



www.legalaiddc.org
1331 H Street, NW
Suite 350
Washington, DC 20005
(202) 628-1161

**Testimony of Molly Catchen
Supervising Attorney, Housing Law Unit
Legal Aid DC**

**Before the Committee on Housing
Council of the District of Columbia**

Budget Oversight Hearing Regarding the Department of Human Services

April 5, 2024

Legal Aid DC¹ submits the following testimony regarding the Department of Human Services' (DHS) administration of the Emergency Rental Assistance Program (ERAP).

Legal Aid urges the Council to provide robust funding for ERAP in FY 2025. Legal Aid has been testifying for years that ERAP is underfunded and that its administration further limits program accessibility. Many of the same issues remain today. However, in a time of unprecedented need, rising rents, and a continued affordability crisis, ERAP remains one of the only things standing between many families and eviction.

The Mayor's Proposed FY 2025 ERAP Budget Does not Come Close to Meeting the Need for Rental Assistance

The funding proposed for ERAP in the FY 2025 budget is woefully insufficient. This is a significant cut from the FY 2024 budget and falls critically short of meeting the needs of DC tenants. As a frame of reference, at this point in the 2024 fiscal year, DHS has already approved applications for 20 million dollars in ERAP funds.² This would be the

¹ Legal Aid DC is the oldest and largest general civil legal services program in the District of Columbia. 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 legal system. From the experiences of our clients, we identify opportunities for court and law reform, public policy advocacy, and systemic litigation. For more information, visit www.LegalAidDC.org

² Emergency Rental Assistance Program (ERAP) 2023 Version, available at: arcgis.com

entire budget for 2025. The local funding approved for FY 2025 must be at least consistent with funding amounts for 2024, including the federal funds that were used to bolster the program.

We Need More Information to Determine What “Fully Funding” ERAP Really Looks Like

It has been clear for many years that ERAP is routinely underfunded, as evidenced by the program running out of funding every year. What is not clear is what amount is required to provide assistance for DC tenants throughout the entire fiscal year. Historically, there was no way to keep track of how many tenants attempted to apply for ERAP, how many of those tenants would have been eligible, or how many would have been approved. The new portal system presents an important opportunity to collect and share this information so we can truly understand what the ERAP need is. Unfortunately, DHS has not taken advantage of this opportunity. Each time the portal closed many DC tenants were locked out of the process. By doing this, DHS is preventing a full assessment of the true need for ERAP. DHS must collect and provide data to allow the Council to understand the full need for ERAP and to sufficiently fund the program so that ERAP funding is available throughout the entire fiscal year.

DHS Must Create a More Equitable Application Process for ERAP

Under the current system, the ERAP portal opens quarterly and remains open until a set number of applications are submitted. We testified at oversight about the problems with this system and urge DHS and the Council to make changes to the application and portal system so it is more equitable and accessible to all DC tenants. Specifically, DHS and the Council should ensure that the portal remains open all year long and that the program is sufficiently funded so that funds are available to DC tenants when they experience a crisis.

The current system is not accessible to all DC tenants. Tenants must have reliable internet and be able to access the portal during the open window. The portal is also not accessible to many who are Limited English Speakers, who need assistance from a case manager, who have learning disabilities, cognitive impairment, or visual impairments, people who cannot read, or people who do not have access to the documentation required during the window the portal is open, including the tenant’s ID, lease, ledger and proof of income. DHS did set up an in-person application site at the MLK Library to attempt to address some of these concerns, but we heard from tenants that there were hundreds of people at the site waiting for hours for assistance. If the time pressure on the portal opening and closing was removed, a system could be created to effectively assist tenants in person in a more efficient way.

Under the portal system, applications are processed on a first come, first served basis. This means DHS and providers are not triaging applications and prioritizing applicants most at risk of eviction. For example, sometimes DHS provided assistance to people who had not been sued for eviction, while people with open court cases were locked out of the portal. Other times, the assistance provided only covered a portion of the overall debt which may not necessarily prevent that tenant from losing their housing. Once the portal closes, there is no way for tenants to apply for ERAP, even with a live writ of restitution, so tenants with imminent evictions are not able to access assistance. This is contrary to the goal of the ERAP program.

We heard concerns in DHS' testimony that the use of the self-attestation form somehow leads to fraud within the program. We have heard this claim many times this budget season and have yet to see any proof. More importantly, however, allowing tenants to self-certify is critically important to the program's success. The use of this form alleviates a sometimes insurmountable burden for DC tenants trying access funds they desperately need. Tenants often have a short window to gather all their required documents and often must rely on agencies or individuals to be responsive. A tenant should not be prevented from accessing ERAP funds simply because they no longer have a copy of their hospital discharge summary and cannot get another copy during the window their application is open.

We need a program that alleviates barriers to access and is available to DC residents when they need it. Emergencies are not predictable and do not occur on a quarterly schedule. If the goal of ERAP is to help DC tenants in crisis and prevent displacement, the portal needs to remain open all year long, and documentation requirements must remain as simple as possible, to do just that.

All DC Tenants Experience Emergencies and Need to be Able to Access ERAP

A family that spends 60% or more of their income on rent will always be one emergency away from housing instability. Car maintenance issues or medical expenses quickly become emergencies that affect the ability to pay rent. In these situations, ERAP is a crucial tool to keep families housed. Tenants paying market rent, however, are not the only ones who experience emergencies. Tenants living in subsidized housing are just as likely to have an unexpected expense – childcare for a sick child who is unable to attend school or funeral expenses for a family member, for example – that pushes them to the brink of housing instability. Affordable housing programs do not have processes for adjusting a person's rent because of emergencies, let alone one-off emergencies, meaning these families need ERAP just as much as families that pay market rent. By accessing a resource they are eligible for, tenants in DC are not abusing the system, or

applying for ERAP when they do not really need it. The reality is that the housing crisis in DC is dire, and tenants need help year after year because they simply cannot afford the rent.

ERAP Need will be High as Long as the District Continues to Underinvest in Affordable Housing

The need for ERAP is always going to depend on what other investments the District, and this council, are willing to make in truly affordable housing. As long as rents in the district remain out of reach for so many residents, and as long as the District continues to underinvest in affordable housing, many residents will be unable to maintain their tenancies without frequent support. Residents who receive ERAP likely would prefer not to rely on a program that does not guarantee assistance, is at times unfunded, and requires them to first fall behind on rent before waiting months for a response, all while hoping that the assistance comes before eviction does. But until the District provides families with better options, this council should fully fund ERAP so that this necessary program remains available to tenants when they need it.

Conclusion

Low-income tenants in the district are in crisis. Expenses are increasing faster than wages. We know the Council cares deeply about these issues and keeping individuals and families housed. Council must ensure that ERAP is sufficiently funded and accessible all year long to those who need it.