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**Testimony of Jen Jenkins  
Policy Counsel, Systemic Advocacy and Law Reform  
Legal Aid DC**

**Before the Committee of the Whole with Comments from the Committee on Business  
and Economic Development  
Council of the District of Columbia**

**Public Hearing Regarding:**

**Bill B25-0669  
Uniform Unlawful Restrictions in Land Records Act of 2024**

**March 12, 2024**

Legal Aid DC<sup>1</sup> writes in support of Bill B25-0669, Uniform Unlawful Restrictions in Land Records Act of 2024. The uniformity of this bill will establish a simplified process for those who seek to remove harmful and illegal restrictions in deeds. The Uniform Unlawful Restrictions in Land Records Act of 2024 is similar in intent to Bill 25-0482 Releasing Restrictive Covenants in Deeds Act of 2023, which Legal Aid testified in support of on

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<sup>1</sup> 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](http://www.LegalAidDC.org).

December 8, 2023.<sup>2</sup> Notably, this uniform bill allows homeowner’s associations (“HOA”) to remove unlawful restrictions on deeds without a formal vote of the HOA, which makes the removal of the harmful language easier. This uniform measure also includes a model form, which Legal Aid recommended in our prior testimony on the 2023 bill. While Legal Aid supports this new uniform measure, we have reiterated some of the recommendations we made in our testimony for Bill 25-0482 Releasing Restrictive Covenants in Deeds Act of 2023 in order to ensure the removal of restrictive covenants in DC is as just as possible.

### **The Legacy of Restrictive Covenants Continues to Keep Marginalized Communities from Achieving Homeownership Today**

Restrictive covenants dramatically impacted the development and composition of the DC neighborhoods we know today. Specifically, racially restrictive covenants were used to displace and dispossess Black people and other targeted races to homogenize neighborhoods and concentrate wealth. Landowners and neighborhood associations used deed and petition covenants to prevent Black people from buying and accessing housing for long periods of time or even in perpetuity until the Supreme Court prohibited them.

Even though the U.S. Supreme Court declared such covenants unconstitutional in 1948, and the federal Fair Housing Act of 1968 subsequently outlawed restrictive covenants, DC residents, and in particular our client community who live at or below 200% of the federal poverty level, are still bearing the harms of racially restrictive covenants and other discriminatory housing practices such as redlining, home devaluation, racial steering and blockbusting, exclusionary zoning, urban renewal<sup>3</sup> today.

Legal Aid has seen segregation's harmful impacts firsthand and in the data on our client community. Despite many government programs to support homeownership, the District still has failed to close the racial homeownership gap among its residents. In DC, 35% of Black residents own their own homes compared to 50% of white residents. Further, the racial wealth gap in the District remains disparate, with white households having 81 times the wealth of Black households and 22 times the wealth of Latinx households. These disparities can be attributed in part to the effect of restrictive covenants since

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<sup>2</sup> Testimony of Jen Jenkins, Policy Counsel, Legal Aid DC, Public Hearing on Bill 25-0482 Releasing Restrictive Covenants in Deeds Act of 2023 (Dec 8, 2023) available at <https://www.legalaiddc.org/media/3794/download?inline>.

<sup>3</sup> Whose Downtown? Urban Renewal: The Story of Southwest D.C., <https://whosedowntown.wordpress.com/urban-renewal-the-story-of-southwest-d-c/> - :text=The implementation of the urban,D.C. to relocate to other.

homeownership is a crucial avenue to creating long-term wealth, and marginalized people were, and continue to be prohibited access to that opportunity due to institutionalized racism.

### **DC Should Join Other Progressive States in Removing Restrictive Covenants**

The District would not be alone in eliminating these historically racist and segregationist housing laws. Our neighboring states, Maryland and Virginia, have passed laws providing for the release of restrictive covenants. Notably, Maryland's law allows property owners to complete a form and remove the covenants for free.<sup>4</sup> In California, a bill recently became law that streamlined the process of eliminating restrictive covenant language.<sup>5</sup> Illinois recently enacted a law to remove or amend racially restrictive covenants from property records.<sup>6</sup> Other states have passed similar laws, including Oregon and Connecticut.<sup>7</sup> DC should follow the national momentum toward allowing the removal of restrictive covenants by having this uniform bill become law and include our recommended amendments to strengthen the measure.

### **The Committee Should Expand the Uniform Unlawful Restrictions in Land Records Act of 2024 by Providing Historical Education on Restrictive Covenants and Funding Homeownership Programs**

#### The Committee Should Incorporate a Historical Education Program and Funding for Black Homeownership in the Bill

It is important to remove racist language from our historical records, but it is also critical that we do not forget that history, and that we make sure to learn from it. Legal Aid recommends that this Committee include in the bill the launch of a program for DC residents to continue learning the history and harm of restrictive covenants and to support the generations of Washingtonians affected by restrictive covenants. Washington state's restrictive covenant law is an example of such a program.<sup>8</sup> The

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<sup>4</sup> Maryland Real Property Code § 11B-113.3 (2018); Va. Code § 36-96.6.

<sup>5</sup> Assembly Bill 911, [https://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240AB911](https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB911).

<sup>6</sup> 55 Ill. Comp. Stat. 5/3-5048 (2022).

<sup>7</sup> Conn. Gen. Stat. § 47-12b; Oregon Revised Statutes § 93.270.

<sup>8</sup> Washington State, Housing Commission Office, Covenant Homeownership Program, A History of Racism in Housing - A Commitment to Make it Right,

Washington law requires an initial covenant homeownership program study to document past and ongoing discrimination against marginalized people in the state.<sup>9</sup> In Marin County, California, county officials launched the Restrictive Covenant Project, which “aims to inform and educate Marin County residents of the history and significance of government policies and programs that were intentionally discriminatory and helped create segregated communities in Marin.”<sup>10</sup>

Legal Aid also recommends that the Council further invest in homeownership opportunities for its marginalized residents. Washington state's law on removal of restrictive covenants law requires assistance with homeownership costs and is instructive on how the Committee could amend this bill.<sup>11</sup> Further, in DC, the Mayor's Black Homeownership Strike Force (“BHSF”) offered recommendations to create a path for Black homeowners to stay in their homes, which included the following:

- The BHSF recommended that the District create a program to aid Black homeowners who have experienced and are at risk of foreclosure due to their inability to pay their mortgage and related housing fees.<sup>12</sup>
- The BHSF also recommended improving the ability of Black DC residents to purchase a home by strengthening the effectiveness of all homeownership programs (i.e., Home Purchase Assistance Program, Employer Assisted Housing Program, DC Open Doors, etc.).<sup>13</sup>

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<https://www.wshfc.org/covenant/index.htm> - :text=The Covenant Homeownership Act is, and practices by Washington State.

<sup>9</sup> See House Bill 1474 <https://lawfilesexternal.wa.gov/biennium/2023-24/Pdf/Bills/SessionLaws/House/1474-S2.SL.pdf?q=20231114115359> (2023).

<sup>10</sup> Marin County Restrictive Covenant Project, <https://www.marincounty.org/main/restrictive-covenants-project>.

<sup>11</sup> See House Bill 1474 <https://lawfilesexternal.wa.gov/biennium/2023-24/Pdf/Bills/SessionLaws/House/1474-S2.SL.pdf?q=20231114115359> (2023).

<sup>12</sup> Black Homeownership Strike Force, Final Report, (October 2022) [https://dmped.dc.gov/sites/default/files/dc/sites/dmped/page\\_content/attachments/BHSF\\_Report\\_FINAL\\_FINAL.pdf](https://dmped.dc.gov/sites/default/files/dc/sites/dmped/page_content/attachments/BHSF_Report_FINAL_FINAL.pdf).

<sup>13</sup> *Id.*

Legal Aid urges this Committee to utilize these recommendations from the Strikeforce and other jurisdictions to materially address the harms caused by restrictive covenants. In addition to the recommendations of the BHSF, Legal Aid DC strongly recommends investment in social housing legislation such as the Green New Deal for Housing Amendment Act of 2023.

### **Conclusion**

Thank you for the opportunity to testify about the impact of restrictive covenants on DC and our client community and for considering our recommendations to improve the bill. We look forward to working with this Committee and the Council on the path ahead.