

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Consumer and Regulatory Affairs

Department of Consumer and Regulatory Affairs (DCRA)
Administrative Issuance System

DCRA Bulletin No. 5-01D-09

SUBJECT: Administration of Emergency and Non-Emergency Nuisance Abatement Corrective Action Situations, Utilizing the Neighborhood Revitalization Fund and Special Purpose Fund

EFFECTIVE DATE: May 8, 2009

EXPIRATION AND REPLACEMENT: Upon notification.

PURPOSE AND AUTHORITY:

The purpose of this Administrative Issuance is to establish a policy and procedure regarding the administrative processes for emergency and non-emergency nuisance abatement corrective actions involving utilization of the Neighborhood Revitalization Fund and the Special Purpose Fund (established by DC Official Code § 42-3131 et seq). These funds assist DCRA in carrying out nuisance abatement activities, which entail correction of violative housing or property maintenance conditions by DCRA and/or its contractors. Specifically, this issuance establishes a procedure addressing how DCRA will exercise its nuisance abatement authority in both summary and non-summary corrective situations. This Issuance does not apply to drug and prostitution-related nuisances, as defined by DC Official Code § 42-3102, which require a court order before proceeding with abatement activities.

SCOPE:

This issuance applies to:

- All current DCRA full-time, part-time, temporary or term employees whose duties involve inspection for, or correction of violative conditions at District properties.
- Employees of a vendor under contract with DCRA to provide corrective or abatement services.

PROVISIONS:

- I. Identifying Violative Conditions for which Corrective or Abatement Action by DCRA may be Appropriate

NOTE: D/AIS Bulletins are strictly procedural in nature and have direct applicability only to DCRA employees under the authority of the Director

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- a. **Non-emergency Situations**- Pursuant to D.C. Official Code §42-3131.01, DCRA has the authority to take corrective actions to correct a violative condition on private property. In non-emergency situations, where a property owner has failed or refused to correct a violative condition after receiving proper notice, DCRA has the authority to take non-summary corrective action and to assess the costs of the action against the owner. These non-emergency situations generally include non-life/non-health threatening violations of the Housing Code (Title 14 DCMR) and the Construction Codes (Title 12 DCMR), including Property Maintenance Code.
- b. **Emergency Situations**- In life-or-health threatening situations DCRA has the authority to take summary corrective action. These situations include violative conditions involving an unsafe structure (12A DCMR §115), imminently dangerous situations under (12A DCMR §116.1), or a life-or-health threatening condition (DC Code §42-3131.01(c)), or “as determined by the Code Official.”

NOTE- Except in the case of a vacant building, DCRA must notify promptly the owner that the correction is ordered within a specified time period.

D.C. Official Code § 42-3131.01(c) defines a life-or-health threatening condition as “a condition that imminently endangers the health or safety of the tenant or occupant of the premises...or that imminently endangers the health, safety, or welfare of the surrounding community.” Examples include:

- Interruption of electrical, heat, gas, water or other essential services, when the interruption results from other than natural causes.
- Any structure whose roofing system allows for the significant accumulation of water in the interior of the structure or whose external storm water management system creates conditions that undermine the integrity of the structure’s foundation system.
- A vacant building where there is a life-or-health threatening condition or where the owner fails to enclose the doors, windows, areaways, or other openings of the property.

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II. Inspectional Process for Non-Emergency Violations

1. In a non-emergency situation, the law requires that DCRA must give a property owner notice, and an opportunity to appeal the notice, before DCRA undertakes a corrective action.
2. Notice of Violation

Notice of a violation shall be provided to the property owner by the Inspections Division by the service of a Notice of Violation (“NOV”) pursuant to 14 DCMR (Housing Code violations) or 12G DCMR (Property Maintenance Code violations). The NOV shall set forth the violations found and establish an abatement period for the violations. (This process does not apply to violations of Title 12A DCMR involving illegal construction where, for example, a stop work order may be appropriate.)

After an NOV is issued, the Inspector shall conduct a re-inspection at the conclusion of the abatement period. If an extension of the abatement period has been granted by the Chief Building Inspector (“CBI”) or his designee, the re-inspection will be conducted at the end of the extension period. If the NOV has been appealed to OAH, the re-inspection will not occur until conclusion of the appeal process.

III Abatement Process for Non-Emergency Violations

1. Referral for Abatement Action
 - a. If after re-inspection pursuant to an NOV, corrective action is necessary to abate a violative condition, the inspector must inform his or her supervisor that the property is recommended for corrective action.
 - b. The following criteria should be used by inspectors to determine whether a particular property should be referred for corrective action:
 - the number of violations;
 - the severity of violations;
 - the existence of persistent complaints;
 - lack of action/responsiveness by owner;
 - likelihood of violations causing future harm;
 - the use of the property;
 - potential for immediate neighborhood improvement; and
 - the danger to the occupants or community.

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2. When a Supervisory Inspector receives a referral from an inspector for corrective action, he/she shall review the NOV and all supporting evidence, including supporting photographs and written reports, for completeness, accuracy and approval within 3-5 business days of receipt.
3. The Chief Building Inspector (CBI) and the Inspections Program Managers shall meet to review the cases. The CBI will determine, for each referred property, if DCRA has enforcement authority and whether, as a matter of policy, corrective action should be initiated by the agency based on the criteria set forth in Section III-(1) (b) above. The CBI will also consider whether timely abatement is best accomplished by agency abatement or by a court proceeding (such as an injunction to compel compliance by the owner.) If the CBI believes that a court proceeding would be more effective or efficient, the matter should be referred to the Office of the General Counsel to initiate such proceeding.
4. If the CBI determines that a case requires corrective action by the agency, the CBI shall transmit the file to the Deputy Director for Enforcement and Legislative Affairs.

Because of the complexity of the pertinent statutes and regulations, and the associated notice provisions, the agency's legal counsel should be consulted if there are any questions or issues regarding the agency's authority to take corrective action in a particular case.

IV. Emergency Violation Process

In emergency situations, the condition should be immediately reported to the Chief Building Inspector who will make a decision on how to proceed under the circumstances. As noted in Section I (b) above, except in the case of securing a vacant building, DCRA must notify the owner that the correction is ordered within a specified time period.

Whenever the owner of any vacant building, as defined in § 42-3131.05(5), shall fail to enclose the doors, windows, areaways, or other openings of the property, the DCRA may immediately enclose the property to meet the standard described in § 42-3131.12. Subsequent to the enclosure, the DCRA must give the owner notice as prescribed in § 42-3131.03.

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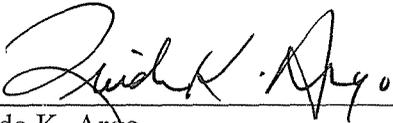
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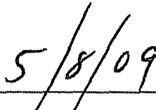
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For more information or clarification about this issuance, please contact either Don Masoero, Chief Building Inspector, Paul Waters, Deputy Director for Enforcement and Legislative Affairs or Carol Washington, Chief of Staff, at 442-8947.



Linda K. Argo
Director



Date

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