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

**Performance Oversight Hearing Regarding the District of Columbia Housing
Authority**

March 6, 2025

Legal Aid DC¹ submits the following testimony regarding the District of Columbia Housing Authority (DCHA). Under the leadership of Director Keith Pettigrew and the Stabilization and Reform (STAR) Board, DCHA has not fundamentally improved its operations as an agency. Below are just some of the ways in which DCHA is failing at its function to provide quality housing to low- and extremely low-income DC residents:

- **Emergency Regulations:** Poorly drafted “emergency” regulations – which overall make it harder for residents to get into and stay in DCHA housing programs – have been in place now for nearly two years. DCHA has not disclosed what changes DCHA plans to make before “finalizing” the regulations, even in response to Pre-Hearing Questions from this Committee. DCHA has said that the “final” versions will be imperfect and will not address all advocate concerns.
- **Rent Reasonableness:** DCHA’s rent reasonableness determination process remains opaque and costly to voucher-holders, who lose precious time and

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.

money applying to units that do not result in a lease-up. Despite Director Pettigrew saying he would find a way for tenants to determine rent reasonableness before applying for a unit, that has not happened.

- **Public Housing Preservation:** DCHA has not consistently met its targets to make ready vacant public housing units and continues to designate many units as “offline.”² We are concerned that DCHA is moving people out of properties it intends to reposition, fueling a spiral of vacancies and worsening conditions that pushes tenants out with no guaranteed right of return.
- **Customer Service:** It remains hard if not impossible for both our clients and attorneys to resolve an issue, or get an email response, without escalating to a manager or director. When recently asked by advocates, DCHA had no answer for whether or when performance reviews of its staff would be conducted. DCHA’s contractor for people coming off the voucher waitlist (Nan McKay and Associates) has improperly denied eligible applicants.

DCHA’s poor performance is made worse by its lack of transparency. DCHA continues to hold STAR Board Meetings and other public hearings virtually only, with no in-person option for residents to engage more directly with the Board. Important metrics of DCHA’s performance, such as the average time to lease-up (DCHA said, in an October 2024 Oversight Roundtable, that the average time was 91 days) are not published or available online. Legal Aid had to submit a Freedom of Information Act (FOIA) request to obtain DCHA’s Section 18 demolition/disposition applications for seven of its public housing properties because DCHA would not volunteer the documents when requested. Many of DCHA’s pre-hearing oversight responses were vague or simply nonanswers.³

² See, e.g., RC26-0024, DC Housing Authority (DCHA) Accountability Report: December 2024, available at <https://lims.dccouncil.gov/Legislation/RC26-0024> (noting that there have been many challenges and barriers in meeting the goal of making ready 100 units for occupancy each month). See also RC26-0036, DC Housing Authority (DCHA) Accountability Report: January 2025, available at <https://lims.dccouncil.gov/Legislation/RC26-0036> (showing an increase in the number of “offline” units from 1178 in December 2024, to 1311 in January 2025).

³ See, e.g., DCHA Pre-Hearing Responses, Question 33 (declining to provide a list of administrative complaints or grievances or specific changes to agency policies or procedures as a result of complaints or grievances), Question 35 (declining to provide a list of all settlements), Question 43 (describing a “process” for criminal background

Poor agency performance, combined with a lack of transparency, demands more oversight and corrective action by the Council. The Committee must hold additional oversight hearings on the issue areas listed above so that DCHA cannot use the breadth of its problems as an excuse for not delivering the meaningful reforms and accountability that residents deserve. We also call on the Council to pass legislation to place guardrails on DCHA's disposition of its public housing sites and codify into law public housing residents' rights during the repositioning process. Finally, we urge the Council to reject the Mayor's RENTAL Act (B26-0164)⁴ and create a permanent DCHA Board of Commissioners that is independent of the Mayor and representative of residents' interests.

DCHA Needs to Substantially Revise its Emergency Regulations and Incorporate More Resident Input Before Making its Rules “Final”

DCHA is still operating under off-the-shelf “emergency” regulations it put in place in May 2023, which have remained virtually unchanged for two years. This, despite extensive comments from tenant advocates about the regulations' inconsistencies with local law, the use of vague statements that are not clear policies, and overly punitive rules that are inconsistent with DCHA's mission of providing stable housing to low- and extremely low-income residents.

Although DCHA has made changes to the emergency regulations since 2023 (to correct noncompliance with the U.S. Department of Housing and Urban Development (HUD) and to provide tenants exiting Rapid Rehousing with permanent vouchers), it has elected not to change unduly harsh aspects of the emergency regulations that even its current leadership does not endorse (such as the 30-day time limit to submit a public housing grievance). In its meetings with advocates, DCHA has also repeatedly declined to take a stance on important issues of public policy and due process, like the use of criminal record screening, or the rules and procedures that govern DCHA informal hearings (which can result in the termination of participants from DCHA programs).

While DCHA has said it wants to settle on a “final” version of the regulations and continue to revise its regulations annually thereafter, there is still time for DCHA to commit to bringing its rules in line with local law, basic fairness, and common sense, and to hear

screening without saying what the process is and deferring providing data on adverse actions taken based on criminal history).

⁴ The Rebalancing Expectations for Neighbors, Tenants, and Landlords (RENTAL) Act of 2025, available at <https://lims.dccouncil.gov/Legislation/B26-0164>.

from public housing residents and voucher program participants about the impact of DCHA's emergency rules, *before* issuing a "final" rulemaking.

Legal Aid fears that program participants and applicants are not being adequately informed of these imminent rule changes. We have asked DCHA whether it will hold more public meetings, particularly to engage with voucher holders, and they have not committed to doing anything other than meeting at public housing properties or holding a virtual public hearing on each set of regulations (the minimum requirement to satisfy HUD). We urge the Committee to work with DCHA to set up more opportunities to get resident input on the topics advocates have raised with DCHA before making any emergency rules "final" – including by sending easy-to-read summaries of the changes to all participants and people on DCHA waitlists, and by affirmatively publicizing and hosting town halls at libraries, schools, and other civic gathering places about the imminent rule changes.

DCHA Must Create a Way for Voucher Holders to Check Rent Reasonableness

While Legal Aid supported DCHA's adoption of a rent reasonableness standard for voucher subsidy payments, DCHA's current implementation of this policy continues to place a huge and needless financial and time burden on voucher recipients, who have little if any way of knowing ahead of time whether a proposed rental unit will or will not be deemed "rent reasonable" by DCHA.

With limited exceptions, DCHA will only determine whether a proposed unit rent is reasonable after a landlord has submitted a Request for Tenancy Approval (RFTA) packet to DCHA. This means that a voucher holder will pay an application fee (typically a fee per adult household member) and only later find out whether DCHA will approve the rent amount or not. While DCHA says it tries to "negotiate" with landlords, and requests that landlords submit comparable units to justify the proposed rent level, this typically only happens after RFTA submission, which is still needlessly time-consuming.

Advocates and members of the STAR Board have repeatedly raised this concern about the time and money costs to voucher holders under the current system. At one point, Director Pettigrew also called for a process by which voucher holders could check whether a unit is rent reasonable *before* applying. DCHA has not developed such a tool or process, and it remains unclear why it has not done so.

Recently, DCHA previewed it will be launching a "pre-check" system for *landlords* to submit units to DCHA for a rent reasonableness review for a fee. DCHA has also held a handful of "meet-and-lease" events where it pre-approves units with landlords who are "willing" to lease to voucher-holders. While this is certainly better than nothing, it subscribes to a problematic view that landlords must be "willing" to rent to voucher

holders, even though the law prohibits discriminatory treatment of prospective renters based on source of income.⁵

When asked by advocates, DCHA would not commit to making the same pre-check tool available to tenants, even though doing so would level the informational playing field and save tenants the cost of application fees by allowing tenants to determine ahead of time if a unit is rent reasonable. Giving tenants access to this information would allow voucher-holders to shop units in neighborhoods that meet their needs, as opposed to DCHA gatekeeping the voucher market. It would also counter landlord discrimination and unconscious bias against voucher holders by letting tenants gather information about a unit's features and amenities before needing to disclose that they are using a voucher. We simply ask that tenants who use vouchers be treated like any other tenant seeking housing on the rental market. DCHA's gatekeeping of rent reasonableness makes equal treatment elusive and, sadly, makes illegal source of income discrimination more likely.

The Council Must Legislate Guardrails on DCHA's Disposition of Public Land and Codify Public Housing Residents' Rights in the Repositioning Process

In its Moving to Work Plan for FY25, DCHA indicated that it plans to reposition all its public housing units.⁶ With the exception of conversions under the Rental Assistance Demonstration (RAD), once public housing units are converted to other subsidy types, the robust rights that apply to public housing residents no longer apply. Legal Aid is concerned that DCHA is moving forward with these redevelopment plans that will benefit private developers, dispose of public housing property for less than fair market value, and are likely to disadvantage or displace existing public housing residents. We urge this Committee and the Council to introduce legislation that will put guardrails on when and how DCHA can dispose of these properties and what rights existing residents must be afforded, including an absolute right to return without rescreening.

⁵ See D.C. Code § 2-1401.01 *et seq.*

⁶ District of Columbia Housing Authority, Moving to Work Plan FY2025, at 11 (updated October 22, 2024), available at <https://www.hud.gov/sites/dfiles/PIH/documents/DCHAFY25Plan.pdf> ("DCHA anticipates removing up to 7,937 units from the agency's public housing portfolio for conversion ... DCHA included the full public housing portfolio to demonstrate the agency's commitment to repositioning the full portfolio and to comply with the HUD requirement that projects are listed in the agency's annual plan prior to submitting a repositioning application to HUD.").

Legal Aid’s review of some of the Section 18 applications DCHA submitted to HUD in July 2024 showed that, in general, DCHA wants to partner with private developers to redevelop public housing sites as “mixed-income communities,” starting with sites in highly desirable parts of the District. While DCHA has promoted this plan to residents as financially necessary, DCHA has not been forthright about the tradeoffs, which – if the Council fails to act – include a high risk of displacement and the loss of resident rights.

It is also clear that DCHA prefers to do all this with as little oversight as possible. The Section 18 applications Legal Aid reviewed showed that DCHA met only with the Mayor’s staff (i.e., there were no documented meetings with ANCs or the Council) and held the bare minimum number of resident meetings to be able to “check the box” on its application to HUD. DCHA’s applications also all lacked environmental review, relying instead on a one-page form letter from the Department of Housing and Community Development (DHCD) stating that no environmental review was required.

While the physical needs assessments for the Section 18 applications determined that the properties were obsolete, DCHA does not include any details about what will happen to residents while demolition or rehabilitation occurs. This is because, as DCHA explains in its applications, resident relocation will come later, after the subsidy is swapped. This makes these applications something of a mere paper transaction that, if approved by HUD, will free DCHA in the longer-term from having to comply with more rigorous HUD standards around environmental reviews, relocation obligations to tenants, and other protections that would apply if DCHA said it was planning on demolishing or substantially rehabilitating the properties now. This two-step process gives DCHA maximum flexibility with minimal oversight, and it leaves residents with virtually no power, say, or leverage to demand robust relocation assistance and other rights and guarantees that they would have if a property was being converted through RAD, by comparison.

While DCHA has published a Public Housing Subsidy Conversion Handbook and the STAR Board had passed a resolution for DCHA to preserve all public housing residents’ rights as they would be under a RAD Conversion,⁷ both documents lack sufficient detail for residents to know what specific rights and protections they have. Nor do they carry

⁷ See DCHA Board of Commissioners Resolution 24-51, “To Adopt a Policy for Tenant Protections for All Public Housing Units Whose Subsidy is Converted to Project Based Vouchers through the RAD and Section 18 Processes” (adopted October 9, 2024), available at https://www.dchousing.org/api/files/board/9vsrp5wt_010v2p5j906znfujg1l906.pdf.

the force of law; these are mere promises and could be easily overridden by a future resolution. At an agency with a record of broken promises and leadership turnover, this is simply not good enough. Residents need legally enforceable rights to have the assurance that they will not be kept in the dark, steamrolled, or displaced as their communities are redeveloped.

DCHA's Permanent Oversight Board Must Be Independent of the Mayor and Representative of Residents' Interests

This Council should reject the Mayor's thinly veiled power grab, vis-a-vis the RENTAL Act, to control all future appointments to DCHA's governing board. Beyond that, the Council must be thoughtful about the composition of the permanent Board. This requires understanding the history behind why DCHA was set up as an independent agency and the crucial function any permanent Board must play to safeguard and ensure that independence.

In 1994, and after years of dysfunction, DCHA's predecessor, the DC Department of Public and Assisted Housing (DPAH), entered receivership.⁸ As noted in a District of Columbia Office of the Attorney General report, "Prior to receivership, many of DPAH's problems stemmed from political leaders using the housing authority for 'uses other than the delivery of housing services to its tenants,' primarily as a way to reward political allies with appointments, leading to unqualified and politically motivated individuals leading the agency."⁹ To ensure that these problems did not reemerge after the receivership ended, DCHA was established as an "independent authority of the District government," with a "legal existence separate from the District government."¹⁰ The outgoing receiver, David Gilmore, noted the importance of the governing board not being " beholden to [any] particular faction of officialdom – only to the interests of the agency and its clients."¹¹ By

⁸ DC Office of the Attorney General, "Creating a Truly Independent DC Housing Authority: Increasing Political Insulation to Improve Outcomes at DCHA," at 4 (December 2022), available at <https://oag.dc.gov/sites/default/files/2022-12/DCHA-Report-final-.pdf>.

⁹ *Id.* (citing Cunningham, L. E. (1999). Washington, D.C.'s Successful Public Housing Receivership. *Journal of Affordable Housing & Community Development Law*, 9(1), 74–91).

¹⁰ *Id.*; D.C. Code § 6–202.

¹¹ *Id.* (citing David Gilmore, *The Washington Post*, "Building on a Sound Foundation" (October 10, 1999)).

2022, the Board had grown to thirteen members that included seven mayoral appointees, including the Deputy Mayor for Planning and Economic Development. The OAG report noted that the Board grew to be “stacked with allies to the mayor who [were] willing to prioritize the mayor’s agenda over DCHA’s.”¹² It noted that “mayoral appointees tend[ed] to vote as a block, suggesting they [were] not individually considering proposals but instead voting in the mayor’s interest.”¹³

The publication of the HUD report in late 2022 prompted the Council to create the temporary STAR Board, intended to last just two years, instead of pursuing a more comprehensive agency reform bill.¹⁴ The creation of the STAR Board eliminated three resident-elected positions (replacing them with two Mayor-appointed resident positions) and eliminated a position for a housing advocate representative, among other changes.¹⁵ Yet, this drastic move has not solved DCHA’s dysfunction. Problems persist, and the STAR Board has not led the way in advancing a reform agenda. There has been an absence of dissenting voices and contested votes at STAR Board meetings; resolutions are typically discussed briefly and approved unanimously.

The Mayor’s proposal for a permanent Board would give the Mayor total control over the initial composition of the permanent Board, the term lengths of the initial Board members, and the power to appoint all future Board members (with the advice and consent of the Council).¹⁶ For the reasons and history discussed in the 2022 HUD assessment and OAG report, this Committee should reject the Mayor’s proposal.

Instead, the Council should design a permanent board that is appointed by a combination of the Mayor, the Council, residents, and the D.C. Consortium of Legal Services

¹² *Id.* at 5.

¹³ *Id.*

¹⁴ See Martin Austermuhle, DCist (Archive), “D.C. Council Approves Emergency Bill to Replace Housing Authority Board” (Dec. 20, 2022), available at <https://dcist.com/story/22/12/20/dc-council-approves-emergency-legislation-replacing-dcha-board/>.

¹⁵ See District of Columbia Housing Authority Stabilization and Reform Emergency Amendment Act of 2022 (B24-1144), available at <https://lims.dccouncil.gov/Legislation/B24-1144>.

¹⁶ See Rebalancing Expectations for Neighbors, Tenants, and Landlords (RENTAL) Act of 2025 (B26-0164), available at <https://lims.dccouncil.gov/Legislation/B26-0164>.

Providers. The Council must reinstate the resident-elected and advocate positions that were eliminated in the creation of the STAR Board to ensure that the permanent Board directly reflects the will and concerns of low- and extremely low-income residents and the tenant advocate community. Resident commissioners would ensure that DCHA is listening to and accounting for the concerns and experiences of residents and would be directly accountable to the residents who elected them. A legal services representative would provide knowledge of local law and landlord-tenant issues to ensure DCHA's actions and policies comply with local requirements and give the broader advocate community a voice on the Board. The reform bill introduced in late 2022 offers a good starting framework for this and many other badly needed reforms.¹⁷ However, the Council must be careful to ensure that mayoral appointees constitute a minority of the board.

Conclusion

Now is a critical juncture where the Council must make thoughtful decisions about the future of DCHA – by taking a long view backward at the historical roots of this agency's dysfunction, and a long view forward to how DCHA's permanent rulemaking, voucher administration, repositioning agenda, and permanent Board will impact generations of Washingtonians. Legal Aid looks forward to continuing to work with DCHA and this Committee in crafting solutions to these policy problems that will best serve DCHA's core constituency of low- and extremely low-income residents for years to come.

¹⁷ See District of Columbia Housing Authority Act of 2022 (B24-1159), available at <https://lims.dccouncil.gov/Legislation/B24-1159>.