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**Testimony of Deborah Cuevas Hill
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**Before the Committee on Housing
Council of the District of Columbia**

**Performance Oversight Hearing Regarding the
Department of Housing and Community Development**

February 15, 2024

Legal Aid DC¹ submits this testimony regarding the Department of Housing and Community Development's (DHCD) role in administering the District's Homeowner Assistance Fund to share three principal concerns. First, the substantial and unacceptable delays in application review and payment disbursement. Second, the lack of timely and clear communications with applicants. Third, the lack of a meaningful appeals process.

Although DHCD reports that the average time for application review and payment processing has reduced over the past year, the vast majority of Legal Aid's clients continue to experience substantial delays at every step of the process. The disbursement of forward-facing payments has been particularly problematic, with many homeowners experiencing several month gaps in between when payments are made.

¹ Legal Aid DC 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 92 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 delays and problematic implementation jeopardize the program's potential to prevent avoidable foreclosures in the District.

The Homeowner Assistance Fund (HAF) uses \$50 million in federal funds to provide grants to District homeowners who are suffering financially from the pandemic to save their homes and avoid displacement. HAF provides assistance to help homeowners catch up on mortgage payments, condominium fees, property taxes, utilities, and other housing-related payments.

The HAF program is a unique opportunity to stem the tide of displacement, to preserve low and moderate-income homeownership, and to build intergenerational wealth, which would in turn help to narrow D.C.'s racial wealth gap. Effective administration of the HAF program is critical to preserving Black and Latinx homeownership in the District given that Black and Latinx homeowners face disproportionately high risks of losing their homes.

We appreciate that DHCD has worked to reduce the time from application submission to decision and from approval to payment. However, the data provided by DHCD on the average length of time for application review and payment disbursement belies the experiences of Legal Aid's clients, who continue to suffer extreme delays in all stages of the HAF process. Even with the timeline improvements that DHCD reports, the length of time it takes DHCD to approve HAF applications and issue payments remains unacceptable.

In addition, there are several areas of implementation that need to be improved. We hope the Committee will use the oversight process to ask the following questions of DHCD:

What concrete steps is DHCD currently taking or will take in the next thirty days to:

- Expedite the process to review and approve a HAF application?
- Expedite the process for making payments on approved HAF applications?
- Implement a faster alternative to the current vendor registration system?
- Ensure that notices given to homeowners include information about their appeal rights and the process for appeal?
- Timely notify homeowners about delays in reviewing or paying on their HAF application?

DHCD Must Address the Substantial Delays in the Application Review and the Payment Disbursement Processes

Application Review and Payment Disbursement is Taking Many Months and Homeowners are Facing Negative Consequences From the Delay

As we testified last year, the process for both application review and payment disbursement continues to take too long.

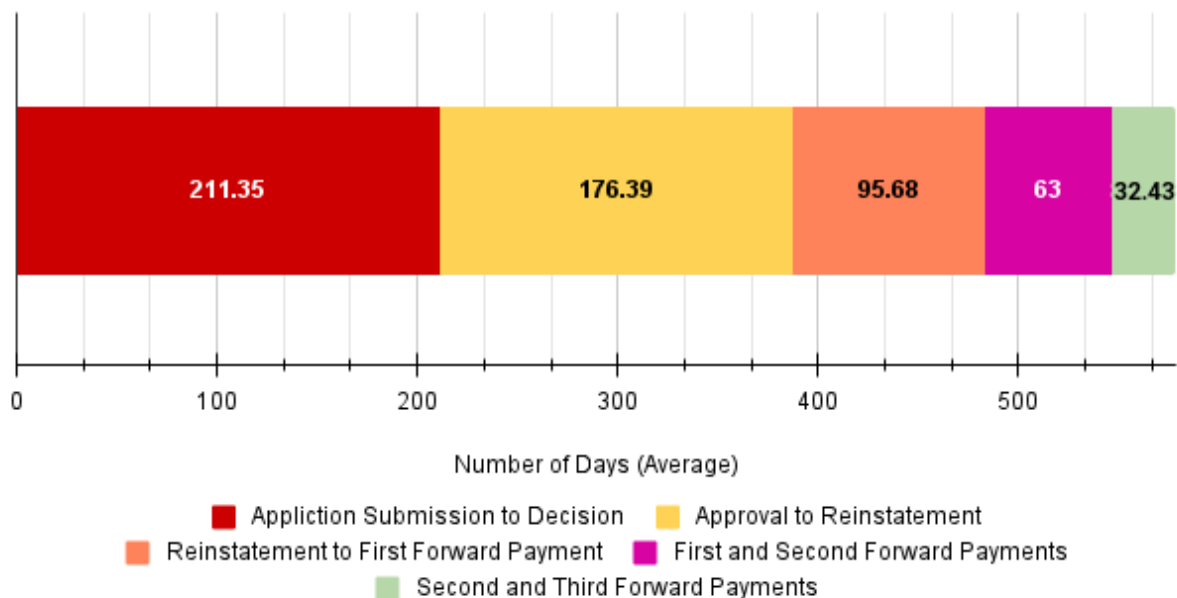
The full HAF program opened to the public on June 22, 2022, making it one of the last few programs in the country to open. Although DHCD states that key achievements from FY23 to FY24 “include a 52% reduction in the time from application submission to decision and a 66% decrease in the time from approval to payment,”² the current delays in application review and payment remain unacceptable and threaten the success of the program.

The experiences of Legal Aid clients bear no resemblance to the timeline improvements reported by DHCD. Legal Aid has assisted over 60 homeowners³ with HAF applications. The delays at all stages of the application process continue to be substantial. As illustrated in the graphics below, the average time for DHCD to approve our clients’ HAF applications is about 7 months; and the average time for DHCD to disburse the first payment after mortgage approval is about 6 months. This means that on average, it takes DHCD over a year to review and issue payment.

² See DHCD Pre-Hearing Responses, February 9, 2024, <https://lims.dccouncil.gov/Hearings/hearings/237>

³ The level of assistance Legal Aid provided varied. For some clients, we were involved in all aspects of the application process, and in others the clients submitted the application independently and Legal Aid provided follow-up assistance or advice. We did not include all clients in our data set. We did not include homeowners who only applied for utility assistance or homeowners for whom we did not have sufficient information regarding their application timeline.

HAF Mortgage Assistance Timeline for Legal Aid Clients



Sample sizes from left to right: 49, 41, 20, 12, 7 homeowners.

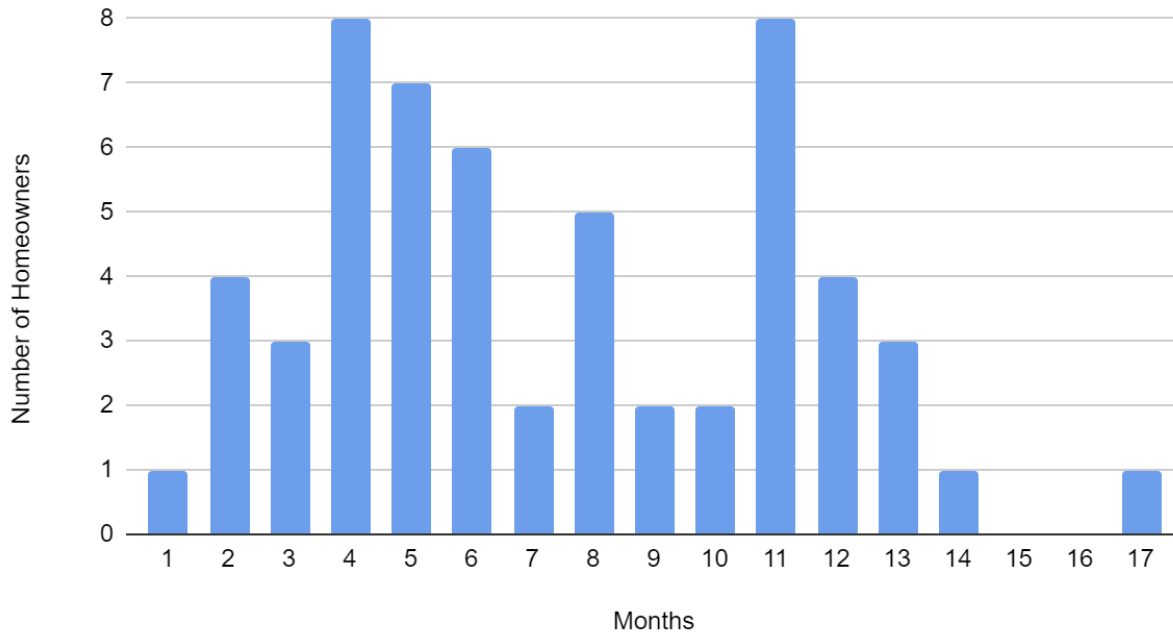
In the above chart, we calculated the average number of days each stage takes in the DC HAF mortgage assistance process, using data from Legal Aid clients who applied for mortgage assistance. The data is current as of January 26, 2024. The sample size decreases for each stage, due largely to the accumulation in delays that HAF applicants experience as they progress through the process. The majority of our clients who applied for forward-facing payments have not seen three consecutive payments sent to their mortgage company and continue to wait for HAF to issue final payments.

As designed, the forward-facing payments are meant to be sent the three months immediately after the arrearage is paid. Unfortunately, most of our clients have not received consecutive payments. Instead, our clients have experienced interrupted forward-facing payments, often with gaps of many months in between payments. These interrupted payments result in shortages and new defaults. As a result, rather than provide struggling homeowners a chance to catch up on property charges, the forward-facing payments have been a cause of distress and confusion for our clients.

DHCD's data on the reduction in timelines is silent on how the timing from application approval to payment is measured. Our clients' experiences suggest that the substantial

delays that plague the forward-facing payment process may not be accounted for in the data provided.

HAF Application Decision Timeline

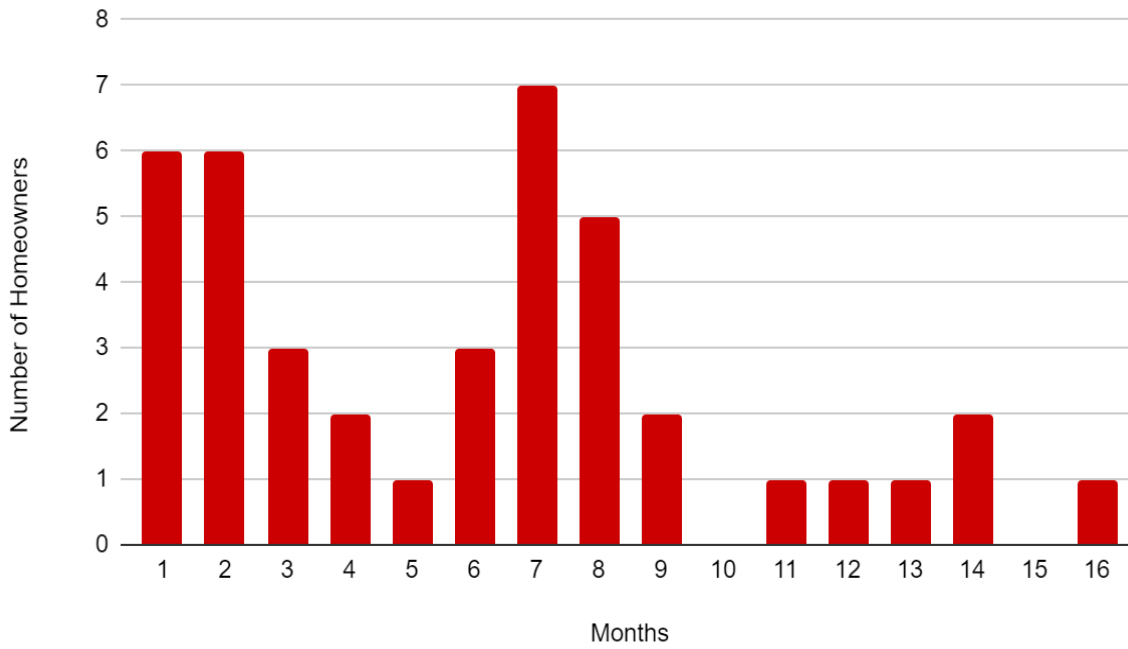


Total Number of Homeowners in Sample: 57

Average: 7.27 Months

Legal Aid compiled data for 57 homeowner clients on the length time it took for DCHD to review their applications. For 17 of the 57 homeowners, DHCD has taken at least 11 months to approve their applications. For 6 of the 41 homeowners approved for mortgage assistance, DHCD has taken at least 11 months to disburse the first payment. The overwhelming majority of Legal Aid’s clients who have been approved for HAF funds are still waiting for payment of some kind. Legal Aid has three clients who applied prior to September 30, 2022, and their applications are still pending approval.

Time between Approval and Mortgage Reinstatement



Total Number of Homeowners in Sample: 41

Average: 5.88 months

What is not captured in the above graphics is the impact the delays in reviewing applications and processing payments have on homeowners. The substantial delays in reviewing applications and processing payments have serious negative impacts on communities. Chief among them are the stress and anxiety experienced by homeowners who fear losing their homes as mortgage companies and condo associations continue to threaten or pursue foreclosure and debt collection action. Homeowners with HAF applications that have been pending for many months regularly receive collection calls and notices, even when a HAF application has been approved. Moreover, the legislative protections against foreclosure only apply to applicants that applied for HAF and provided proof of their application to the foreclosing entity prior to September 30, 2022. Applicants who applied for HAF on October 1, 2022, or later are not protected from foreclosure. Foreclosing mortgage lenders, condo associations and their attorneys are increasingly losing their patience with the HAF process. Foreclosing entities are growing frustrated with the program delays, and homeowners are at the mercy of asking lenders and associations to cooperate with a lengthy review and payment process.

The delays also cause balances to grow as legal fees, collection costs, and additional arrears pile up. The additional costs associated with these delays mean that the \$50 million will be less effectively used as money is spent on collection costs and legal fees that could have been avoided. And finally, growing arrears make other alternatives to

foreclosure (like loan modifications) less viable, particularly in the current high interest rate climate.

Underlying Cause of Delays

We understand that one of the principal causes of payment delays has been a burdensome process that required all payees (mortgage servicers, condo associations, etc.) to register as vendors of the District. Our understanding is that the vendor registration process was streamlined somewhat in July 2022; nonetheless, payment delays remain unacceptably long.⁴

We also understand that the District as a whole overhauled its financial system in October 2022. Unfortunately, this did not result in payments being disbursed quickly. We urge the agency and the Council to take steps to prioritize updating the payment process for HAF disbursements and to take any other steps necessary (including adding additional staff) to ensure that payment wait times are cut exponentially. The agency must also take corrective action to ensure that forward-facing payments following immediately and consecutively after arrears payments to ensure that homeowners are brought completely current after the program disburses all payments.

With regard to application review, to the extent that the delays are caused by insufficient staff capacity, we encourage the agency to ensure that staffing is adequate to review and process new applications and to address applications that are under appeal. Legal Aid has numerous clients with applications that have been under appeal for months and months without a decision. The Council should encourage the agency to develop a plan to deal with the backlog of applications that have been pending for many months. The timely review of applications continues to be critical for homeowners who submitted applications after September 30, 2022, as they are not protected from foreclosure. Review timelines need to be substantially shortened to minimize the likelihood of foreclosure and continued collection activity while applications are pending approval or payment.

⁴ Legal Aid previously testified about the importance of addressing delays in payment disbursement during DHCD's performance oversight hearing in January 2022 and February 2023. Unfortunately, the concerns we raised then remain ongoing. See Testimony of Shirley Horng, Legal Aid of the District of Columbia, Performance Oversight Hearing Regarding the Department of Housing and Community Development (January 19, 2022), <https://www.legalaiddc.org/media/297/download>. See also Testimony of Jennifer Klein Joseph, Legal Aid DC, Performance Oversight Hearing Regarding the Department of Housing and Community Development (February 13, 2023), <https://www.legalaiddc.org/media/3394/download?inline>.

DHCD Must Provide Clear and Timely Updates to Homeowner Applicants

We are encouraged that the agency plans to increase updates to homeowners at various application touch points but are unsure how the agency plans to increase timely and clear communications with homeowners. At the initial stages of the program, homeowners would receive email communications from the agency informing them of approvals or denials. Subsequently, the homeowner would receive an email that included when a payment was made, to what entity it was made, and the amount of payment. Emails were sent for both arrearage payments and forward payments.

Over the past several months, Legal Aid clients have seen a decrease in communications from the agency rather than the reverse. For example, updates that were previously communicated via email regarding the status of payment have not been sent.

We urge the agency to update its communication process to provide timely status updates to applicants. An effective communication system should include:

- Contemporaneous updates to the HAF portal regarding the status of the application and payment, including payment details that include the date and amount of payment and name of the vendor receiving payment.
- Updates about the reasons for delays in review and payment.
- Clear notification to homeowners when additional information is required to supplement their application, including the deadline for the homeowner to respond to the request for additional information and the consequence if the homeowner fails to respond to the request.

DHCD Must Establish a Meaningful Appeal Process for Denied Applications

We appreciate that DHCD recognizes that every applicant who is denied for HAF assistance must have the opportunity to appeal. However, to date, the information on the reason for denial of an application and how to address it has been lacking or confusing. Notices to homeowners denying their applications do not include a clear basis for the denial. The denial notices seem to be standard denials and lack an explanation of appeal rights.

We think the key components to any appeal process are:

- Providing applicants with clear notice explaining the basis for any denial;

- Providing clear information about their appeal rights including how to appeal the denial, the deadline to do so, and the correct forum to do so;
- Providing applicants with an opportunity to explain why they believe their application was incorrectly denied;
- Providing an opportunity to appeal for applicants who are denied at the “initial screening” stage of the HAF application; and
- An appeal review process where the decision-maker on the appeal is different from the reviewer who made the initial eligibility determination.

We urge the Council to follow-up with DHCD to ensure that a meaningful appeal process is implemented as soon as possible to include a notice of appeal rights.

Legal Aid Urges DC Council to Legislate HAF

DC’s HAF program is rife with problems and unacceptable delays that jeopardize the program’s success. As a result, enacting local legislation is necessary to govern the program and ensure its efficacy. Legal Aid urges the DC Council to enact legislation for the program to address the significant problems homeowners have experienced since DC HAF opened on June 22, 2022, the continued unacceptable delays in application review and payment disbursement, and the lack of clear and timely communications from the agency, including notice of appeal rights.

Legal Aid recommends that the DC Council legislate deadlines related to the review of applications, appeals, and payment disbursement. Legislation should also require that notices to applicants include clear and accurate information of their appeal rights and should protect homeowners from foreclosure regardless of when they applied for HAF while their application is pending, and the program addresses the significant backlog of applications.

Conclusion

Effective and timely administration of the HAF program is essential in preventing avoidable foreclosures and displacement, which is critical to addressing the racial wealth and homeownership gaps in the District. Cutting down the length of time needed to review applications and process payments will protect homeowners from avoidable foreclosures, reduce stress and anxiety experienced by homeowners in financial distress, and maximize the reach of the limited pool of federal money.

We urge the Council to adopt legislation that would address the lack of clear and timely communications from the agency including notice of appeal rights and set reasonable timelines for application review and payment disbursement. One year or more from application to payment is not a reasonable timeline, particularly for homeowners who are not protected from foreclosure while their application is pending. Legislation is needed to protect homeowners from foreclosure regardless of when they applied for HAF so that all homeowners are protected from foreclosure while their application is pending agency review and payment.

We thank the Committee for the opportunity to submit this testimony.