entered into any settlement agreements on the Commission's behalf in FY20 or FY21, to date.

20. Please list the administrative complaints or grievances that the agency received in FY20 and FY21, to date, broken down by source. Please describe the process utilized to respond to any complaints and grievances received and any changes to agency policies or procedures that have resulted from complaints or grievances received. For any complaints or grievances that were resolved in FY20 or FY21, to date, describe the resolution.

In FY20, the Commission received an inquiry from AFGE 2725 on behalf of Ms. Acosta. The inquiry questioned the Commission's basis for excluding the Staff Assistant position currently occupied by Ms. Acosta from the union. The Office of Labor Relations and Collective Bargaining responded on the Commission's behalf and explained the exclusion was proper because the Staff Assistant's role in the newly-independent agency is "sufficiently involved in labor relations and policy formation matters." The Commission also received notice that Ms. Acosta filed a related complaint with the Public Employee Relations Board (PERB) on February 25, 2020. Ms. Acosta filed the complaint with PERB against the Commission and AFGE 2725 for allegedly committing unfair labor practices when she was "removed" from the union.

The Commission also received two complaints from the Office of Employee Appeals (OEA). The first complaint, dated December 16, 2019, indicates that Shari Acosta, appealed a 20-day suspension without pay. The second complaint, dated June 3, 2020, indicates that Ms. Acosta appealed her termination. The Commission answered both complaints and designated the Office of the Attorney General to represent the Commission in any related proceedings. On February 25, 2020, OEA issued a decision reversing the 20-day suspension without pay.

21. Please describe the agency's procedures for investigating allegations of sexual harassment or misconduct committed by or against its employees. List and describe any allegations received by the agency in FY20 and FY21, to date, whether or not those allegations were resolved.

The Commission follows the policy, guidance, and procedures outlined for District agencies that are outlined in Mayor's Order 2017-313, dated December 18, 2017.

During FY20, Shari Acosta, former Staff Assistant, casually accused the Chairperson of sexual harassment on October 21, 2019 and referenced the Chairperson sexually harassing her again on January 22, 2020. On both October 21, 2019 and January 22, 2020, the Chairperson immediately encouraged Ms. Acosta to report her concerns to the Office of Human Rights. The Chairperson also reported the October 2019 incident to the Office of Human Rights himself. To the Commission's knowledge, Ms. Acosta never filed a complaint with the Office of Human Rights officially alleging the Chairperson of sexual harassment.

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The Commission did not receive any sexual harassment or misconduct allegations in FY21, to date.

22. Please list and describe any ongoing investigations, audits, or reports on the agency or any employee of the agency, or any investigations, studies, audits, or reports on the agency or any employee of the agency that were completed during FY20 and FY21, to date.

There are no ongoing investigations, audits or reports on the Commission or any Commission employee.

A report was made to The Board of Ethics and Government Accountability (BEGA) that members of the RHC requested and collected money for food from the staff. In FY21, BEGA conducted an informal investigation pursuant to the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 (“Ethics Act”), effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01, et seq.) and determined that there was not a violation of the Code of Conduct. BEGA closed the investigation.

23. Please describe any spending pressures or any reimbursements pursuant to contract or other obligations where remitting reimbursement exceeded thirty (30) days the agency experienced in FY20 and any anticipated spending pressures for the remainder of FY21. Include a description of the pressure and the estimated amount. If the spending pressure was in FY20, describe how it was resolved, and if the spending pressure is in FY21, describe any proposed solutions.

The Commission has not had any spending pressures in FY20 and does not anticipate any in FY21, to date.

24. Please provide a list of all studies, research papers, reports, and analyses that the agency prepared or contracted for during FY20 and FY21, to date. Please state the status and purpose of each. Please submit a hard copy to the Committee if the study, research paper, report, or analysis is complete.

The Commission’s performance measures for FY21, to date, were recently reported to the Office of the City Administrator.

25. Provide a list of all publications, brochures and pamphlets prepared by or for the agency during FY20 and FY21 to date.

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The Commission does not maintain a list of publications. The Commission generally publishes decisions, orders, and notices on the following sites:

Lexis Advance (paid legal research service); RHC website (public access); and Office of Open Government meeting calendar (public access).

26. Please provide a copy of the agency's FY20 performance plan. Please explain which performance plan objectives were completed in FY20 and whether they were completed on time and within budget. If they were not, please provide an explanation.

The Commission started working with the Office of the City Administrator in June 2019 to develop a performance plan. Due to the tight deadline to finalize the performance plan for FY20, the Commission did not submit an FY20 performance plan to the Office of the City Administrator. On January 2021, the Commission submitted its data relating to performance metrics for the first quarter of FY21.

27. Please provide a copy of your agency's Strategic Plan for FY20 and FY21.

The agency intends to develop a Strategic Plan for FY21 in the near future.

28. Please provide the number of FOIA requests for FY20 and FY21, to date, that were submitted to your agency. Include the number granted, partially granted, denied, and pending. In addition, please provide the average response time, the estimated number of FTEs required to process requests, the estimated number of hours spent responding to these requests, and the cost of compliance.

The Commission did not receive any FOIA requests for FY20 or FY21, to date.

29. Please provide a copy of your agency's FY21 performance plan as submitted to the Office of the City Administrator and any accomplishments pursuant to that plan.

The Commission started working with the Office of the City Administrator in June 2019 to develop a performance plan. Due to the tight deadline to finalize the performance plan for FY20, the Commission did not submit an FY20 performance plan to the Office of the City Administrator. On January 2021, the Commission submitted its data relating to performance metrics for the first quarter of FY21.

30. Please separately list each employee whose salary was \$100,000 or more in FY20 and FY21, to date. Provide the name, position number, position title, program, activity, salary, and fringe. In addition, state the amount of any overtime or bonus pay received by each employee on the list.

Please see Attachment 2.

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There was no bonus paid during the stated period. For overtime, please see question 31, below.

31. Please list in descending order the top 25 overtime earners in your agency in FY20 and FY21, to date. For each, state the employee’s name, position number, position title, program, activity, salary, fringe, and the aggregate amount of overtime pay earned.

No overtime has been worked in FY21 to date. In FY20, the following is the only overtime expenditure.

Position Number	Title	Name	Salary	Fringe	Program	Activity	Overtime Earned
99890	Rental Property Program Spec	Greer, Dorothy	122,227.00	26,889.94	9100	9110	264.43

32. For FY20 and FY21, to date, please provide a list of employee bonuses or special pay granted that identifies the employee receiving the bonus or special pay, the amount received, and the reason for the bonus or special pay.

No RHC employee received a bonus or special pay award in FY 20 or FY21, to date.

33. Please provide each collective bargaining agreement that is currently in effect for agency employees. Please include the bargaining unit and the duration of each agreement. Please note if the agency is currently in bargaining and its anticipated completion.

Attachment 4, the Non-Compensation Collective Bargaining Agreement between the District of Columbia Government and AFGE, Local 2725, covering Compensation Units 1 and 2, dated December 13, 1988, effective through September 30, 1990.

Attachment 5, The Compensation Collective Bargaining Agreement between the District of Columbia Government and AFGE, Local 2725, covering Compensation Units 1 and 2.

34. If there are any boards or commissions associated with your agency, please provide a chart listing the names, confirmation dates, terms, wards of residence, and attendance of each member. Include any vacancies. Please also attach agendas and minutes of each board or commission meeting in FY20 or FY21, to date, if minutes were prepared, or the explanation why minutes were not prepared to not available. Please inform the Committee if the board or commission did not convene during any month.

There are no boards or commissions associated with the Commission.

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35. Please list all reports or reporting currently required of the agency in the District of Columbia Code or Municipal Regulations. Provide a description of whether the agency is in compliance with each requirement, and if not, why not (e.g. the purpose behind the requirement is moot, etc.).

The Commission is not subject to any reporting requirements.

36. Please provide a list of any training or continuing education opportunities made available to agency employees. For each additional training or continuing education program, please provide the subject of the training, the number of agency employees that were trained, the names of the trainers, and the total cost of each, if a procurement was made, the name of the contractor and the basis for the non-competitive award, if applicable.

The Department of Human Resources' Center for Learning & Development (CLD) coordinates numerous training programs and activities for District government agencies and employee. Employees at the Commission have received training in several areas. Information regarding the subject of the various trainings, the names of the trainers, and the number of Commission employees that were trained can be found by contacting that office.

Further, attorneys at the Commission occasionally receive invitations to attend trainings conducted or sponsored by the Office of the Attorney General, including on-demand, online trainings through the Practicing Law Institute.

Judge Lisa M. Gregory participated in the National Association of Women Judges 41st (FY20) Annual Conferences. \$2,482, including out of town travel.

Chief Judge Michael Spencer participated in the American Bar Association's Annual Conference in San Francisco, California (FY20). \$274

General Counsel Daniel Mayer participated in the Leadership Greater Washington's Rising Leaders Program (FY21). \$3,000

Chief Judge Michael Spencer, Judge Rupa Ranga Puttagunta, General Counsel Daniel Mayer, and Attorney Xavier Edwards participated in the American Bar Association's Administrative Law Conference in Washington, DC (FY20). \$429 each

37. Does the agency conduct annual performance evaluations of all its employees? Who conducts such evaluations? What steps are taken to ensure that all agency employees are meeting individual job requirements?

Yes, the Chairperson regularly informs employees of their performance.

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Employees are evaluated following the process established by the Department of Human Resources. An overall performance rating is a culmination of the ratings assigned to each performance expectation.

The process for evaluating agency attorneys is set forth in Chapter 36 (Legal Service) of the District Personnel Manual (DPM) and included coordination between each agency, the Mayor's Office of Legal Counsel (MOLC) and the Department of Human Resources (DCHR), as appropriate.

38. Does the agency conduct annual performance evaluations of all its employees? Who conducts such evaluations? What steps are taken to ensure that all agency employees are meeting individual job requirements?

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Employees are evaluated following the process established by the Department of Human Resources. An overall performance rating is a culmination of the ratings assigned to each performance expectation.

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39. Has the commission personnel changed during your leadership? If so, please explain the changes in terms of job title, responsibility and authority, compensation and performance of the agency.

Yes.

Current Staff

Michael T. Spencer

- Title changed from Chairperson and Commissioner to Chairperson and Chief Administrative Judge.
- Salary changed from \$155,804 to \$170,251.
- The RHC's administrative head and personnel authority.

Lisa M. Gregory

- Became a member of RHC in January 2018.
- Title changed from Commissioner to Administrative Judge.
- Salary changed from \$142,298 to \$155,492.
- One of three judges at the Commission.

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Rupa Ranga Puttagunta

- **Became a member of RHC in January 2019.**
- **Title changed from Commissioner to Administrative Judge.**
- **Salary changed from \$142,298 to \$155,492.**
- **One of three judges at the Commission.**

Daniel Mayer

- **Promoted from Attorney Advisor (13) to General Counsel. Corresponding pay salary from \$123,492 to \$126,666.**
- **Promoted from Attorney Advisor (12) to Attorney Advisor (13). Corresponding pay change from \$93,744 to \$121,308.**
- **The RHC's chief lawyer.**

Xavier Edwards

- **Hired as Attorney Advisor in November 2019.**
- **Salary of \$100,766.**
- **Temporarily detailed from Attorney Advisor to Special Assistant to the Chairperson in December 2020. Corresponding pay change from \$100,766 to \$103,667.**

Dorothy Grier

- **Title changed from Rental Property Program Specialist to Mediator in late 2020.**
- **The RHC's sole mediator.**

LaTonya Miles

- **Promoted from Clerk of the Court (12) to Clerk of the Court (13) in October 2019. Corresponding salary change from \$79,370 to \$97,899.**
- **Maintains court records and official files and authenticates copies of the RHC's orders and judgments.**

Al-Alim Musawwir

- **Hired as Program Assistant in October 2020 at \$50,207.**
- **Provides programmatic and clerical assistance to the RHC.**

Former Staff

Toya Carmichael

- **Hired as Attorney Advisor in October 2018.**
- **Separated from RHC as Attorney Advisor in February or March 2019.**

Diana Harris Epps

- **Separated from RHC as Commissioner in July 2018.**

Peter Szegady-Maszak

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- Separated from RHC as Commissioner in early 2018.

Shari Acosta

- Separated from RHC as Staff Assistant in May 2020.

Racial Equity Questions

1. In the context of your agency and its mission, what are three areas, programs, or initiatives where you see the most opportunity to address racial inequity
 - **Legal Intern Recruitment**
 - **Community Outreach and Education**
2. Do you think there are any areas/programs where your department has had some success in building racial equity over the past year? Which areas/programs?

The Rental Housing Act applies generally to all rental housing and its rent stabilization provisions apply to buildings based on size and age and does not specifically address race issues. The RHC recognizes that non-white residents of the District are more likely to be renters instead of homeowners, and, to that extent, enforcement of the Act's numerous tenant protections likely has an impact on racial inequity by preserving stability and affordability for communities of color. The RHC also gives particular attention and consideration when parties before it are unrepresented by legal counsel, which may often occur where there are language, cultural, or economic barriers.

However, the RHC did not identify racial equity as a focus point for its operations over the past year. The RHC will discuss how its operations might contribute to racial inequity.

3. Consider the demographic data your department collects, tracks, and evaluates as part of its operations and as part of its performance plan:
 - a. Do you collect information on race and geographic area? If not, why not?

The RHC does not track or evaluate demographic data of any kind. The RHC has historically noted the Ward number of the housing accommodation at issue in its decisions, but has not tracked or evaluated that data. The RHC will, however, discuss if it should and how it could begin to collect voluntary demographic data as a part its operations and as a part of its performance plan.

4. What legal barriers (if any) do you face as an agency to advancing racial equity or better understanding racial inequity?

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The RHC's primary role as an adjudicatory body is not appropriate for explicit consideration of racial equity. Deciding rights, responsibilities, and remedies between individual parties must be based on impartial application of law and factoring in race would likely be illegal under the Human Rights Act and Fair Housing Act and unconstitutional under the 5th and 14th Amendments.

Similarly, the RHC is an equal opportunity employer and must abide by relevant civil rights and non-discrimination law in its hiring and other employment actions.

5. In your proposed FY22 budget, are there specific programs or allocations that are specifically designed to address racial or economic inequities faced by District residents? In detail, please describe how these efforts address those inequities.

No.

6. Consider one operational data point and one performance data point where you collect race information or could collect race information. How could your department use this data to inform future programmatic decisions?

The RHC does not have enough information to fully answer this question. One data point that the RHC could consider might be the number or percentage of law students from racial minority backgrounds that it attracts, recruits, interviews and/or onboards as interns or law clerks. The RHC could use this data point to understand the strengths and weaknesses of its current recruitment approach and adjust it to ensure there is racial equity in the internship opportunity.

7. What are two areas/programs where your department has significant potential to succeed in building racial equity? Please elaborate on why you chose those areas.

The RHC's internship program is one potential area where it has significant potential to succeed in building racial equity. Internships offer law students with insight and foundational experience that can help them gain clarity, confidence and experience. Students also learn to network and compete against their peers in the workforce. White/Caucasians make up 86% of the active attorneys in the United States. Therefore, these opportunities are particularly important to students from racial minority backgrounds because they are less likely to have established networks to help them navigate the ins and outs of the legal profession.

The RHC does not have sufficient information to identify a second area where it has significant potential to succeed in building racial equity.

8. Consider what a racially equitable District of Columbia would look like, and please describe ways your agency's operations would reflect this achievement.

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The RHC could reflect a racially equitable District of Columbia in numerous ways, including but not limited to:

- Using vendors who are racial minorities or support racial equity issues;
 - Outreach to individuals and organizations that are run by or designed to support housing rights for racial minorities;
 - Require all staff to participate in on-going training sessions about equity, bias, inclusion and race and racism in DC and beyond and
 - Focus on attracting, recruiting, interviewing and onboarding interns or law clerks from racial minority backgrounds.
9. What are three metrics that your agency could use to measure progress toward racial equity? These could be metrics you currently track or new metrics. (Examples include: licenses or permits issued/denied, professional development or advancement opportunities granted/denied, fine or fee enforcement/forgiveness, etc.,—all by race and/or geographic areas).
1. The RHC could attempt to track voluntary demographic information of parties filing appeals and attempt to identify any correlation between race and prevailing in litigation.
 2. The RHC could develop guidance in multiple languages and track the number of publications and requests for published materials in various languages.
 3. The could attempt to track voluntary demographic information of law student intern applicants.

Agency-Specific Questions

1. Please provide a list of the Commission's accomplishments for FY20 and FY21, to date.

The following list denotes the Commission's accomplishments for FY20:

1. New Agency
2. Reclassification
3. New Attorney Hire
4. First Draft of Proposed Rulemaking
5. Performance Metric Development
6. Case Disposition Standards
7. Virtual Operation
8. Partnerships with Other Agencies

The following list denotes the Commission's accomplishments for FY21, to date:

1. New Program Support Staff Hire
2. Second Draft of Proposed Rulemaking

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- 3. Virtual Operation**
- 4. Enhanced Partnerships with Other Agencies**
- 5. Technology Refresh**

6. The Commission is responsible for deciding appeals to decisions of the Rent Administrator and the Office of Administrative Hearings (OAH).

a. What is the Commission’s current total appeals caseload?

Appeals awaiting Certified Record (from OAH):	2
Appeals without Scheduled Mediation Date:	0
Appeals without Scheduled Hearing Date:	0
Appeals Scheduled for Hearing:	13
Appeals Scheduled for Mediation:	4
<u>Appeals Pending Decision:</u>	<u>5</u>

Total: **24**

b. How many cases were opened by the Rental Housing Commission in FY20 and FY21, to date? Please include a breakdown of the status of those cases (e.g., number of appeals filed, appeals heard, cases settled, and cases decided)?

	<u>FY20</u>	<u>FY21</u>
Number of Appeals Filed:	5	3
Number of Appeals Heard:	0	3
Cases Settled:	1	1
Non-Dispositive Procedural Orders:	30	4
Cases Decided/Dismissed:	10	4

c. Were there any trends in the subject matter of cases filed with the Commission?

Claims of Housing Code violations, rent concessions, improper registration of housing accommodations, and retaliation against tenants continue to be common issues raised in notices of appeal. Because many of these cases remain pending, the Commission cannot comment in detail as to the issues raised.

d. Among the decisions issued, how many OAH and Rent Administrator decisions were affirmed? How many were reversed? How many were appealed? Of those cases appealed, how many RHC decisions were overturned, reversed, or remanded? How many were upheld?

<u>FY20</u>	<u>FY21</u>
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Affirmed:	3	2
Reversed:	0	0
Affirmed/Reversed/Remand in part:	2	0
<u>Dismissed by Procedural Orders:</u>	<u>4</u>	<u>2</u>
Total	9	4

All dispositive orders during FY20 and FY21 to date have been on appeals from OAH.

7. Please provide the breakdown of the types of cases brought before the Commission

The breakdown of the types of cases in which decisions were issued by the Commission in FY20 and FY21, to date are as follows:

	FY20	FY21
Tenant Petition (TP):	9	4
Notice to Vacate (NV):	1	0
Hardship Petition (HP):	0	0
Voluntary Agreement (VA):	0	0
Capital Improvement (CI):	0	0
Services and Facilities (SF):	0	0
Show Cause (SC):	0	0

8. What was the average amount of days in FY20 for the Commission to resolve a case? If relevant, please differentiate between different types of cases and stages of Commission review of cases.

FY 20 total time from hearing to decision: 344 days

a. How does this number compare to FY18? and FY19?

FY18 - 210 days

FY 19 - 293 days

b. What additional measures could the Commission take to streamline its processing of cases?

The Commission has in the past stated that it endeavors to issue decisions within 45 days of holding its hearing on a case. The Commission is in the process of taking several steps to expedite its processing of appeals. First, the Commission has recognized for some time that the existing performance goal of 45 days is unrealistic and was developed some years ago without sufficient understanding of the Commission's role and the nature of its cases. By developing realistic metrics based on industry best practices, the Commission will be better able to hold itself accountable (e.g., such as the case disposition standards adopted by the Center for State Courts, Attachment 6).

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Second, the Commission is implementing a mandatory mediation process that will hopefully resolve additional cases without a full decision-writing process by the Commission and its legal staff.

Third, the Commission is standardizing its internal process for scheduling of briefing and hearings, which has historically allowed parties to informally request delays that may become excessive.

Finally, the Commission intends to use its rulemaking process (described below) to establish a fairer, more standard schedule for briefing and oral arguments, in line with the rules of the DC Court of Appeals.

With respect to the final point, the Commission believes legislative action is warranted to assure the Commission can issue rules that are more consistent with typical appellate practice. Our recommendations are detailed at below in response to Question 47.

9. How much did the RHC spend on mediation services during FY20 and FY21 to date? How long does a typical mediation take to resolve? Do you put a deadline on them? In your answer, please briefly describe the mediation process.

RHC did not engage any external mediation services in FY20 or FY21 to date.

10. The Commission is tasked with issuing, amending, and rescinding regulations required to enforce the Rental Housing Act of 1985 (RHA). For FY20 and FY21 to date, please list and describe:
- a. The issued regulations
 - b. The amended regulations
 - c. The rescinded regulations

The Commission published a notice of proposed rulemaking (“NPRM”) on August 2, 2019. The NPRM represents the first comprehensive review of the implementing regulations under the Rental Housing Act since their initial promulgation in 1986. It is also the first rulemaking the Commission has undertaken at all since 1998, and accounts for at least 20 major, minor, and technical legislative amendments to the Rental Housing Act that have been made since then. The NPRM was published with a 90-day formal public comment period.

On or before October 31, 2019, the Commission received comments on the NPRM from several individuals and organizations. Beginning in January 2020, the Commission and its interagency partners at OAH and DHCD spent extensive time reviewing and discussing the comments received, although these discussions were interrupted for some time due to the COVID-19 situation.

On November 20, 2020, the Commission published a second NPRM. This revised version of the rules adopted many changes suggested by public commenters and made numerous

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other substantial changes and technical corrections. The Commission held a public meeting on February 5, 2021 so stakeholders could provide verbal testimony about the Second Notice of Proposed Rulemaking. The RHC also extended the deadline for written feedback to February 16, 2021. The Commission received significantly fewer comments and is in the process of reviewing them in detail.

The Commission has not taken final action to issue, amend, or rescind any regulations in FY20 or FY21, to date.

11. Where on the internet can the public access the most recent version of the Rental Housing Act regulations? Is the document searchable by title, law, key words online? How many printed pages constitute the document?

The Office of Documents and Administrative Issuances at the Office of the Secretary for the District of Columbia maintains a website that houses the District of Columbia Municipal Regulations. The website address is <https://www.dcregs.dc.gov/>. A person can find the most recent version of the Rental Housing Act regulations by selecting Rental Housing Commission in the agency field. Once selected, the website automatically links to the following 9 chapter headings:

- 14-38 Commission Operations and Procedures
- 14-39 Rental Accommodations and Conversion Division (RACD)
- 14-40 Rental Accommodations and Conversion Division (RACD) Hearings
- 14-41 Coverage and Registration
- 14-42 Rent, Base Rent, Rent Ceilings and Adjustments
- 14-43 Evictions and Retaliatory Action
- 14-44 Demolition or Conversion of Rental Housing and Relocation Assistance

On average, each heading has approximately 15 sections that are identified by distinct section heading such as motions, interest or defective registration. The RHC estimates the current rules are 116 printed pages. not know how many printed pages constitute the document.

12. What is the schedule for final promulgation of the Rental Housing Act regulations published on November 20, 2020?

The Commission is reviewing the public comments it has recently received in detail. Based on those comments and the substantive nature of any revisions, the Commission will either publish a third NPRM or a final rulemaking. The Commission will determine the schedule for either publication as soon as practical.

13. How many comments did the Commission receive on these proposed rules? From whom were the comments? What were the primary issues of concern addressed in the comments?

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The Commission received four (4) packages of comments on various aspects of the proposed rules from the following:

1. Legal Aid Society of the District of Columbia,
2. Office of the Tenant Advocate.
3. Cynthia Pols.
4. The DC Small Multifamily Owners Association

Each package of comments was different in its length and level of specificity. Most commenters focused on the substance of how rents are regulated and the terminology around “rent,” “rent charged,” “rent surcharge,” and the like. Several commenters also recommended changes to the Commission’s and RAD’s procedural rules, voluntary agreements, and eviction notices.

14. Please list out the top three concerns expressed to the Commission by: a) Tenants, b) Housing Providers, c) Management companies

Without characterizing any particular group’s priorities, the Commission sees that several issues were raised repeatedly by advocates on both the tenant and housing provider sides. The Commission received the most comments on the following 3 issues:

1. Definition and consistency of usage of terminology including rent, rent charged, rent adjustment, and rent surcharge, following rent ceiling abolition and rent concession legislation;
2. Timing for implementing rent increases; and
3. Process and standards for approval of voluntary agreements.

11. Last year, in written responses to questions asked by this committee, your agency recommended changing the filing deadlines and decision deadlines for RHC appeals. Do you still stand by these recommendations? What would the impact of these changes be on caseloads? Would you expect to see more cases appealed to the RHC? Are funds sufficient in your existing budget to accommodate any caseload changes?

Yes, the RHC recommends legislative action to extend the deadline for litigants to appeal from OAH to the RHC and to expand the RHC’s mediation program. The extended deadline would likely increase the number of appeals filed, while an enforceable mediation program would likely reduce some of the need for briefing, hearing, and deciding at least some of these. Funds are sufficient in the RHC’s existing budget to take on this additional case load.

12. Are there any other legislative changes to the Rental Housing Act of 1985 that the RHC would recommend in order to improve the effectiveness and/or efficiency of administering the act? Please describe them.

Generally speaking, updates to the Act reflecting and clarifying the role of OAH would be an improvement. Clarifications to the timing and process for claiming elderly and disability exemptions and for adjusting the rent based on those exemptions would also help

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the public and agencies. The RHC has attempted to solve some of these ambiguities through its rulemaking process, but several commenters on those rules have noted that difficulties remain.

We recognize there has been significant public interest in major substantive reform of the Act, but it would not be appropriate for the RHC to take a policy position on those issues. If the Council intends to introduce any major amendments to the Act, the RHC is pleased to offer its staff to provide informal technical and legal advice.

13. Discuss any matters related to the COVID-19 public health emergency that have affected the operations, caseloads, and cases handled by the Commission during FY20 and Y21, to date.

The RHC does not have hard data to respond to this inquiry. The RHC and its staff had to adapt to the unprecedented nature of 2020, where the world had to navigate the COVID-19 public health emergency. COVID-19 interrupted normalcy and brought stress and uncertainty. The racial and political unrest worsened the situation. The RHC is confident that anecdotal evidence would both positive and negative impacts on the operations, caseloads and cases.

14. Has the Commission given consideration to preparing draft advisory rules appropriate to guiding the Administration in times such as the current health emergency?

The Commission has not considered this matter. With that said, the Commission stands ready to assist as appropriate.