

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

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

**Bill 21-119, the “Rent Control Housing Clearinghouse Amendment Act of 2015”  
Bill 21-54, the “Adequate Notice of Affordability Expiration Amendment Act of 2015”**

**March 31, 2015**

The Legal Aid Society of the District of Columbia<sup>1</sup> supports, in principle, the bills before the Committee today. However, we suggest some amendments to each before they are made into law. Specifically, the “Rent Control Housing Clearinghouse Amendment Act of 2015” should:

- remove “the building’s elderly and disability exemption registration” as a searchable parameter available to the public;
- expressly exclude tenant names and elderly or disability registration as searchable parameters available to the public;
- require that for all online submissions, the housing provider shall certify the veracity of the information provided;
- require the database to make explicit that the same penalties that currently apply to a willful false statement in rental housing filings also apply equally to online submissions;
- require the database to explain to users that the information on the database is merely information reported by the housing provider and is not necessarily accurate or legal; and
- require the database to automatically generate a certification of no record when a search on the database yields no results.

The “Adequate Notice of Affordability Expiration Amendment Act of 2015” should:

- require notice to the tenants six months prior to anticipated increase in rent;
- make clear that it applies to all federally subsidized housing, all locally subsidized housing, and all Low Income Housing Tax Credit properties;
- specify that the Owner must provide written notice to each individual tenant;
- set forth specifically what the written notice must contain; and
- set forth how the Owner should provide the notice to the tenants.

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<sup>1</sup> 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 law, public benefits, consumer, and appellate law. More information about Legal Aid can be obtained from our website, [www.LegalAidDC.org](http://www.LegalAidDC.org), and our blog, [www.MakingJusticeReal.org](http://www.MakingJusticeReal.org).

Both of these bills were introduced in response to the affordable housing crisis in the District of Columbia. One of the most important tools for preserving affordable housing in the District is rent control. However, laws are effective only to the extent that they are complied with; and, where there is a lack of enforcement, there is often a lack of compliance. Currently, tenants struggle to enforce the rent control laws because information about the rents for their units is difficult to obtain.

**The online database will increase public access to information, which will enable tenants to better enforce rent control laws, which will in turn lead to increased compliance by housing providers, and thereby preserve more affordable housing in the District.**

While many tenants know that rent control exists in the District, too often, they are unable to get enough information about the rental history for their individual units to be able to determine whether their rent amounts are legal or not. Currently, two obstacles hinder the accessibility of rent control information. First, tenants must physically go to the Rental Accommodations Division (RAD) in Anacostia to request the information, which is enough of a barrier that many tenants simply do not make the trip. Second, once the tenant arrives to RAD, the staff and computer system often do not have the information requested. Sometimes, RAD may have the document, but it is not scanned or properly filed, so the tenant, or our intern or legal assistant, must comb through thousands of pages of documents to find the form he or she is looking for. Other times, the forms are offsite for scanning, and in the meantime, are not accessible in electronic or hard copy form.

Without access to full information, tenants are unable to research whether their rent amounts are legal. Currently, the Rent Administrator is tasked with enforcing the rent control laws and ensuring that filings by housing providers comply with those laws.<sup>2</sup> However, that is untenable and simply does not happen. Creating an online database will make accessible to the public nearly all the information that the Rental Housing Act requires the landlord to provide to the Rental Accommodations Division. This way, tenants, who have vested interests and are motivated to investigate whether the rent amount for their individual unit is legal, can truly access that information and help to enforce the rent control laws.

**However, the database law, as written, has some problems and a few gaps.** Most significantly, elderly and disability status should not be a searchable parameter both for privacy reasons and because it could invite abuse.<sup>3</sup> The only relevant information to the general public is whether the rent is currently, or was previously, limited to CPI annually or CPI + 2 annually. Furthermore, scam artists may data-mine the database and target elderly individuals and persons with disabilities.

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<sup>2</sup> D.C. Code § 42-3502.04.

<sup>3</sup> Additionally, disability status is typically considered protected medical information, and unauthorized disclosure may potentially pose legal problems for the District.

Similarly, we suggest that for privacy and public safety reasons, the law should expressly state that tenants' names will not be a searchable parameter.<sup>4</sup> This is of particular concern for victims of domestic violence who do not want their abusers to be able to locate them. While tenants' names, and tenants' elderly or disability status, should be made available to the housing provider and tenants of the particular unit through an in-person request with RAD, this information should not be accessible to the general public through the online database.<sup>5</sup>

**The “Adequate Notice of Affordability Expiration Amendment Act of 2015” is a much-needed law that helps to put tenants on notice of imminent significant increases to their rents; however, we urge the Committee to consider increasing the notification period to six months to maximize the likelihood that families will be able to make alternate arrangements and avoid doubling up and/or entering shelters.**

With many Owners choosing to let Section 8 HUD contracts expire and finishing their obligations under the Low Income Housing Tax Credit requirements, there has been a major loss of affordable housing in recent years. Federally and locally subsidized housing, and Low Income Housing Tax Credit properties, are all governed by the Rental Housing Act of 1985; however, they are all exempt from the Rent Stabilization Act. As a result, apart from the notice requirements set forth for each individual affordability program, Owners are not required to notify tenants of expirations of affordability and imminent dramatic increases to tenants' rents. That means sometimes tenants learn that their rents will increase dramatically, sometimes 50 to 200 percent, only 30 days prior to the effective date of the increase.

Adequate advance notice is fundamental to treating individuals with dignity and respect. This bill recognizes the disruptive and sometimes devastating effect that these expirations have on tenants' lives. We agree that requiring Owners to provide notice farther in advance will allow tenants to plan accordingly and make arrangements. However, we urge the Committee to consider making the notification period six months rather than 90 days. Currently, the law already requires owners to notify the D.C. government one year in advance of expirations of affordability for federally subsidized properties.<sup>6</sup> It is not only reasonable but humane to provide notification six months in advance to the individuals who will be most directly affected by the loss of these affordable units: the tenants who live there.

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<sup>4</sup> The law may want to clarify the distinction between the larger category of data points that the housing provider must enter into the database, versus the narrower category of searchable parameters available to the public. For example, while the housing provider may be required to enter tenants' names into the database, tenants' names will not be a searchable parameter available to the public.

<sup>5</sup> We suggest that the information that the Rental Housing Act requires the housing provider to submit to RAD through the database be separated into three categories: a) information that is available to the general public through the online database (e.g., owner's information, rent amounts, rent increases, bedroom size, last inspection of housing code violations, etc.); b) information that is available to the general public but only through in-person requests to RAD (e.g., tenants names); c) information that is available to only the housing provider, a prospective buyer of the property, the current tenants, prior tenants, and prospective tenants, only through in-person requests to RAD (e.g., exemptions due to elderly and disability status).

<sup>6</sup> D.C. Code § 42-2851.03(b)(1).

Many of the properties that have expiring affordability have tenants who have lived in their homes for several years, sometimes decades. Moving is a major undertaking, particularly for families with children, the elderly, and persons with disabilities. In Legal Aid’s experience, tenants can need up to six months to relocate and find alternate housing.<sup>7</sup> In the current rental market, when affordable housing is truly scarce, it can take a long time for tenants to be able to find a new place. Six months notification minimizes the risk that families and tenants will have to double up or scramble to find a new place, or possibly enter shelter. It also allows families to schedule moves when children have a break in school, such as during summer break, spring break, or winter break. That makes the move less disruptive to children, particularly if they have to change schools as a result of the move. Additionally, giving notice six months in advance also allows families the flexibility to avoid moving the winter, which can be a particularly difficult time to find a new apartment and to move.

**While well-intended, the notification law lacks specifics that are necessary for it to be meaningful and effective.** First, as written, it is unclear what categories of properties to which the notification requirement applies. If it is intended to apply to all federally subsidized housing, all locally subsidized housing, and all Low Income Housing Tax Credit properties, then that the law should expressly state such.

Second, we suggest that the law requires Owners of properties with expiring affordability to provide Tenants with the same basic information that the Rent Stabilization Act requires rent-controlled housing providers to provide when informing tenants of a notice of rent increase. The notice should include:

- the dollar amount of the current rent;
- the dollar amount of the new rent;
- the difference between the current rent and new rent as a dollar amount;
- the difference between the current rent and new rent as a percentage;
- the effective date of the new rent; and
- the reason/basis for the rent change.

The law should also clarify that it requires the Owner to provide the notice to tenants by hand delivery, posting, or mail.

Lastly, as written, the notification law is to be codified in “Miscellaneous Provisions” under the Housing Finance Agency, which is an awkward place for the law. Chapter 28a, which is titled “Low Income Housing Preservation and Protection,” already deals with notification for expirations of affordability, albeit for federally subsidized properties to notify government agencies. We suggest that either the notification law be codified in Chapter 28a, or that Chapter 28a include a reference to the new law, so that the law is easy to locate.<sup>8</sup>

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<sup>7</sup> The D.C. Housing Authority provides voucher tenants six months to find a new apartment, indicating that it is generally considered a reasonable period of time to expect tenants to be able to relocate or make other arrangements.

<sup>8</sup> If the law is to be codified in Chapter 28a, it is all the more important that it must expressly state what categories of properties to which the law applies, as the other provisions of Chapter 28a applies to a narrower category of properties, specifically federally subsidized properties only.

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Legal Aid is heartened by the introduction of these two bills and the two other bills affecting tenants that were introduced a couple weeks ago. The bills, with some amendments, will benefit tenants and offer them additional tools to navigate an increasingly difficult rental market. We commend the Committee for taking action so early in the year and for making a true effort to respond to some of the needs and concerns of District residents.