

# Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

## **EXPEDITED LANDLORD-TENANT RELATIONS-FIRE SAFETY- BILL 50-20: REMOVAL OF MERCURY SERVICE REGULATORS**

### **SUMMARY**

The Office of Legislative Oversight (OLO) expects Expedited Bill 50-20 (introduced on December 8, 2020) to favorably impact racial equity and social justice in the County.

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### **BACKGROUND**

The goal of Expedited Bill 50-20 is to enhance the safety of residential renters in the County. Over four years have passed since the tragic explosion at the Flower Branch Apartments in August 2016. Seven residents died, 65 residents were transported to the hospital, and three firefighters were treated and released from the hospital.<sup>1</sup> According to the National Transportation and Safety Board (NTSB) report, a defective mercury service regulator was the primary reason for the explosion.<sup>2</sup> The use of mercury service regulators in residential properties was widespread in the 1940's and 50's. But due to the toxicity of mercury, the installment of these regulators ended around 1968.<sup>3</sup>

The NTSB report identified that the apartment complex used indoor mercury-containing gas pressure regulators in the residential areas that were not adequately maintained.<sup>4</sup> The mercury service regulator had an unconnected vent line that released natural gas into the indoor meter room, where it accumulated and ignited from an unknown source.<sup>5</sup> The inaccessible indoor location of the mercury service regulators was also noted as contributing to the accident.<sup>6</sup>

Washington Gas is responsible for replacing the mercury service regulators across its jurisdictions; it is estimated that properties with mercury service regulators account for less than ten percent of its customers.<sup>7</sup> The focal point of Expedited Bill 50-20 is "connecting property owners with gas regulators while keeping tenants informed about the progress." It would require landlords to immediately assess their rental properties for mercury service regulators, contact Washington Gas for a replacement if necessary, and inform their tenants with updates. Towards this end, Expedited Bill 50-20 will increase landlord responsibilities and rental property safety standards in the County.<sup>8</sup> If enacted, the bill would:

- Require landlords to provide certain notices to tenants;
- Require landlords to schedule the replacement of indoor mercury service regulators; and
- Generally amend the law regarding landlord obligations and landlord-tenant relations.

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### **DEMOGRAPHIC DATA**

A review of demographic data suggests that Black, Latinx, and Indigenous (native American) residents will disproportionately benefit from Expedited Bill 50-20 compared to White and Asian residents. For example, a review of 2019 data from the American Community Survey (ACS) demonstrates higher rental rates among Black, Latinx, and Indigenous households where 50% of Latinx and Indigenous residents and 58% of Black residents lived in rental housing compared to 25% of White and Asian residents.<sup>9</sup>

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A review of data comparing average rents for older multi-family properties to newer buildings also suggests that lower income renters will disproportionately benefit from Expedited Bill 50-20. According to CountyStat, the lowest average rent is \$1,555 per month in facilities built 50 or more years ago, whereas the lowest average rent is \$2,364 per month for facilities under ten years old. Of note, two-thirds of multi-family rental properties in Montgomery County are at least 50 years old.<sup>10</sup>

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### ANTICIPATED RESJ IMPACTS

OLO predicts that implementation of Expedited Bill 50-20 will favorably impact racial equity and social justice within the County because Black, Latinx and Indigenous residents are over-represented among the rental households that would benefit from enhanced safety standards. Low-income renters are also likely over-represented among residents and therefore will benefit from this bill.<sup>11</sup>

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### METHODOLOGIES, ASSUMPTIONS, AND UNCERTAINTIES

This RESJ impact statement and OLO's analysis rely on several sources of information, including the ACS,<sup>12</sup> CountyStat,<sup>13</sup> NTSB Safety Report,<sup>14</sup> OLO Economic Impact Statement and Expedited Bill 50-20.

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### RECOMMENDED AMENDMENTS

The County's Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequalities are warranted in developing RESJ impact statements.<sup>15</sup> Towards this end, OLO recognizes that on December 18, 2020, the Public Service Commission of Maryland imposed a civil penalty of \$750,00 on Washington Gas for failing to file annual reports pertaining to its mercury service regulator removal process.<sup>16</sup> As proposed by Washington Gas' regulator replacement plan and ordered by the Commission, this RESJ impact statement offers four recommended amendments for Expedited Bill 50-20:<sup>17</sup>

- Require Washington Gas to provide the County with an update on projected and annual costs within 60 days of completing its one- and three-year surveys;
- Require within 30 days of commencing its survey that Washington Gas to notify the County of the date of commencement;
- Require Washington Gas to file annual reports by February 10th of each year as to the status of its program; and
- Require Washington Gas to work with the County's Consumer Affairs Division and Engineering Division to adopt a Mercury Service Regulator Replacement Plan customer notification and service termination process.

### CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging, analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

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<sup>1</sup> National Transportation Safety Board. 2019. Building Explosion and Fire, Silver Spring, Maryland, August 10, 2016. NTSB/PAR-19/01. Washington, DC. <file:///C:/Users/holtth01/Downloads/637725.pdf>

<sup>2</sup> Ibid

<sup>3</sup> EPA, Before You Tear It Down, Get the Mercury Out Recommended Management Practices for Pre-Demolition Removal of Mercury-Containing Devices from Residential Buildings, United States Environmental Protection Agency.

[https://www.epa.gov/sites/production/files/2015-10/documents/before\\_you\\_tear\\_it\\_down.pdf](https://www.epa.gov/sites/production/files/2015-10/documents/before_you_tear_it_down.pdf)

<sup>4</sup> NTSB Report

<sup>5</sup> Ibid

<sup>6</sup> Ibid

<sup>7</sup> Washington Gas, Mercury Regulator Fact Sheet, WGL Holdings Inc. <https://www.washingtongas.com/media-center/customer-advisory-mercury-regulators>

<sup>8</sup> Montgomery County Council, Expedited Bill 50-20, Landlord-Tenant Relations- Fire Safety- Removal of mercury Service Regulators, Introduced December 8, 2020, Montgomery County, Maryland.

<sup>9</sup> American Community Survey (ACS), Selected Housing Characteristics, The United States Census Bureau, 2019.

[https://data.census.gov/cedsci/table?g=0400000US24\\_0500000US24031&tid=ACSDP5Y2019.DP04](https://data.census.gov/cedsci/table?g=0400000US24_0500000US24031&tid=ACSDP5Y2019.DP04)

<sup>10</sup> CountyStat, Performance Management and Data Analytics, Montgomery County Annual Rental Facility Occupancy Survey, 2018, Montgomery County Maryland Department of Housing and Community Affairs.

<https://reports.data.montgomerycountymd.gov/stat/goals/qw5z-mdcn/aadg-iy9b/fupp-ze2q>

<sup>11</sup> Stephen Roblin, Economic Impact Statement, Expedited Bill 50-20, December 2020, Office of Legislative Oversight, Montgomery County Maryland.

<sup>12</sup> ACS

<sup>13</sup> CountyStat

<sup>14</sup> NSTB Safety Report

<sup>15</sup> Montgomery County Council, Bill No. 27-19 Racial Equity and Social Justice, Effective on March 2, 2020, Montgomery County, Maryland.

<sup>16</sup> The Public Service Commission of Maryland, Order No. 89680, Investigation of Washington Gas Light Company Regarding a Building Explosion and Fire In Silver Spring, Maryland on August 10, 2016, Maryland, December 2020.

<https://www.psc.state.md.us/wp-content/uploads/Order-No.-89680-Case-No.-9622-WGL-FB-Investigation-Order-Assessing-Civil-Penalty.pdf>

<sup>17</sup> Order No. 89680