



## Low Income Investment Fund

Testimony of Joe Fretwell, Manager of Advisory Services  
Before the Committee of the Whole  
Council of the District of Columbia  
February 22, 2024

Good afternoon, Chairman Mendelson and Members of the Committee. My name is Joe Fretwell, and I am representing the Low Income Investment Fund (“LIIF”) to discuss building codes and other regulations in the District that influence the supply of quality, affordable, and convenient child care.

LIIF is a nonprofit community development financial institution (“CDFI”) that mobilizes capital and partnerships to help achieve its mission that everyone in the United States should benefit from living in a community of opportunity, equity, and wellbeing. Since 2017, LIIF has partnered with the Office of the State Superintendent of Education for the District of Columbia (“OSSE”) to administer various grant programs and provide technical assistance and support to child care programs, most prominently the Access to Quality Child Care grant that has created more than 2,200 licensed child care slots across \$18 million and two funding rounds. In partnership with OSSE, LIIF has also worked over the last 12 months to study and evaluate child care supply and demand and infrastructure in the District, the results of which will be released in a series of reports this Spring.

My three specific comments for the Agency Oversight Hearing for the Department of Buildings (“DOB”) are thus informed by LIIF’s deep experience working with government agencies, child care programs, and other key community development, planning, and early childhood stakeholders in the District to fund and evaluate child care development and expansion projects.

- 1. DOB should clarify and consider updating policies that prohibit licensed child development homes from operating in multifamily buildings.** The District’s fire and building codes were amended in recent years to disallow child development homes from operating in denser housing, specifically stating that these facilities may only operate in single-family homes or townhomes with fewer than three total units.<sup>i,ii</sup> Some exemptions are made for ground floor units with direct egress in multifamily buildings, but interviews with leaders of child development facilities and agency stakeholders for LIIF’s forthcoming study revealed substantial misunderstandings of these exemptions. To better clarify policies and exemptions, the District should amend codes so that ground floor or other units with safe and appropriate exits in any building type are allowed to be used as child development homes.

Such changes are especially critical for building new child care facilities in areas with the most significant shortfalls in licensed supply. For example, new initiatives and focus of the Office of the Deputy Mayor for Planning and Economic Development (DMPED), the Department of Housing and Community Development (DHCD), and the Office of Planning (OP) to bring new residents downtown through office-to-residential conversions and other new housing development in places historically reserved for commercial buildings could further exacerbate child care supply deficits without flexibility in regulations governing child care supply given that most anticipated housing will be much denser than three units per building. Of all the cities and states where LIIF

works, the District has among the most stringent building codes around density and home-based child care, artificially thwarting new facilities from opening and contributing to child care deficits, particularly for families that need infant and toddler care or who work nontraditional or weekend hours for which home-based facilities are often the most suitable option for formal child care.<sup>iii</sup>

- 2. Develop alternatives to or dedicated funding streams for commercial sprinkler requirements in child development homes.** Current policy in the District states that anyone seeking to establish a new child development home must live in a home with a fire suppression sprinkler system, regardless of when the home was built, to obtain a Home Occupation Permit from the Department of Buildings. Few homes in the District are equipped with sufficient sprinkler systems, especially in the types of buildings – lower density, owner-occupied – that DOB allows child development homes to operate from. During the most recent Access to Quality Child Care funding round the LIIF managed, several individuals seeking to open child development homes had to spend upward of \$25,000-50,000 to add commercial sprinkler systems to their homes so that they could receive appropriate permits.<sup>iv,v</sup> Others decided to forego their plans to create new child care seats altogether given the complexity and expense of completing such a project.

DOB and DC Fire and Emergency Management Services (DC-FEMS) need to develop alternatives to these requirements, or the District must make additional funding available to bring otherwise suitable homes up to code to build child care supply. Other places where LIIF works that also operate under the same International Building Code as the District, notably New York City, Georgia, and California, either do not have such requirements or have developed workarounds for older homes that have sufficient egress and fire evacuation plans.

- 3. DOB can do more to support child development facilities through complicated review, inspection, and permitting processes.** In a survey LIIF conducted in 2023 for its forthcoming report on child care infrastructure, a clear pattern emerged between perspectives of child development facility leaders that had recently completed projects to expand their capacity – and thus gone through building inspections and permitting reviews – and those that are actively considering doing so. From a list of 11 challenges experienced during expansion and development projects, the second most commonly cited challenge among those that *have* expanded in recent years was “building code requirements.” For those that have considered expanding but not yet done so – the facilities that may actively be in planning, design, or fundraising processes and who represent the most immediate pipeline for building needed child care supply – “building code requirements” was the seventh most commonly cited challenge of the 11 options presented in the survey. Further, across our entire sample, less than 16% of child development facility leaders agreed with the statement that, “The District’s building permit process has been easy to navigate in past efforts to make improvements to my facility.”

These findings indicate that DOB must be more proactive in efforts to support child development facilities through permitting and inspection processes. OSSE, DOB, and DC-FEMS have successfully developed and funded cross-agency positions through a Memorandum Of Understanding (MOU) focused on helping child care providers navigate building codes and fire review, but the partnership needs to be more proactive about outreach to the child care community.<sup>vi</sup> This might



occur through regular webinars and open trainings, cataloguing and publishing of relevant regulations and policies that apply to different types of projects or buildings, and further improvements to training and support to ensure child care programs are prepared and aware of what is involved in expansion projects well in advance of when they reach out to schedule inspections or apply for permits. In doing so, development timelines could be expedited and costs minimized.

Thank you very much for your time this afternoon. Further refinements to the work and policies of DOB and other regulators of development in the District is a critical but often overlooked tool for expanding child care supply. LIIF is grateful for the Council's ongoing support for the child care sector, appropriating resources for infrastructure improvements and technical assistance and consistently seeking out new ways to offer important legal protections for this community through ordinances like the BABY Act of 2023. We hope to continue to be a partner to Council and all District agency staff in assessing challenges facing child care facilities and operations and helping DC continue to be a friendly, supportive place to children and caregivers. I welcome the opportunity to meet with any Members of the Council or relevant agency staff to discuss my testimony in greater depth.

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<sup>i</sup> Final Rulemaking published at 67 DCR 6232 (May 29, 2020 – Part 2). Available here: <https://dcregs.dc.gov/Common/DCMR/RuleList.aspx?DownloadFile=%7BA6FACE3C-B040-40F2-8A5F-650A1352AD5A%7D>.

<sup>ii</sup> AM101.1 DC Residential Code 2017 Appendix M. Available here: <https://up.codes/viewer/district-of-columbia/irc-2015/chapter/M/home-day-care-r-3-occupancy#M>.

<sup>iii</sup> Adams et al. (2021). *To Make the Child Care System More Equitable, Expand Options for Parents Working Nontraditional Hours*. Urban Institute. Available here: <https://www.urban.org/urban-wire/make-child-care-system-more-equitable-expand-options-parents-working-nontraditional-hours>.

<sup>iv</sup> 903.2.6 DC Building Code 2017. Available here: <https://up.codes/viewer/district-of-columbia/ibc-2015/chapter/9/fire-protection-systems#9>.

<sup>v</sup> Fretwell et al. (Forthcoming, 2024). *Child Care Infrastructure in the District of Columbia: A Review of Physical Environments for Young Children*. Low Income Investment Fund [LIIF] & Openfields.

<sup>vi</sup> Department of Buildings [DOB]. (2022). *Child Care Permitting and Regulations: Frequently Asked Questions (FAQs)*. Available here: [https://dob.dc.gov/sites/default/files/dc/sites/dob/FAQs%20Childcare%20Permitting%20and%20Regulations\\_11.30.2022.pdf](https://dob.dc.gov/sites/default/files/dc/sites/dob/FAQs%20Childcare%20Permitting%20and%20Regulations_11.30.2022.pdf).