

**Testimony of Julie Becker
Legal Aid Society of the District of Columbia**

**Committee on Public Services and Consumer Affairs
Council of the District of Columbia**

**Public Oversight Hearing
Office of Tenant Advocate**

March 1, 2007

The Legal Aid Society of the District of Columbia¹ supports the work of the Office of Tenant Advocate over the last year to increase services to the District's tenant population. Eighteen months after the creation of the office, and one year after the appointment of Johanna Shreve as Chief Tenant Advocate, the office has made significant strides in outreach and information-gathering. For the first time, for example, we have information about where rent-controlled buildings are located and where tenants can find rent-controlled units. We also are looking forward to participating with the office to conduct educational forums in each of the city's wards. These efforts are crucial to identifying tenants in need and getting information into their hands.

However, the Office has yet to fulfill at least one critical element of its mission: increasing the availability of legal representation for tenants. To make increased tenant advocacy a reality in the District, the office must do a better job of making funds available in a way that allows legal services programs to hire additional housing lawyers. No matter how much outreach and education tenants receive from the office about their rights, they need attorneys to help them make those rights meaningful.

Background: The need for increased legal services

When the Office of Tenant Advocate was created in 2005, the Council recognized that the need for tenant representation in D.C. is extraordinary. The demand for legal services ranges from tenants fighting condominium conversion

¹ The Legal Aid Society 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." Over the last 70 years, tens of thousands of the District's neediest residents have been served by Legal Aid staff and volunteers. Legal Aid currently works in the following three priority areas: housing, family law, and public benefits.

to those purchasing their buildings to those fighting for safe and decent living conditions. Some of the major areas of need are:

- Conversion and sale cases. The District's recent real estate frenzy has resulted in a large number of buildings undergoing sale or proposed conversion to condominiums. D.C. law includes powerful protections for tenants in these circumstances, including the conversion and tenant-purchase provisions of the Rental Housing Conversion and Sale Act.²

In too many cases, however, these protections are illusory. Without legal representation, tenants – particularly those who are low-income and/or limited in English proficiency – have little hope of asserting their rights against a sophisticated owner and that owner's attorney.

- Enforcing the housing code. Attorneys are also necessary to help enforce tenants' right to safe, decent, and affordable housing. Tenants of dilapidated buildings have a number of legal options, including filing suit against the landlord and/or seeking the appointment of a receiver. But without legal assistance, a tenant has little hope of successfully navigating the court process and obtaining real relief against a negligent landlord.
- Eviction defense. Each year, nearly 50,000 eviction cases are filed in the Landlord-Tenant Branch of D.C. Superior Court. These include cases in which tenants have been withholding rent due to housing code violations; instances of retaliation by the landlord for a tenant's complaints about conditions or activity in a tenant association; and cases in which the owner is attempting to clear a rental building so that the owner can convert or sell it without the burden of complying with D.C.'s tenant protections.

In 86 percent of cases in Landlord-Tenant court, landlords are represented. Tenants, on the other hand, have counsel only one percent of the time. The dearth of attorneys for tenants encourages landlords to use the court process as a tool for displacement, depriving tenants quickly and efficiently of their rights.

Currently, fewer than twenty attorneys, working at six D.C. legal services organizations, represent low-income tenants on full-time basis free of charge.³ The majority of this work is comprised of eviction defense. There are not nearly enough resources for tenants in conversion and sale cases, nor are lawyers readily available for tenants who hope to bring affirmative cases based on poor housing conditions.

² D.C. Code § 42-3404.01 et seq.

³ Five of these organizations – the Legal Aid Society, the Washington Legal Clinic for the Homeless, Bread for the City, Legal Counsel for the Elderly, and the Neighborhood Legal Services Program – have attorneys on staff who represent tenants full-time. The fifth, the D.C. Law Students in Court Program, is a clinical program whereby law students provide information, education and representation to tenants in landlord-tenant court.

OTA's use of the legal services funding

To address some of this need, the original OTA appropriation included \$200,000 which was to be contracted out to existing legal services providers, to fund additional attorneys for tenants. In appropriating this funding, the Council recognized that, while information and education about tenant rights is valuable, actual legal representation is essential to making those rights a reality. The Council also recognized that by contracting out to providers, the OTA could take advantage of their existing infrastructure, knowledge base, and community networks.

To some extent, the Office has succeeded in this task. It has executed blanket purchase agreements with a number of organizations, including the Legal Aid Society. These agreements allow providers to accept referrals from OTA and bill for the legal services provided.

What we have not been able to do, however, is use these funds to hire any additional lawyers to handle this work. Because the after-the-fact billing model currently in place does not guarantee a level of funding, it is impossible to count on this money to employ additional staff. As a result, the office is not using these funds to their maximum potential.

The lack of a specific referral system exacerbates this problem. As of today, the office has not yet developed a system for referring clients to legal services providers for representation under the purchase agreements. We therefore have no way of knowing if the office is sending tenants to us for services, or if we are assisting those whom the office refers.

We strongly encourage OTA to shift from the current invoice model to a grantmaking process for legal services organizations. Through a grants process, organizations could know ahead of time what funding will be available, and could make staffing decisions on that basis. Such a system would enable us to hire new attorneys rather than using the funding to supplement our existing program.

We also ask the Council to continue, and increase, this funding stream. It is our understanding that last year's \$200,000 for legal services was reduced to \$150,000 this year. There has been no corresponding decrease in the need for lawyers. We ask the Council to recognize that the demand for legal services is as acute as ever – and to fund OTA in a way that allows us to come just slightly closer to meeting that need.