



**MARYLAND
LEGAL AID**

Advancing
**Human Rights and
Justice for All**

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March 4, 2020

Honorable Kumar Barve, Chair
House Environment and Transportation Committee
Room 251 House Office Building
6 Bladen Street
Annapolis, MD 21401

**RE: Testimony Regarding House Bill 1540 - Environment – Mold
Inspections – Standards, Reporting, and Penalties**

Dear Chairman Barve and Committee Members:

Thank you for the opportunity to testify in support of House Bill 1540, legislation that would promote the development of statewide, objective standards for air quality levels in certain properties in Maryland, including residential rental properties. Maryland Legal Aid is a private, nonprofit organization that provides free legal services to indigent Maryland residents. In our twelve offices around the State, we help individuals and families in every county with a wide array of civil legal issues including housing, consumer, public benefits, and family law matters. We also represent abused and neglected children and provide legal assistance to senior citizens and nursing home residents. This letter serves as notice that Lisa Marie Sarro, a Supervising Attorney in Maryland Legal Aid’s Anne Arundel County Office, will be testifying on behalf of Maryland Legal Aid at the request of Delegate Shaneka Henson.

Under the current law, there are no minimum requirements for air quality standards for properties offered as residential rental properties in Maryland. This poses an ongoing, significant risk to the health and safety of Maryland renters, and it poses a disproportionately high risk to low income renters in the state. HB 1540 has the potential to significantly reduce the risks posed by unsafe, unhealthy air conditions, particularly conditions which run rampant in rental properties inhabited primarily by low income renters.

Poor conditions in residential rental properties disproportionately affect low income individuals and families who do not have the same options for actions that can be taken or alternatives for other housing that higher income individuals have. Most specifically, low income renters rarely have the option of suing for breach of lease or simply moving to alternative housing when conditions in their rental unit are unhealthy and/or unsafe. This is particularly true of individuals and families in

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subsidized housing who rely on their housing subsidy to keep a roof over their heads. Even if individuals in public or subsidized housing are granted a transfer from their unit (which is rare), they are often just moved from one unsatisfactory subsidized unit to another. This is especially true for rental units that have mold problems. Tenants with low incomes rarely have the financial resources to have testing done themselves to prove that a problem exists, and testing for mold or other conditions causing bad air quality is often non-existent or of a low priority in city or county rental licensing inspections. This is likely due to the lack of objective, statewide air quality standards and testing protocols, which this legislation would address.

The problems associated with a lack of minimum air quality requirements and required mold testing in rental properties are not just theoretical. The problems are very real and they are causing very real, ongoing significant health consequences for tenants every single day. For example, attached to this testimony are photos of three different rental properties in Annapolis, Maryland (marked A, B & C), all of which PASSED the City of Annapolis rental inspection process and were issued rental licenses in just the past few months. One does not have to be a mold expert or medical professional to conclude that the conditions in these properties – which unfortunately are not unusual in rental properties for low income tenants – present significant health risks for the families living in them.

As you will note, walls, pipes, air filters and vents are covered in mold and other contaminants. However, none of these conditions prevented any of the properties from passing the Annapolis health and safety inspection, and each of the properties received a rental license. Tenants are still living in two of the properties, and we were told by the landlord for those two properties - literally yesterday, March 3, 2020 – that, despite there being “a couple of issues, [t]here are no life and safety issues” in the properties. The third property was actually condemned and deemed unfit for human habitation recently, AFTER it passed the City inspection. It was condemned only after the resident provided a report from her children’s pediatrician indicating that the mold in the property was making the children sick. For additional information on the property deemed uninhabitable and additional photos of that property, you may review the photo gallery from a February 24, 2020 article in the *Capital Gazette* newspaper at: <https://www.capitalgazette.com/news/ac-cn-robinwood-mold-annapolis-haca-pg-20200220-tmsqqaol6zbibl2syys5d4imwi-photogallery.html>

If this proposed bill were enacted, putting in place objective, *required* air quality and mold testing for rental properties in Maryland, landlords with units like those mentioned above would either be required to make repairs to their properties to prevent tenants from having to live in those conditions, or the properties would have to be taken out of the rental market until such time as the properties no longer pose a risk to the health and safety of potential tenants. Landlords could no longer rely upon minimal at best, or non-existent at worst, City or County inspections to justify their refusal to ensure their properties are healthy and free from health-threatening mold infestations. Too often, landlords are able to say, “I have a license, so my property is fine.”

Mandatory objective standards for air quality in rental properties, enforced via testing by the local jurisdiction, coupled with mold test results being provided to tenants, will be particularly helpful for low income tenants. While there are enforcement mechanisms built into the bill, having objective standards in place and *putting an inspection report in the hands of a tenant – at no financial cost to the tenant – would go a long way toward enabling tenants to advocate for themselves*, whether that be by filing a rent escrow action, keeping pressure on the local jurisdiction for help with enforcement, making reports or complaints to HUD and DHCD in the case of subsidized and tax credit properties, or through other channels.

Another element of the bill that we especially commend is the specific mention that sub-standard air quality can be grounds for a tenant to bring a rent escrow action. As you know, the rent escrow statute in Maryland provides for rent escrow only when the tenant can establish serious conditions that threaten the health and safety of the tenant. Currently judges in Maryland vary in their view of whether mold meets this requirement. When they do allow it, the tenant often has to put on evidence that the mold is causing health problems. This presents a huge hurdle that can be rarely be met for a tenant to prove the existence of mold or poor air conditions without a professional inspection to enter as evidence, but obtaining an inspection report is almost always prohibitively costly. Add the need for medical documentation as a condition to successfully pursuing a rent escrow action, and rent escrow is all but impossible as a solution for air quality issues even for tenants *with* substantial resources. It's completely impossible as a solution for tenants with limited or no resources. This bill would change that.

Essentially, this bill hits four of the most important factors for self-advocacy for tenants dealing with unhealthy living conditions due to mold:

1. It sets an objective, measurable standard for acceptable air quality;
2. It results in mandatory testing by an objective inspector;
3. It puts documentary evidence of the results of the air quality tests in the hands of the tenants; and,
4. It codifies that the presence of mold is in fact a condition that will sustain a rent escrow action.

We have a few suggestions for modifications:

1. The bill should **provide definitions for each of the facilities where annual mold inspections would be required**. The term “rental dwelling,” for example, can be and is

defined in many ways. Particularly as relates to rental licensing requirements, the definition differs from local jurisdiction to jurisdiction. Some apply only to multi-unit dwelling places, and some apply only to landlords who have more than one rental unit, etc.

2. The bill should **state that the term “rental dwelling” covers all dwelling properties offered for rent in the State.**
3. The bill should **specify clearly that all rental properties are covered by the statute, including public housing and all other housing having any type of local, state or federal subsidy.**
4. We urge the committee to **make passing the mandatory air quality inspection a condition precedent to the issuance of a rental license** in those jurisdictions that require rental licenses.
5. It is important to note that, to the extent the bill relies on rental license inspections for the anticipated air quality inspections, **the bill should be adjusted to clearly reflect that it covers properties in jurisdictions where inspections do not already take place.**

We thank you for the opportunity to provide this input and hope our testimony provides valuable information for the Committee’s consideration. We would be happy to provide such additional information or assistance as the Committee or any of its members should request.

Sincerely,

MARYLAND LEGAL AID



Lisa Marie Sarro

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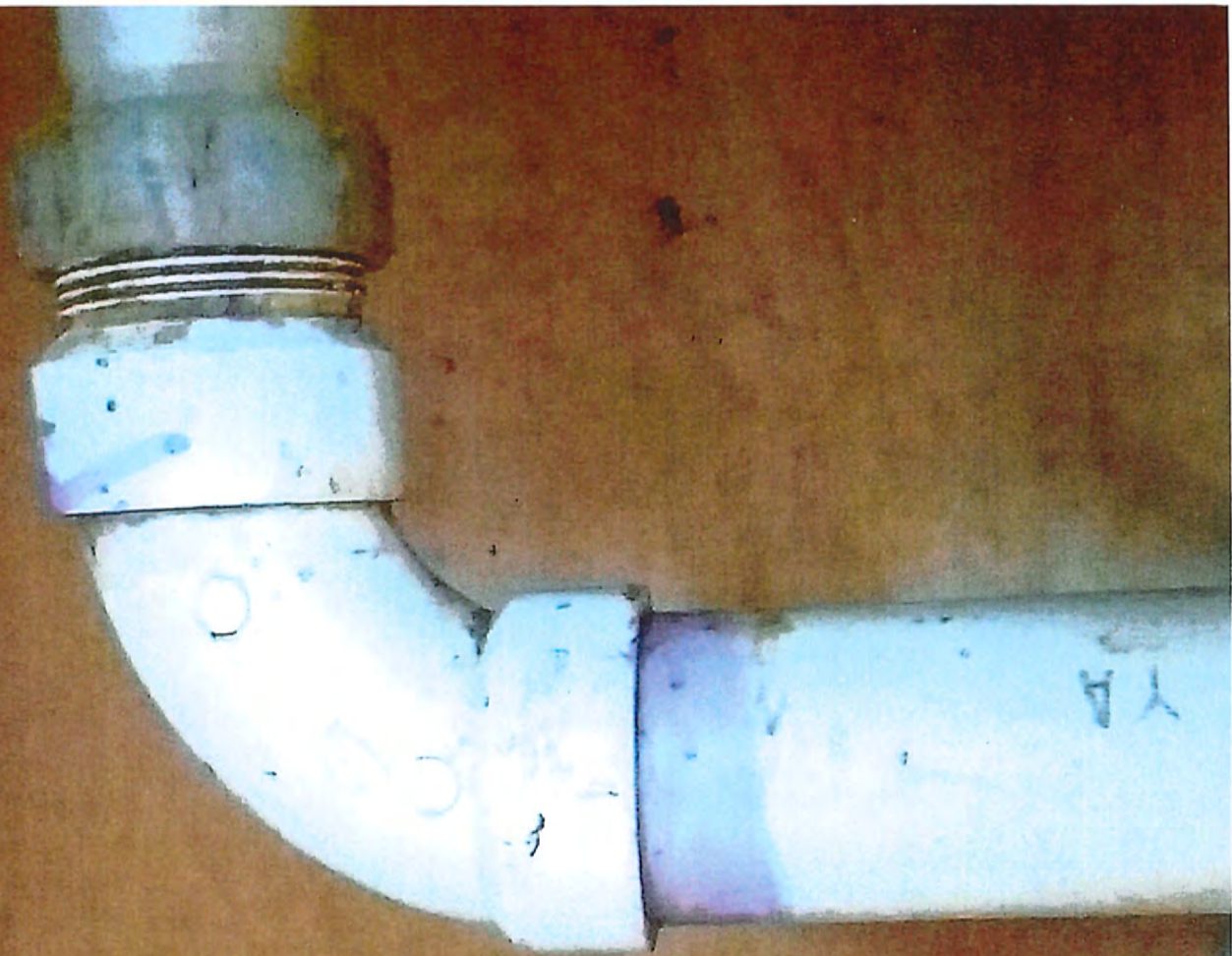
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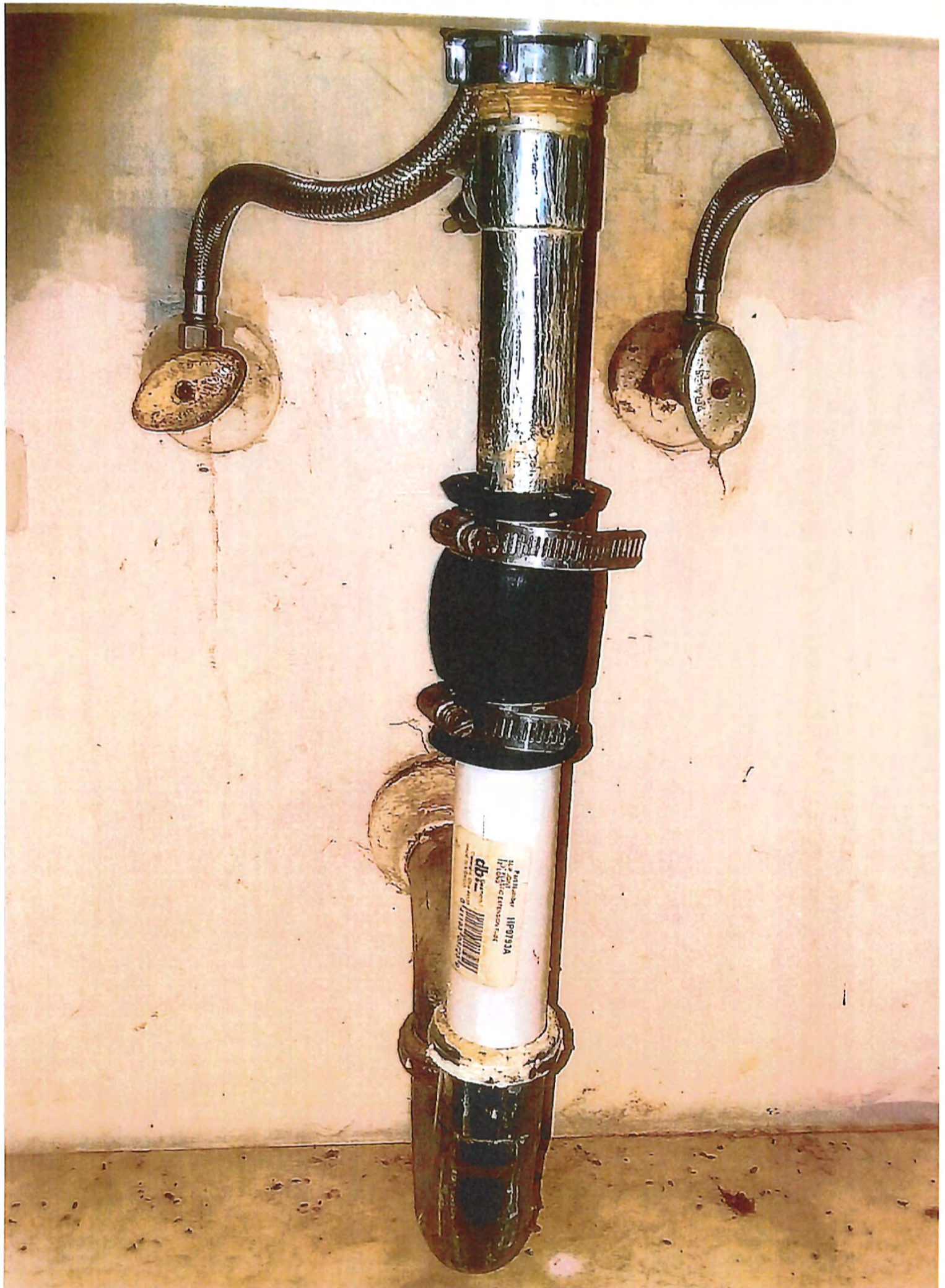
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Robinwood public housing mold



SECTIONS

Capital Gazette



Robinwood 1411

~~XXXXXXXXXX~~, a public housing resident in the Robinwood community, was relocated with her eight children out of her five-bedroom unit Feb. 13 after Annapolis housing inspectors deemed the unit uninhabitable because of mold. She was temporarily moved to a 3-bedroom unit in the Robinwood community while Housing Authority of the City of Annapolis fixes her original unit. Wright's situation highlights a long-running issue with mold and other maintenance issues faced by residents who live on HACA properties. (Tameka Wright)

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~~XXXXXXXXXX Wright~~, a public housing resident in the Robinwood community, was relocated with her eight children out of her five-bedroom unit Feb. 13 after Annapolis housing inspectors deemed the unit uninhabitable because of mold. She was temporarily moved to a 3-bedroom unit in the Robinwood community while Housing Authority of the City of Annapolis fixes

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Robinwood public housing mold



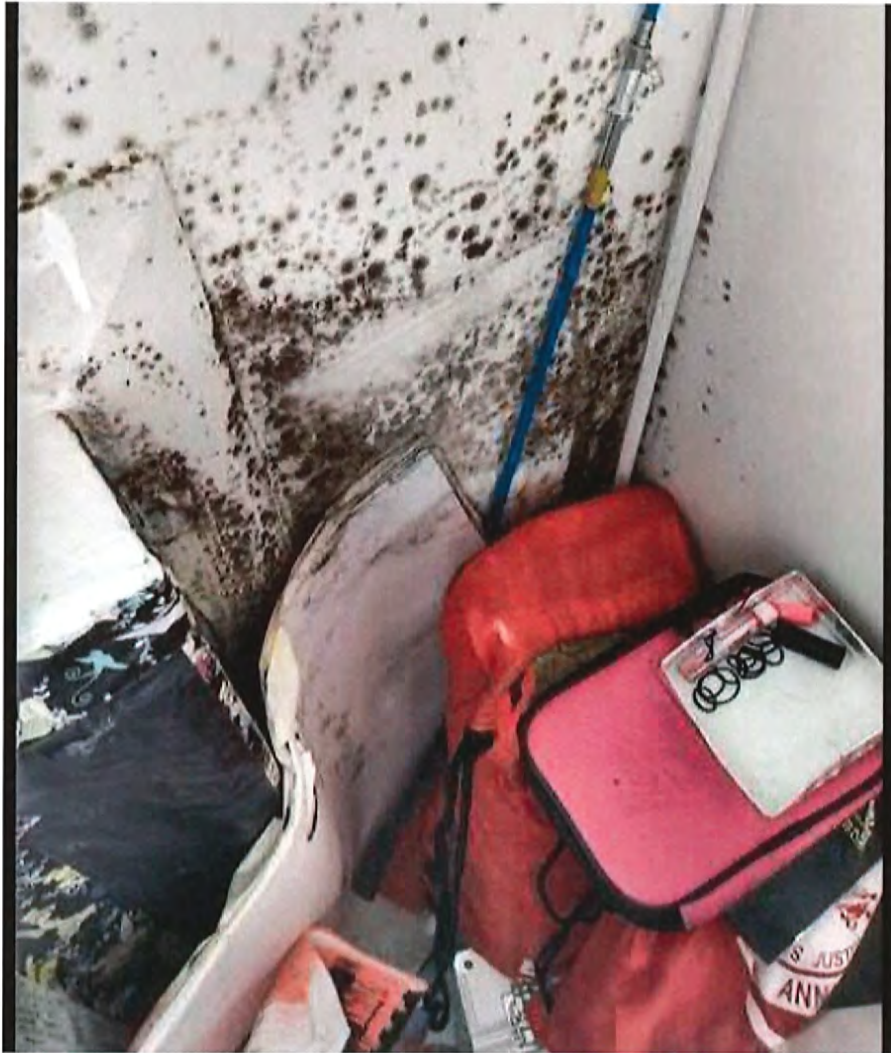
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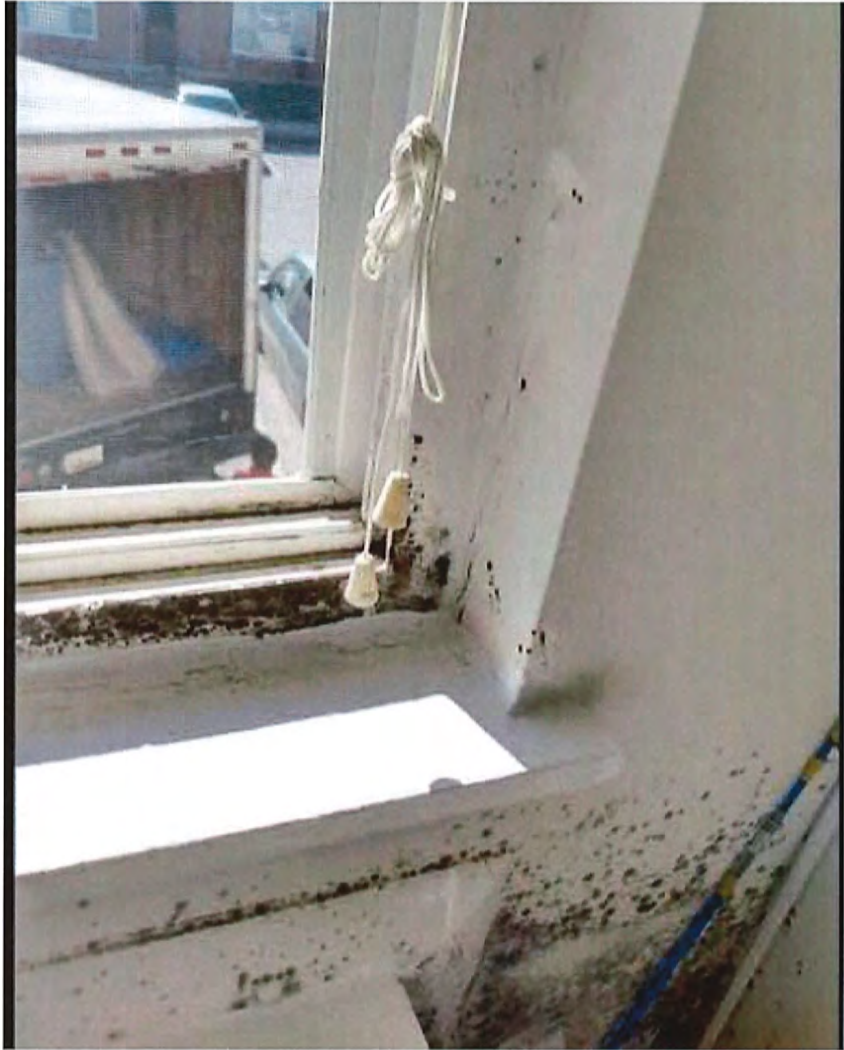
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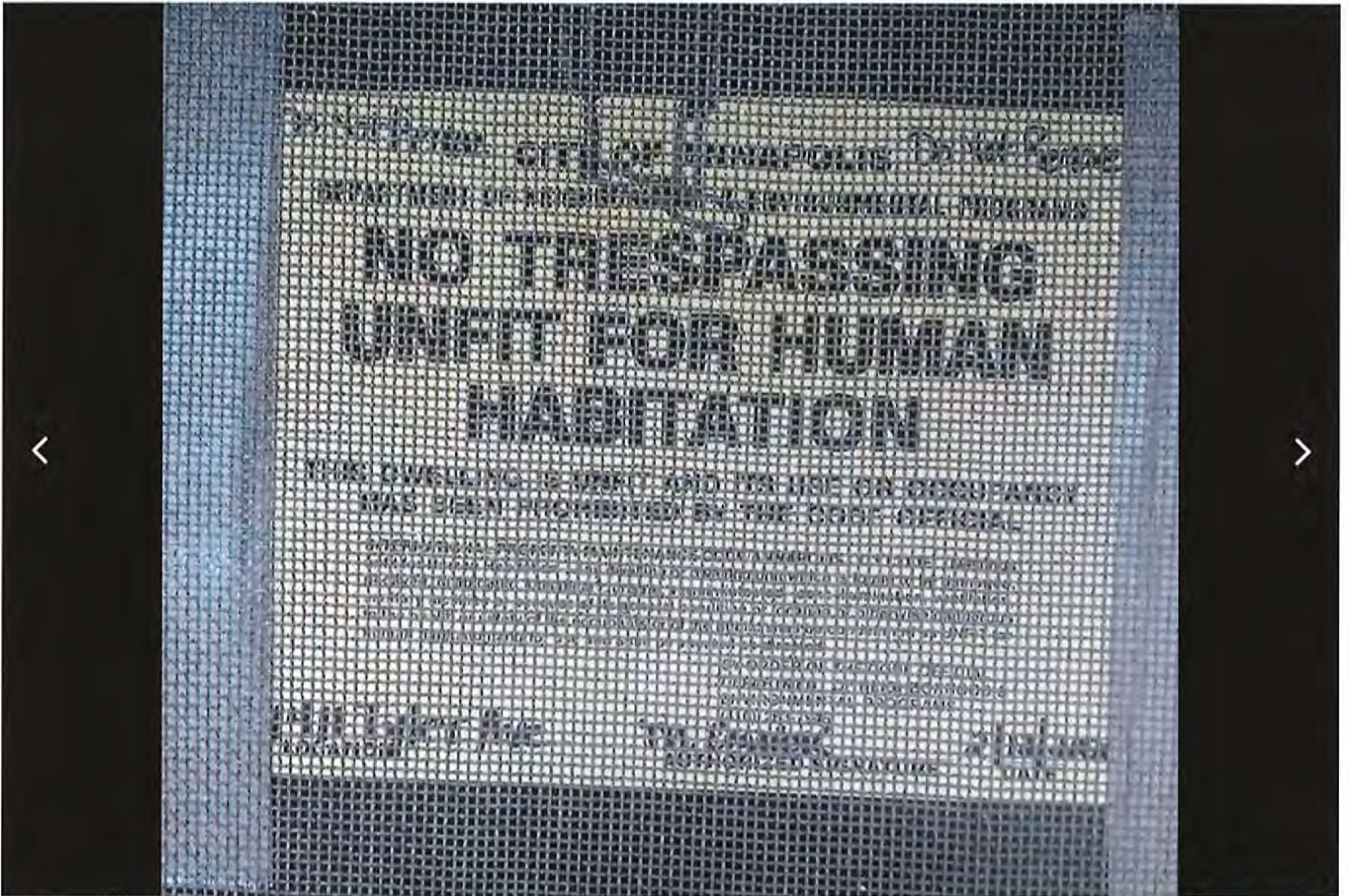


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Robinwood public housing mold



Robinwood 1411

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