
Government of the District of Columbia



D.C. Office of the Tenant Advocate

Testimony of

Johanna Shreve
Chief Tenant Advocate

Public Hearing

**FY 2020 and FY 2021 Performance Oversight:
Office of the Tenant Advocate**

Council of the District of Columbia

Committee on Housing and Executive Administration
The Honorable Anita Bonds, Chairperson

Friday, March 5, 2021
9:00 a.m.

Via Virtual Platform

Thank you, Chairperson Bonds and members of the Committee on Housing and Executive Administration, for the opportunity to provide testimony on the DC Office of the Tenant Advocate's Fiscal Year 2020 operations and accomplishments. I am Johanna Shreve, Chief Tenant Advocate and Director of the D.C. Office of the Tenant Advocate.

I open my testimony today with a quote from former President Barack Obama's inaugural address on January 20, 2009:

"Because we have tasted the bitter swill of civil war and segregation, and emerged from that dark chapter stronger and more united, we cannot help but believe that old hatreds shall someday pass; that the lines of tribes shall soon dissolve; that, as the world grows smaller, our common humanity shall reveal itself."¹

I believe it is important to start with the conversation on racial equity because it is important to illuminate the accomplishments of the agency in this regard. Since the inception of the OTA, I have strived to ensure that this agency is reflective of the people it serves. Without hesitation, I can state that to the best of our abilities we have accomplished that goal. We have hired staff who speak

¹ Obama, Barack. "Inaugural Address." *The White House Archives: President Barack Obama*. Published by Macon Phillips, January 21, 2009. Accessed: March 4, 2021. <https://obamawhitehouse.archives.gov/blog/2009/01/21/president-barack-obamas-inaugural-address>.

Spanish, Amharic, French, and German. We have hired and *inspired* participants in the DC Summer Youth program, and we have helped them to develop skill sets that enhanced their educational and employment opportunities.

One Summer Youth participant joined the Agency's staff in 2007 and remained with us until 2012. Upon departing, he went to work for a cable company and remains employed there to this day. A second student participant joined the staff in 2019 and remains an important part of the agency today. Our success in this area I believe reflects an organizational culture that is evident in the services we provide to District residents every day -- for which I am very grateful.

Our organizational structure did not change in FY 2020. Employee tenure averages 5-10 years; last year we lost our educational coordinator to another government agency, however we were able to fill the position in-house, furthering my hiring philosophy to promote from within whenever possible.

I will now discuss the impact that the COVID-19 pandemic has had on the lives of renters in the District and on the work of the agency over this past year. As we all know, job losses have been staggering in the District as they have been across the country. According to the U.S. Census Bureau, DC's hospitality sector alone -- which includes lodging, food service, and other establishments -- lost

77,800 jobs, a 23.3 percent decline, during the one-year period between October 2019 and October 2020.²

The pandemic also had a disastrous impact on food security for many District residents. In July 2020, about 63,000 or 12 percent of all adults in the District reported living in a household where there was not enough food to eat within the last week. For households that have children, this alarming rate was twice as high – over 25 percent.³ It is easy to see from these statistics that for far too many renter households, paying the rent was simply not possible.

In response to this dire situation, the OTA pushed for emergency tenant protections and rental assistance, informed as many tenants as possible about their COVID-related rights and the availability of rental assistance, and assisted them in securing both.

I will now discuss each of the agency's four programmatic areas.

² United States Bureau of Labor Statistics, "Washington Area Employment-October 2020," Last Modified Date: December 11, 2020, Accessed March 4, 2021, https://www.bls.gov/regions/mid-atlantic/news-release/areaemployment_washingtondc.htm#:~:text=Industry%20employment,October%202020%2C%20losing%2077%2C800%20jobs.&text=Trade%2C%20transportation%2C%20and%20utility%20employment,compared%20to%203.5%20percent%20nationally.

³ Yanesia Norris, D.C. Policy Center, "Economic characteristics across D.C. students, and COVID-19," February 11, 2021, Accessed March 4, 2021, https://www.dcpolicycenter.org/publications/economic-characteristics/#_ftnref7.

Policy Branch

The agency's policy advocacy mission is to "represent the interests of tenants and tenant organizations in legislative, executive, and judicial issues including advocating changes in laws and rules. . ." ⁴ Thus, our policy branch regularly engages all three branches of government.

Legislative activity

At the outset of FY20, the agency established three legislative priorities: (1) rent control reforms (particularly regarding housing provider petitions, Voluntary Agreements, and Certificates of Assurance); (2) improving enforcement of the District's housing and property maintenance codes; and (3) residential lease reforms to better protect tenants' reasonable contractual expectations.

However, once the pandemic and its devastating impacts were clearly evident, the impacts on tenants led to more immediate priorities. The OTA provided the Committee and the Mayor's policy office with proposed legislative language for a number of emergency tenant protections, including:

- (a) A moratorium on evictions to protect public health and tenant well-being;
- (b) Moratoria on rent increases and late fees to protect tenants in financial turmoil from additional liability and uncertainty;

⁴D.C. Official Code § 42-3531.07(2)

- (c) A pause on tenant deadlines under the Rental Housing Act of 1985 and TOPA so that tenants can properly effectuate their rights;
- (d) A pause on notices of intent to vacate so that tenants whose plans to move changed once the pandemic hit were not forced to do so; and,
- (e) A refund of fees for amenities that were eliminated due to the PHE.

We appreciate the Committee's inclusion of a majority of our suggested tenant protections in its emergency package and their adoption by the full Council. We look forward to continued collaborations with the Committee as well as the executive and community partners regarding further protections that the community needs.

Some of the additional protections that the OTA advocated for but were not included were: (1) limitations on landlord entry into rental units during the PHE for non-emergency reasons to protect tenants' health; (2) break-lease rights for students who signed leases prior to campus closures that left them with no reason to move to the District; (3) an extension of the eviction moratoria beyond the end of the PHE to allow renters time to get back on their feet financially; and (4) clarifications to the rental payment plan provisions.

By no means did the pandemic bury the ongoing discussion about rent control reform. If anything, the PHE served to underscore the need to strengthen rent stabilization for moderate as well as lower income residents, and to strike a better balance between the program's twin objectives of affordability for renters

and reasonable profitability for housing providers. The OTA assisted in the drafting and research for a number of the following rent control bills, and testified generally in support of each of them with some suggestions for modification:

- (a) Act 23-608, the “Voluntary Agreement Moratorium Amendment Act of 2020”;
- (b) Emergency and Temporary legislation placing a moratorium on Certificates of Assurance (Act 23-454 and Law 23-173) (Testimony provided at public roundtable prior to introduction);
- (c) Bill 23-237, the “Rent Concession Amendment Act of 2019”;
- (d) Bill 23-873, the “Rent Stabilization Program Reform and Expansion Amendment Act of 2020”;
- (e) Bill 23-877, the “Substantial Rehabilitation Petition Reform Amendment Act of 2020”;
- (f) Bill 23-879, the “Capital Improvement Petition Reform Amendment Act of 2020”;
- (g) Bill 23-972, the “Hardship Petition Reform Amendment Act of 2020”

The OTA is pleased that the Council approved the moratoria on Voluntary Agreements and Certificates of Assurance. We hope that the remaining rent control proposals discussed will be put back on the table for consideration in the new Council Period.

The OTA also collaborated with community partners and testified in support of Bill 23-149, the “Fair Tenant Screening Act of 2019” and Bill 23-338, the “Eviction Record Sealing Authority Amendment Act of 2019.” These bills would have created more transparency and fairness in the rental application

process, and in the sealing of eviction records at Landlord and Tenant Court, respectively. In the end, the Council approved emergency and temporary legislation that included provisions from both bills.⁵ The OTA supports making that legislation permanent and urges further consideration of the stronger protections in Bills 23-149 and 23-338.

Regulatory activity

In the regulatory area, a top priority was the Rental Housing Commission's proposed rulemaking to revise the implementing regulations for the Rental Housing Act of 1985. The OTA submitted formal comments on the first proposed rulemaking in October 2019 and on a second proposed rulemaking in November 2021. Previously, at the Commission's invitation, the OTA participated in an interagency review process – which also included the Housing Provider Ombudsman, the Office of Administrative Hearings, and the Rent Administrator.

The OTA also sits as a voting member on the “Property Maintenance” Technical Advisory Group (PM-TAG). The PM-TAG is one of twenty such groups that advise the Construction Codes Coordinating Board (CCCB) regarding the triennial review of the international model construction code. The Property Maintenance Code is critical to tenant interests because it governs the

⁵ Act 23-497; Act 23-0499; Act 24-0003.

maintenance of occupied residential buildings. As the CCCB and the TAGs prepare to begin a new review cycle this year, we look forward to engaging the TAG, the Board, DCRA, and stakeholders to help improve the regulations governing building conditions for District renters.

Judicial activity

The policy branch also advises litigating attorneys inside and outside the agency on matters of statutory and regulatory interpretation, and periodically submits *amicus* briefs in support of tenant litigation.

Policy goals and priorities for FY21

The agency's six top legislative priorities for Fiscal Year 2021 are:

- (a) Extending the public health emergency (PHE) tenant protections as warranted (including improvements in the rental payment plan provision).

- (b) Rent control reform: (i) making rent control permanent rather than subject to periodic renewal so that it can become a permanent feature of the District's affordable housing strategy; (ii) limiting the standard annual rent increase to the CPI only; (iii) right-sizing the 12 percent guaranteed return rate under a hardship petition; (iv) preventing unlawful preservation of rent adjustments; (v) expanding the stock of rent control housing (with due consideration to variables such as the impact of a range of financing vehicles); and (vi) *permanently* eliminating both Voluntary Agreements and Certificates of Assurance.

- (c) Making permanent the “Fairness in Renting” emergency and temporary legislation, particularly the eviction provisions including:
 - a. The additional tenant notices including the 30-day notice for non-payment of rent cases and notice of housing provider’s intent to file an eviction action in court;
 - b. The prohibition on evictions over relatively small unpaid amounts, and where the landlord has no valid business license.
 - c. Record sealing and tenant screening legislation.

- (d) Further residential lease reform legislation – including addressing the issue of perpetual “joint and several liability” for rent and damages even after a co-tenant who has provided timely notice moves out of a group house.

- (e) Promoting policies, including at the regulatory level through the Property Maintenance TAG, that improve enforcement of the District’s building conditions regulations.

- (f) Eliminating the 30-day cap on the OTA’s ability to recoup the agency’s emergency housing costs under the agency’s statutory lien authority.

Legal Branch

Legal guidance and representation

The Legal Branch includes Case Management; the Legal Representation Section; and the Tenant Hotline Section.

In FY 2020:

- Over 6,754 tenants and tenant groups contacted the OTA for advice and assistance.

- Approximately 3,822⁶ tenants received the aid of attorney advisors, while the remaining tenants received the assistance of a paralegal or case management specialist.
- Attorney advisors provided court representation and negotiated in 25 judicial and administrative proceedings, though court closures due to the pandemic limited these occurrences.
- The Tenant Hotline has three components -- direct phone contact and our responses to “Ask the Director” and “Ask the Mayor” inquiries.

Top issues

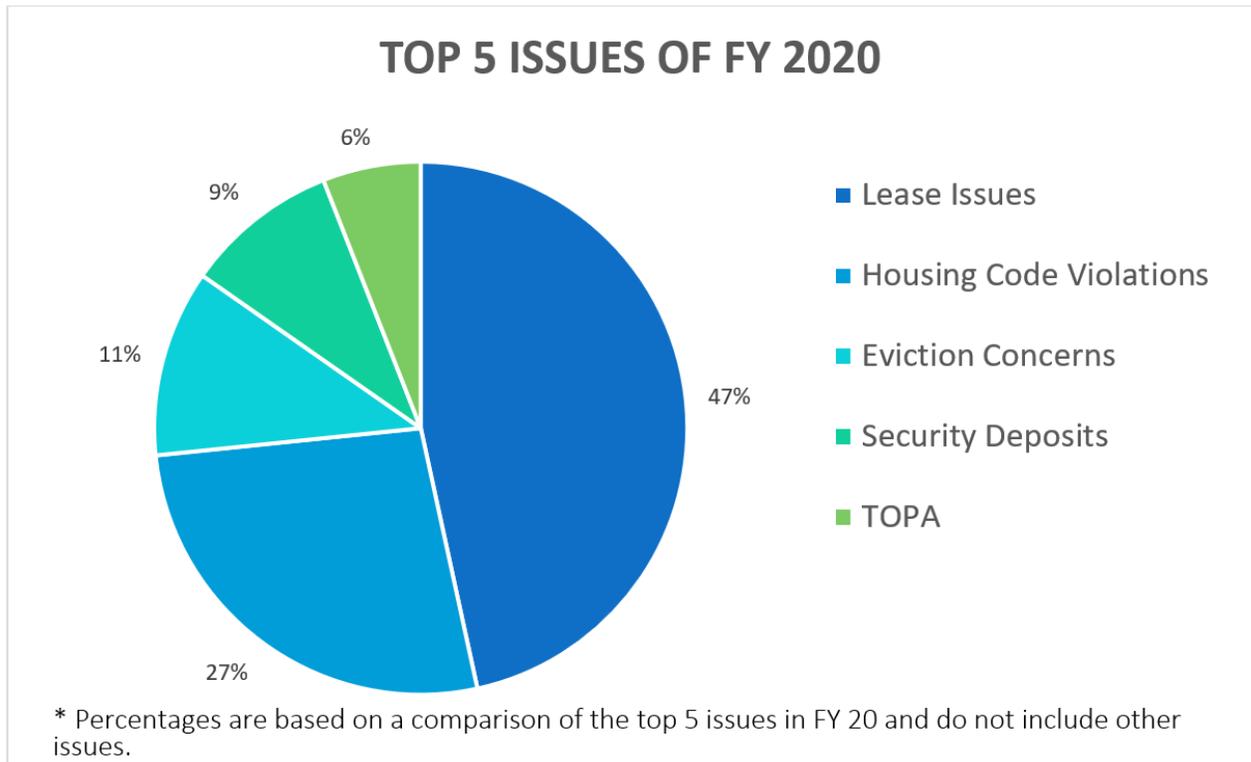


Figure 1

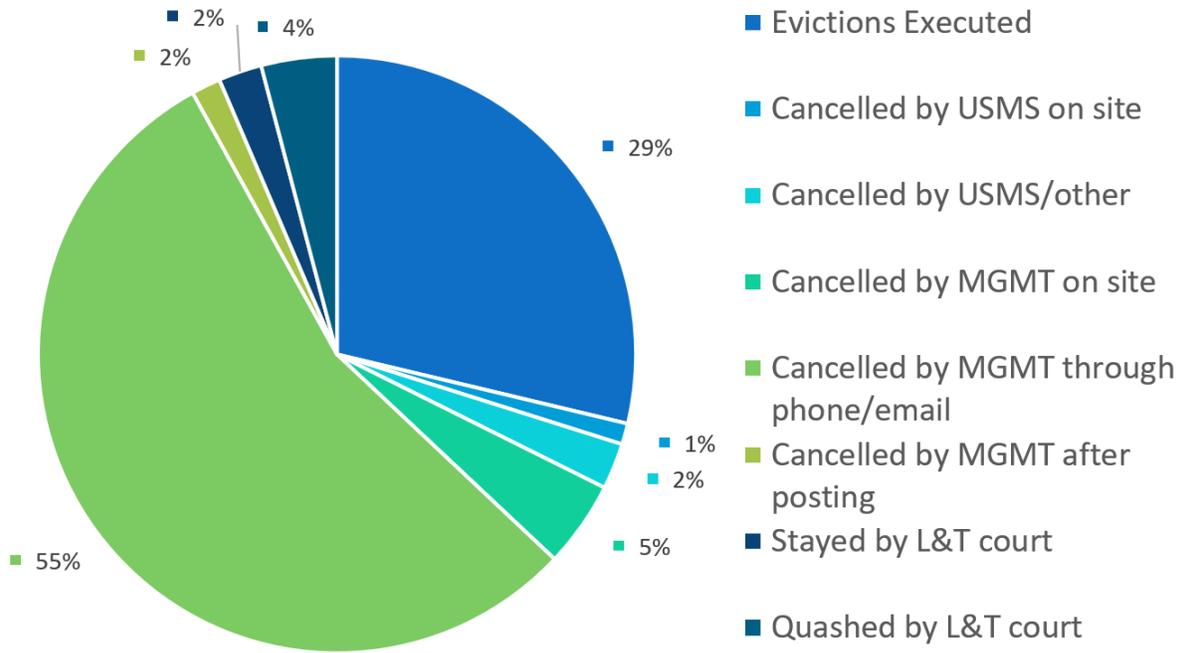
⁶ Ramona Quillet 488; Sean Treanor 579; Harrison Magy 614; Umar Ahmed 581; Johan Fatemi 628; and Shavannie Braham 630.

The most common categories of complaints filed by tenants with the Agency were:

1. Lease issues;
2. Housing code violations;
3. Eviction concerns;
4. Security deposits; and
5. TOPA.

When the OTA submitted its responses last year to the performance oversight questions, eviction concerns were the fifth most frequent category of case-intake inquiries for FY 2019. At the end of FY 2020 – or as of September 30th -- eviction concerns had risen to the third most frequent category of OTA case-intake inquiries. That is a 21 percent increase even with the District's various eviction moratoria in place. We attribute this heightened concern to the increase in job loss and tenants' anxiety that they will be unable to ever repay rent arrearages, and thus will face evictions once the eviction moratoria are lifted.

Evictions Executed* and Reasons for Eviction Cancellations** During FY 20



* Total number of evictions executed during FY 20 was 759.

** Total number of eviction cancellations, stayed, or quashed during FY 20 was 1,883.

Figure 2

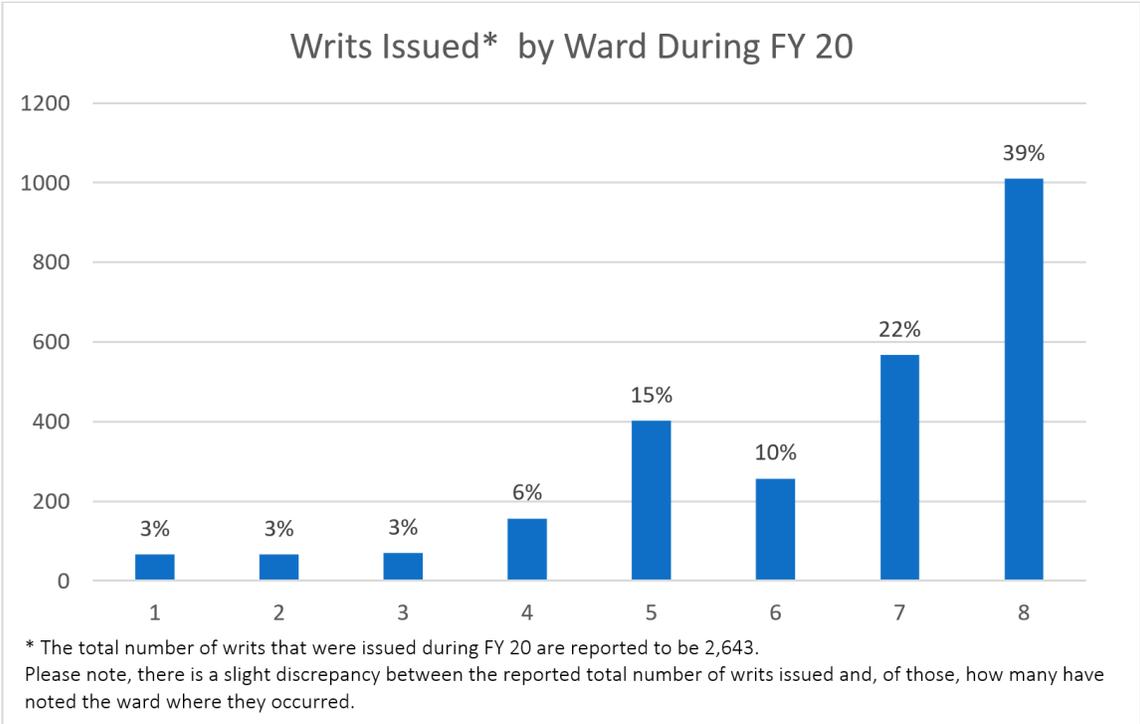


Figure 3

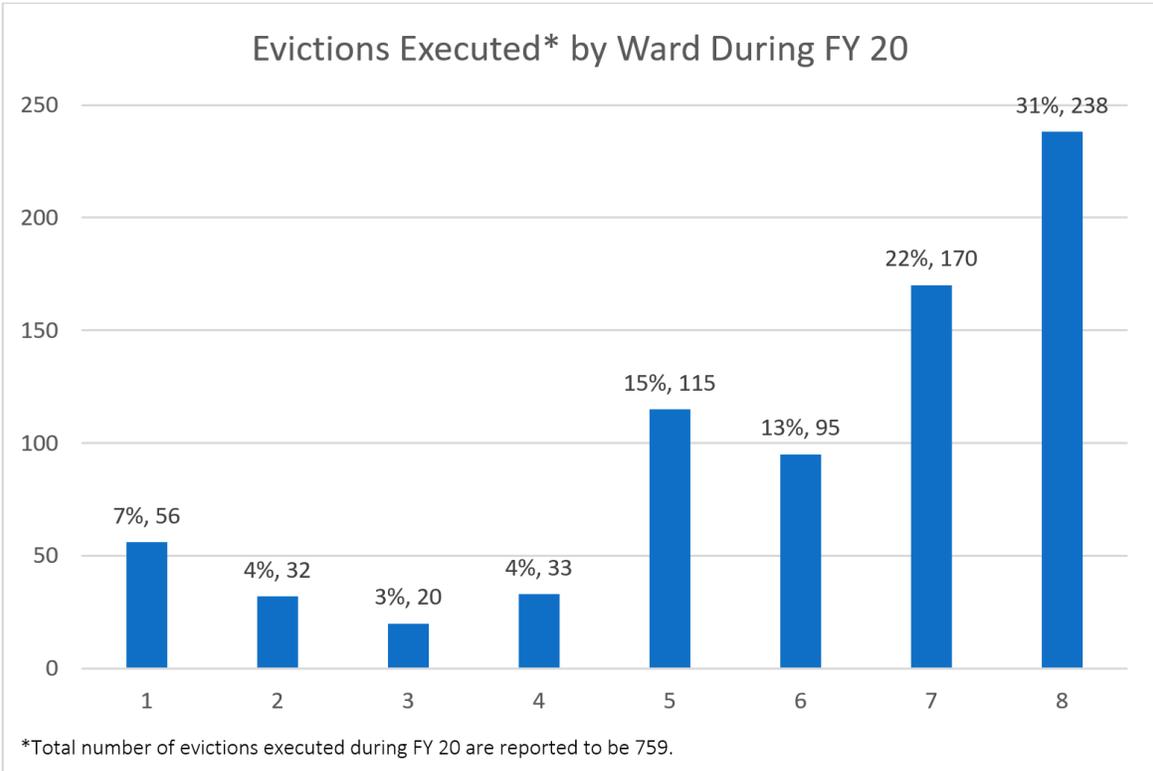


Figure 4

In FY 2013, OTA began to collect data regarding the financial returns to tenants, including damage awards, rent rollbacks, and settlement agreements. From FY 2013 to FY 2019, the OTA secured the return of a total of \$21,603,776 to the tenant community. In FY 2020, the OTA return to the community was approximately \$1,231,945; and in FY 2021 to date that figure is \$654,091.

Tenant Opportunity to Purchase (TOPA)

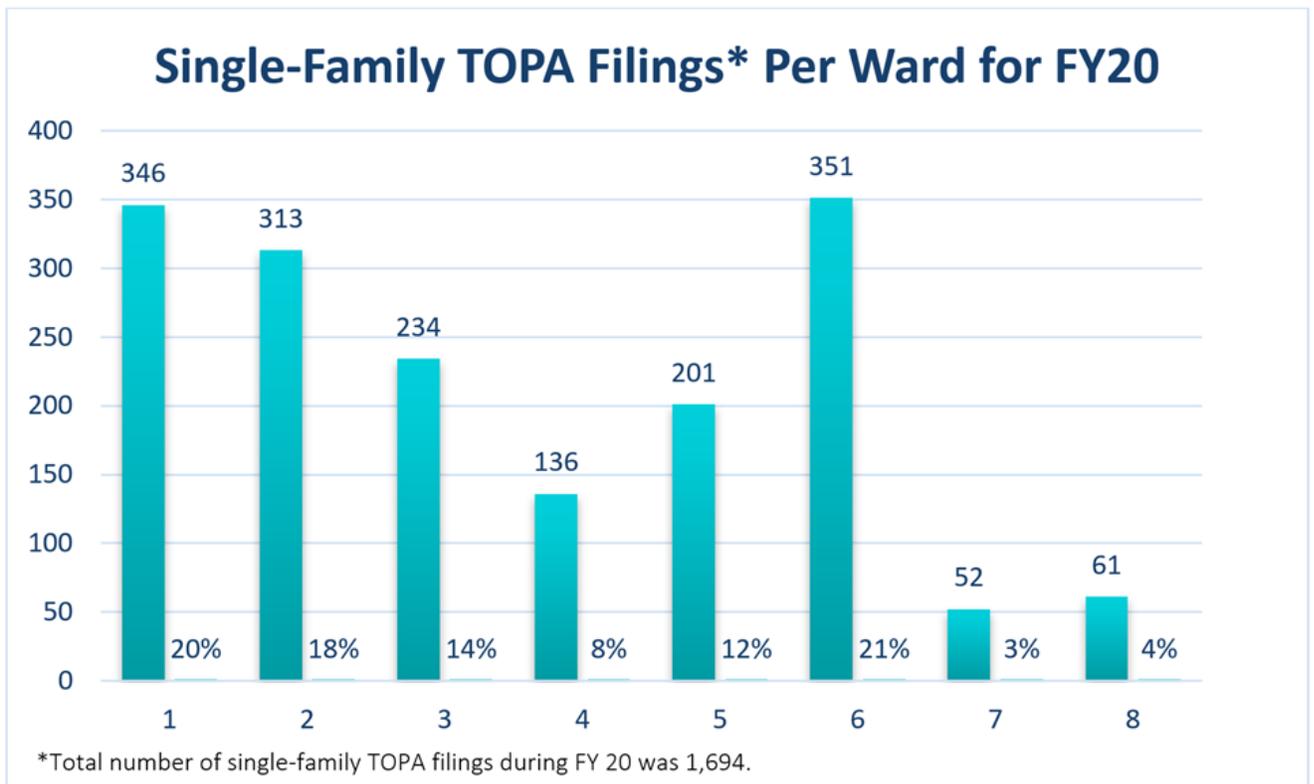


Figure 5

Under Law 22-120, the “TOPA Single-Family Home Exemption Amendment Act of 2018,” effective July 3, 2018, housing providers seeking to sell a single-family dwelling must provide a Notice of Intent to Sell to both the tenants and the

OTA. Additionally, the OTA has the statutory duty to receive the notices and inform affected tenants of their rights and the availability of legal assistance. We also review each notice and notify the Conversion and Sale Division of DHCD if we believe there is a legal sufficiency problem. In FY 2020:

- OTA reviewed 1,694 single-family TOPA Notices.
- OTA forwarded 14 problematic notices to DHCD for further action.

Mold

When COVID-related spending restrictions are lifted, a priority for the Legal Branch in FY 2021 will be to launch the Mold Litigation Program.⁷ Mold has become a constant irritant and health hazard for many District tenants. Under the program, when a tenant alleges the presence of ten or more square feet of mold, the OTA would send a licensed Mold Assessor to the unit and provide the tenant with appropriate legal assistance as the case warrants.

Emergency Housing Assistance Program (EHAP)

Through the Emergency Housing Assistance Program (EHAP), the OTA works alongside government and non-government partners to ensure that families affected by emergencies are given a chance to regain housing stability.

⁷ The DC Council appropriated \$105,000 for a pilot version in FY 2020.

In FY 2020:

- OTA's Emergency Housing Program successfully sheltered a record 302 families, expending \$601,836.
- Fires were the cause of 224 families being displaced and 78 families were displaced by building closures.

In FY 2021 to date:

- The OTA has served 147 displaced families: 103 families displaced by fire and 44 due to building closures.
- The OTA has expended \$129,707 to date in FY 2021.

Our emergency housing goals for 2021 include (1) enhancement of its operational policies and procedures to incorporate lessons learned and (2) developing a new user-friendly EHAP brochure.

Education and Outreach Branch

During FY 2020, the OTA Education and Outreach Branch kept busy educating tenants. Unfortunately, due to the COVID-19 restrictions the OTA had to cancel all in-person meetings, and we were unable to host in-person stakeholder meetings or our Annual Summit. Nonetheless, we were able to successfully transition our education and outreach efforts to online platforms. The OTA has also continued to host virtual monthly Renters' Rights 101 sessions. The OTA participated in 106 outreach events and educated 8,732 District tenants on their tenant rights and the services of the OTA, more than double the number

of residents who participated in OTA outreach events during FY 2019.⁸ During FY 2021, the Education & Outreach Branch will continue these activities, as well as produce a series of webinars on issues impacting tenants.

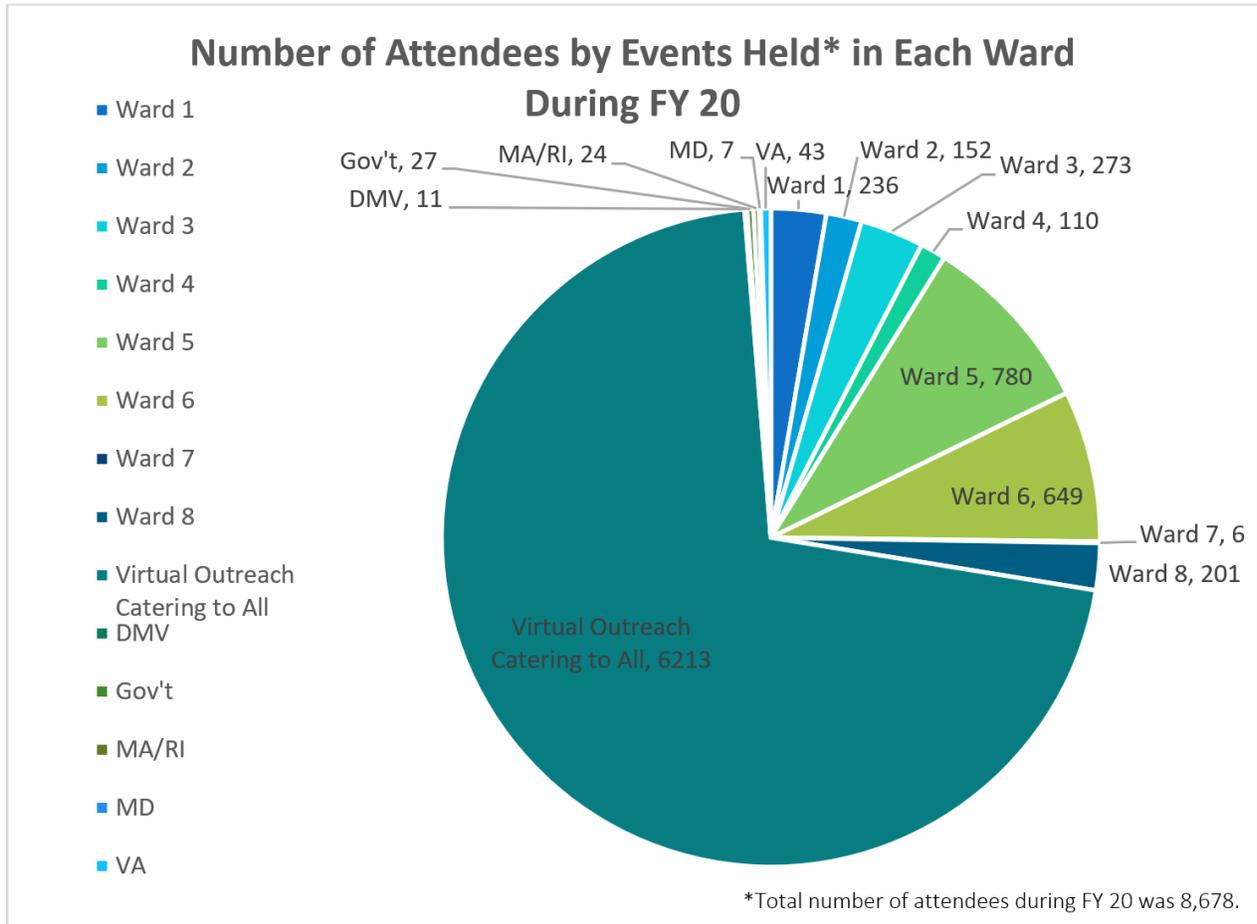


Figure 6

⁸ The number of residents that participated in OTA outreach events during FY 19 was 3,679.

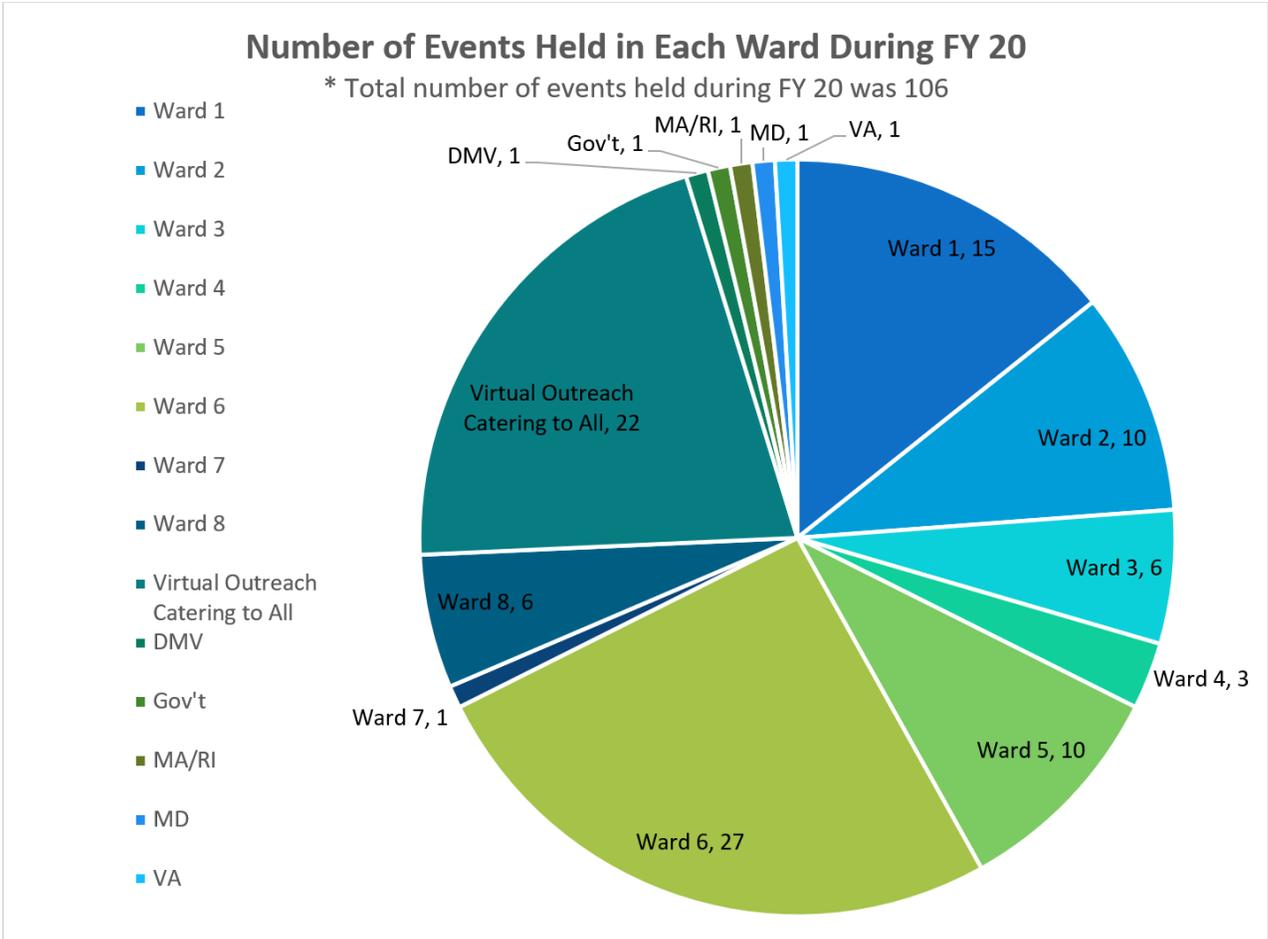


Figure 7

The agency also continues to explore new outreach endeavors and partnerships. Since 2018 we have partnered with the Community Partnership to give monthly presentations of Renters Rights 101 to inform the organization’s cohort about the rights of District tenants. In addition, while the program has been suspended due to COVID-related court closings, the OTA expects to continue its partnership with DC Superior Court’s Court Navigator Program into the future.

Finally, due to the wave of evictions that is likely to occur after the PHE ends, the OTA is in the process of implementing a two-phased Eviction Prevention Outreach Strategy in FY 2021, targeting the most vulnerable populations through increasing our educational services and implementing a publicity campaign. The program features outreach activities in collaboration with sister agencies as well as community-based organizations.

Conclusion

I wish to thank you, Chairperson Bonds and the Committee, as well as Mayor Bowser, for the support you provide to the agency and our community services. This concludes my testimony and I am happy to answer any questions you and members of the Committee may have.