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**Testimony of Samantha Koshgarian
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**Before the Committee on Housing
Council of the District of Columbia**

Public Hearing Regarding:

**Bill 25-0227,
“Rent Stabilization Protection Amendment Act of 2023”**

June 29, 2023

Legal Aid of the District of Columbia¹ submits this testimony in support of B25-0227, the Rent Stabilization Protection Amendment Act of 2023.

This Committee considers this legislation against the backdrop of a longstanding and ever-worsening affordability crisis for District renters, which for many families leads to housing instability, eviction, and ultimately displacement from the District. Residents just saw the largest increase in rent for rent-stabilized units in the history of DC's rent-control program. We appreciate the Council's recent actions to protect renters by subsequently limiting this historic and extraordinary increase by enacting the Rent Stabilized Housing Inflation Protection Emergency Amendment Act of 2023. However, both the increase and

¹ Legal Aid 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.” Legal Aid is the oldest and largest general civil legal services program in the District of Columbia. Over the last 91 years, Legal Aid staff and volunteers have been making justice real – in individual and systemic ways – for tens of thousands of persons living in poverty in the District. The largest part of our work is comprised of individual representation in housing, domestic violence/family, public benefits, and consumer law. We also work on immigration law matters and help individuals with the collateral consequences of their involvement with the criminal justice system. From the experiences of our clients, we identify opportunities for court and law reform, public policy advocacy, and systemic litigation. More information about Legal Aid can be obtained from our website, www.LegalAidDC.org.

the Council's reaction highlight the critical role rent stabilization plays in protecting the affordable housing the District has left. This legislation would help address a troubling loophole that undermines the District's efforts to maintain affordable housing.

To Address the Affordability Crisis, the District Needs Both Rent Stabilization and Vouchers

As of 2019, only 36 percent of District housing units were subject to its rent stabilization program. Each year, this percentage decreases as covered properties age and new properties are built. This means that an ever-shrinking number of rental units are affordable to low-income residents (and virtually none are affordable to very low-income residents). Meanwhile, the availability of subsidized housing is similarly bleak. As evidenced by the long-closed voucher waitlist of 37,000 families, the District does not have nearly enough vouchers available for residents who are unable to afford market rents. And the consequences of decades of mismanagement and underfunding of the District's public housing stock are well-documented, as more and more units are taken offline due to repair needs.

Against this backdrop, in recent years, housing providers have increasingly courted voucher-holders, rather than other low-income residents who could otherwise afford their units, in order to take advantage of neighborhood-wide, often above-market payment standards established by the District of Columbia Housing Authority (DCHA). These standards do not take into account the attributes of a given unit or building, including what the unit could legally be rented for to a tenant who did not have a voucher. This practice has the dual effect of both wasting precious DCHA funds that go to overpayment for what would otherwise have been lower-priced units, and also removing affordable units from the private market, which otherwise might have been available to families who needed a voucher but have not received one. In effect, the payment standard policy has the effect of reducing available affordable housing. This would be nonsensical in any jurisdiction, but it is egregiously bad policy in a jurisdiction suffering the kind of affordability crisis DC faces. For the District to have any hope of providing stable housing to its low-income residents, it is critical that units rendered below market rate by rent stabilization be available to residents with limited incomes who do not have the benefit of vouchers or other subsidies.

Council Action is Necessary to Ensure DCHA Meets Its Mission

We fully support this legislation to prevent the circumvention of rent stabilization, but it is worth noting that it should not be necessary in the first place. DCHA has always had an obligation under federal regulations to engage in a "rent reasonableness" assessment

before entering into a Housing Assistance Payment contract with a prospective landlord². This should be a case-by-case analysis of whether a given unit is worth what the Housing Authority agrees to pay. This federal requirement is in place precisely to prevent overpayment and promote efficient utilization of limited affordable housing funds. However, for years DCHA has simply applied blanket “submarket” payment standards based on location and number of bedrooms without consideration of any of the other many attributes – available amenities, building age, square footage, general condition – which have such a significant effect on the market rents of privately-rented units. Despite the statutory exemption for federally assisted rental units in the rent stabilization program, DCHA should include rent stabilization limits as part of a rent reasonableness analysis as a matter of policy, consistent with both federal regulations and its mission to maximizing housing affordability.

The Department of Housing and Urban Development’s 2022 audit of DCHA made clear that the agency’s failure to engage in meaningful, individualized rent reasonableness analysis was a violation of its obligations under federal law and required such a program to be put in place. In response to this audit, however, DCHA has still proposed a scheme which still does not appear to take into account whether a unit is subject to rent stabilization or what the highest rent the landlord could charge a tenant without a voucher might be. It is clear that DCHA is not inclined to take the steps that would meaningfully prevent overpayment, despite the benefit to its mission and the many thousands of families awaiting assistance. The Council should pass this legislation to ensure that District families do not have their chances of securing affordable housing diminished by the very agency charged with providing access to it. We also urge the Council to engage in meaningful oversight of DCHA moving forward to ensure that the agency’s policies serve its mission.

This Legislation Will Require Increased Efforts to Prevent and Address Discrimination Against Tenants Renting with Vouchers

While we believe this legislation will improve housing affordability in the District overall, it is important that the Council be aware of the almost-certain unintended consequences. In our practice at Legal Aid, we regularly see first-hand the extreme difficulty voucher holders face in placing their subsidies and the significant discrimination they face despite District law prohibiting such discrimination. We cannot deny that this legislation will make it that much harder for voucher holders to find housing. The ability to circumvent rent stabilization limits by renting to voucher holders has undoubtedly provided an incentive for landlords who might otherwise have been deterred by an unwillingness to engage with program requirements or unfounded biases against voucher recipients. It is critical that this change be accompanied by a renewed commitment to enforcing laws against

² 24 CFR § 982.507

source of income discrimination, and thoughtful, creative engagement with the question of how to address such discrimination at the point in time when it is really needed - when someone is trying to rent an apartment, not after they have been rejected and the apartment has been rented to someone else. While this is a real and meaningful concern, the answer cannot be to forego the benefit of this legislation to housing affordability for the many District residents who do not currently have access to housing vouchers.

Conclusion

District residents struggling to afford stable, habitable rental housing have seen the loss of many affordable units due to DCHA's failure to engage in meaningful rent-reasonableness analyses, creating a loophole in the District's rent stabilization program. This legislation would help prevent the loss of even more affordable units for residents who desperately need them. In addition to closing this loophole, we urge the Council to consider what additional measures may be necessary to protect voucher-holders from source of income discrimination and to ensure that DCHA is effectively carrying out its mission to provide safe, stable, affordable housing to as many District residents as possible.