

**Testimony of Rosanne Avilés
The Legal Aid Society of the District of Columbia**

**Committee on Public Services and Consumer Affairs
Council of the District of Columbia**

**Public Oversight Roundtable
In the Matter of: Tenant Opportunity to Purchase Act Exemption Clarification**

April 30, 2009

The Legal Aid Society of D.C.¹ supports amending the District of Columbia Code to require notice to tenants when the property they rent undergoes a foreclosure. The D.C. Metro area faces one of the fastest-growing foreclosure rates in the country. According to the Washington Post and a study by George Mason University's Center for Regional Analysis, as of April 1, 2009, the number of current foreclosures is more than 13 ½ times the number of foreclosures just two years ago.² Indeed, at Legal Aid we have seen a significant increase in the number of applicants seeking legal assistance due to foreclosure.

Unlike tenants in most states, tenants in D.C. do not have to leave their homes when their landlord is foreclosed upon. D.C. landlord-tenant law does not recognize foreclosure as a ground for legal eviction. This rule helps prevent displacement and homelessness by permitting tenants to remain in their homes after foreclosure, paying rent to the bank or the new owner.

Unfortunately, many tenants of foreclosed owners are not aware of their right to stay in their homes. These lawful tenants, many of whom have written leases and regularly paid their rent to their initial landlord, suddenly find themselves with notices from bank lawyers and, all too often, complaints from DC Landlord-Tenant Court, naming their landlord and seeking eviction.

I recently met a tenant in Landlord-Tenant Court through the Court-based Legal Services Project. The tenant had received a Notice to Vacate, stating that the property she lived in was purchased through a foreclosure sale and that any occupants had 30 days to vacate the property. The tenant subsequently received a Complaint for eviction from D.C. Landlord-Tenant Court addressed to the landlord and all other occupants. I was able to assist the tenant that day in Court by reporting her tenancy to the attorney for Plaintiff bank and the case was ultimately dismissed.

¹ The Legal Aid Society of the District of Columbia was formed in 1932 to "provide legal aid and counsel to indigent persons in civil law matters and to encourage measures by which the law may better protect and serve their needs." Over the last 77 years, tens of thousands of the District's neediest residents have been served by Legal Aid staff and volunteers. Legal Aid currently works in the areas of housing, family law, and public benefits.

²Dina ElBoghday, "Foreclosure Sales Stalled by Red Tape," The Washington Post, April 13, 2009, available at: http://www.washingtonpost.com/wp-dyn/content/article/2009/04/12/AR2009041202537_2.html

That tenant was lucky – she went to court and sought out legal advice, and she was able to protect her home. But most tenants do not make it that far. Tenants of foreclosed homeowners routinely receive Notices to Vacate and eviction complaints for Landlord-Tenant Court, listing the foreclosure as a basis for eviction. All too often they believe that, as tenants, they have to leave or else the marshals will come and evict them. They do not realize that they have a right to stay and continue renting from the new owner following a foreclosure. Like the tenant that I met through the Court-based Legal Services Project, frequently, tenants only realize what their rights are when they are in Court.

The “Tenant Opportunity to Purchase Exemption Clarification Emergency Amendment Act of 2009” is an important step in educating tenants of their rights before a new owner, following a foreclosure, commences eviction proceedings. The legislation, if passed, would require that owners who take ownership of properties following foreclosure provide occupants of the property with a “Notice of Tenants’ Rights During Foreclosure.” Informing tenants about their right to stay will help prevent tenants from being frightened into leaving by the inscrutable letters of banks’ lawyers or the intimidating process of legal action. It will help keep families in their homes, instead of being unnecessarily and illegally displaced.

The “Tenant Opportunity to Purchase Exemption Clarification Emergency Amendment Act of 2009” will be an enormous step toward helping blameless tenants of foreclosed homeowners from being unnecessarily displaced. Thus, we urge this Committee to swiftly adopt this provision of the bill. Thank you.