

**Testimony of Shirley Horng
Legal Aid Society of the District of Columbia**

**Agency Performance Oversight Hearing
for the District of Columbia Housing Authority**

**Committee on Housing and Community Development
Council of the District of Columbia**

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The Legal Aid Society of the District of Columbia¹ submits this testimony to report the generally positive performance of the DC Housing Authority over the last year, and to encourage the Council to increase funding to its programs, such as the Local Rent Supplement Program, so that the Housing Authority may serve more families that are in dire need of subsidized housing.² The mission of the Housing Authority is to house the lowest income families in stable, safe, sanitary, and affordable homes. While the need is too great and the resources are too scarce, for the most part, the Housing Authority is fulfilling its mission far better than many city agencies do. Indeed, our main concerns are not about the Housing Authority's own performance, but about that of the private companies with whom the Housing Authority has contracted to operate some of its properties – a public-private partnership that seems likely only to expand in the near future. We also believe there are specific Housing Authority practices that must be changed, such as evicting and terminating tenants, and denying applicants, based on stale and uncollectible debts.

The Housing Authority is uniquely designed to provide low-income families with stable and affordable housing, and it generally accomplishes that goal.

The Housing Authority is the largest provider of subsidized housing in DC: it administers the Local Rent Supplement Program and the Housing Choice Voucher Program, and it administers and manages public housing and moderate rehabilitation properties. All of these programs have extensive policies, rules, and regulations that must be followed. The management

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.” For more than 80 years, Legal Aid attorneys and volunteers have served tens of thousands of the District’s neediest residents. Legal Aid currently works in the areas of housing, family, public benefits, consumer, and appellate law. More information about Legal Aid can be obtained from our website, www.LegalAidDC.org, and our blog, www.MakingJusticeReal.org.

² While we at Legal Aid do regularly find ourselves on opposite sides of a case against the Housing Authority in court, we also have a long history of collaborating and strategizing with the agency on how to best serve our shared client population.

at the Housing Authority has specialized expertise and familiarity with the rules and laws that govern subsidized housing.

Additionally, because the Housing Authority's very purpose is to stably house the lowest income families in DC, the Housing Authority's leaders generally have an ethos of service and compassion. In the past five years, Legal Aid has seen the Housing Authority work to streamline its operations to maximize efficiency and reduce administrative burdens while improving the customer service experience for its thousands of clients. The agency has made great strides in timely processing new tenancies, inspections, and recertifications.

When the Housing Authority has contracted private management companies in the past to manage converted public housing properties, public housing tenants have effectively lost many of their rights.

In our experience, when the Housing Authority has contracted out management duties to a private management company, such as properties redeveloped using federal HOPE VI grants, a number of problems follow.

Most importantly, the staff of private companies managing HOPE VI properties are often unfamiliar with the many policies, rules, and regulations that govern public housing. The private management employees often do not know how to correctly execute the daily operations necessary for subsidized housing, such as properly calculating tenant rent amounts, timely processing annual and interim recertifications, and handling grievances appropriately.³

In fact, often the private management employees appear to be wholly unaware that public housing rules and regulations apply to HOPE VI properties. As a result, they fail to relay to the tenants that they have the same rights as public housing tenants. Out of ignorance, the private management employees discourage or outright deny the tenants their rights, such as the right to:

- request a hearing on the calculation of their tenant rent,
- transfer to another unit, and
- reasonable accommodations as a result of a disability.

Additionally, private management companies typically have a different ethos and mission from the Housing Authority, so the staff is not motivated or properly trained to serve low income or no income families and individuals. The executives and upper management at private companies do not necessarily share the same goals as the Housing Authority of stably housing and serving the lowest income tenants. As a result, without the appropriate leadership, training, and company culture, the private management staff can often be adversarial, condescending, or obstructionist, rather than helpful, cooperative, and customer service-oriented.

³ For example, with regard to rent calculation, the private management employees are often unfamiliar with the earned income disregard, deductions for medical expenses, deductions for childcare expenses, and how to properly calculate and adjust utility allowances.

The Housing Authority should to continue to manage public housing properties, including sites that will undergo RAD conversion.

Because of our experiences with the HOPE VI properties, we encourage the Housing Authority to continue to manage public housing properties itself, including directly managing those properties that are being converted under Rental Assistance Demonstration (RAD).⁴

RAD allows public housing agencies to mortgage public housing developments and to use them as collateral so that the public housing agency can access “private debt and equity to address immediate and long-term capital needs” of public housing.⁵ In order to make public housing more attractive to private investors, it also converts the funding stream from an appropriations-dependent formula to a long-term subsidy contract.⁶ Tenants in RAD converted properties maintain the same basic rights as they have in the public housing.⁷

RAD is a voluntary program, and public housing authorities must apply to participate in RAD. We understand that the Housing Authority has five applications for RAD: Kenilworth, Columbia, Colorado, Barry Farm, and Highland. The Housing Authority informed us that HUD has approved the Kenilworth RAD application, and that it expects HUD to approve the applications for the other four sites any day now. We are aware that the Housing Authority is currently leaning toward contracting out management of the RAD properties to private companies.

The Housing Authority has repeatedly assured us that the tenants in the converted properties will maintain the same rights as they had in public housing, consistent with the laws governing RAD conversion. However, it is important that the tenants at all five of these sites retain all their public housing rights – not just in theory, but in reality and in practice. That means that tenants must retain the right, among other things, to the following:

- Continued occupancy with no rescreening upon conversion
- No permanent displacement

⁴ Congress created the Rental Assistance Demonstration Program in 2012, initially as a pilot program, in response to the substantial annual loss of public housing units as a result of deterioration, deferred maintenance, and a backlog of capital needs resulting, in part, from its own failures to adequately fund public housing. RAD is an effort to address the outstanding capital needs of public housing developments and to preserve those developments as a long-term source of affordable housing. <http://portal.hud.gov/hudportal/HUD?src=/RAD>, (February 25, 2015, 5:27 PM).

See also Ann Marie Smetak, *Private Funding, Public Housing: The Devil in the Details*, VIRGINIA JOURNAL OF SOCIAL POLICY AND THE LAW, (February 25, 2015, 4:51 PM), http://www.vjspl.org/wp-content/uploads/2012/06/2.20.14-FINAL-LAYOUT-Private-Funding-Public-Housing_Smetak.pdf

⁵ DEP’T OF HOUS. & URBAN DEV., PIH-2012-32 REV-1, RENTAL ASSISTANCE DEMONSTRATION—FINAL IMPLEMENTATION, REVISION 1, (July 2, 2013), at 2-3, available at <http://portal.hud.gov/hudportal/documents/huddoc?id=pih2012-32rev1.pdf>.

⁶ *Supra* note 4, <http://portal.hud.gov/hudportal/HUD?src=/RAD>; See also *supra* note 4, Smetak at 13.

⁷ DEP’T OF HOUS. & URBAN DEV. APPROPRIATIONS ACT, 2012, Public Law 112–55, as amended by Public Law 113–235, Dec. 16, 2014), available at http://nhlp.org/files/RAD_statute_12.16.pdf, (February 25, 2015, 5:23 PM); See also *supra* note 4, <http://portal.hud.gov/hudportal/HUD?src=/RAD>.

- Return, if temporarily relocated
- No loss of hard stock public housing units
- Limitations on rent increases
- Leases that mirror public housing leases, with all the same rights and protections
- Resident participation and consultation
- Organize, including recognition and funding
- Long term affordability and public ownership
- Two-step grievance procedure
- Transfer

Because the Housing Authority is uniquely designed specifically to manage subsidized housing, and because it generally does it well, Legal Aid urges the Housing Authority to continue to manage the five sites that are going to be converted under the Rental Assistance Demonstration (RAD). However, if it has no choice but to contract management out to private companies, then, at a minimum, the Housing Authority should:

- Ensure that the management contract with the private company expressly protects the tenants' rights including but not limited to those listed above, and that the leases with the tenants also expressly protect tenants' rights including but not limited to those listed above.
- Provide regular trainings for the private companies' management and staff on the rules and regulations governing subsidized housing, and also the broader mission of subsidized housing.
- Hold the private management companies accountable if or when they fail to meet their obligations and fail to properly implement the rules and regulations governing subsidizing housing.

We hope that when HUD approves the Housing Authority's remaining applications and issues the Commitment to enter Housing Assistance Payment (CHAP) for the other four sites, the Housing Authority will invite Legal Aid to the table. We look forward to working together with the Housing Authority to ensure that tenants' rights are protected throughout the RAD conversion process.

The Housing Authority should stop evicting and terminating tenants and denying applicants based on alleged debts that are beyond the 3-year statute of limitations.

Finally, one area of internal the Housing Authority policy requires mention here: the Housing Authority's practice of denying housing based on stale debts. The statute of limitations governing contracts in DC, including landlord tenant relationships, is three years.⁸ The Housing Authority has previously acknowledged that it is bound by the statute of limitations.

However, in the past few years, the Housing Authority has sought to collect, for the first time in many years, debts that accrued over three years ago from both public housing and voucher tenants. In many cases, the alleged debts are from as many as ten or fifteen years ago. If the tenant disputes the alleged debt or declines to enter a payment plan to pay off the alleged

⁸ D.C. Code § 12-301(7).

debt, then the Housing Authority sues to evict the tenant or terminates the tenant's voucher. We have seen several of these cases in Landlord Tenant Court and in voucher termination cases.

The Housing Authority is not only evicting and terminating families based on debts beyond the statute of limitations, but it is also denying admissions to applicants for subsidized housing based on old alleged debts from beyond the statute of limitations. Even worse, unlike their counterparts that are already in subsidized housing, applicants that are denied admissions as a result of very old debts are not offered the opportunity to enter payment plans. The Housing Authority must stop the improper pursuit of debts that are outside the statute of limitations.

Although it has its fair share of problems, the Housing Authority nonetheless is overall effective at housing low- and no-income families in safe, sanitary, and affordable homes. As we all know, DC is facing a homelessness crisis. Affordable housing is far too scarce, and the problem is only getting worse.

The Housing Authority is part of the solution to ending homelessness in DC, and it is a part of the answer to preserving and increasing affordable housing for DC residents. With additional funding, the Housing Authority can serve and house even more of our most vulnerable families. More long-term subsidized housing is a critical need, and the city's resources should go toward expanding the Housing Authority's capacity. There is no need for new and duplicative housing programs with new structures, rules, and regulations – not when we have an agency that already knows how to do the job, and does it well.