

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

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

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

**February 26, 2016**

The Legal Aid Society of the District of Columbia<sup>1</sup> 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 public housing capital funds, so that the Housing Authority may better serve families that are in dire need of subsidized housing.<sup>2</sup> While the need is too great and the resources are too scarce, for the most part, the Housing Authority works hard to fulfill its mission to house the lowest income families in stable, safe, sanitary, and affordable homes. 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 through the New Communities Initiatives.

**I. Concerns about Private Management of Public Housing**

**A. 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

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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, 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).

<sup>2</sup> 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 exists specifically 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 several 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, transfers, and recertifications.

**B. When the Housing Authority has contracted private management companies to manage redeveloped public housing properties in the past, 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. Public housing tenants have a number of rights that are particular to the public housing program, including the right to transfer among properties; a two-step grievance process; advance notice and the opportunity to comment on lease amendments; advance notice and the opportunity to comment on changes to the utility allowance; and the public housing earned income disregard.

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.<sup>3</sup> Moreover, it can be harder for tenants to hold private management companies accountable when they fail to comply with local or federal public housing rules.

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, 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
- receive reasonable accommodations as a result of a disability.

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<sup>3</sup> For example, with regard to tenant 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.

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.

**C. The Housing Authority needs to ensure that tenants retain their same rights after redevelopment.**

Because the Housing Authority is uniquely designed specifically to manage subsidized housing, it should continue to manage the sites that are going to be redeveloped under the New Communities Initiative (NCI). However, if it has no choice but to contract management out to private companies, then, at a minimum, the Housing Authority should put in place regular reporting mechanisms and safeguards to monitor the private management companies and to hold them accountable.

The Housing Authority has repeatedly assured us that the tenants in the redeveloped properties will have the same rights that they currently have in public housing. However, it is important that the tenants at 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 redevelopment
- No permanent displacement
- 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 a resident council, including recognition and funding
- Long term affordability and public ownership
- Two-step grievance procedure
- Ability to transfer between properties

If the Housing Authority is unable to continue managing these properties after redevelopment, then, at the very least, it needs to ensure that the private management companies are actually implementing the rules and regulations that govern subsidized housing. Specifically, we recommend that the Housing Authority:

- Ensure that the management contracts with the private companies expressly protect 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.
- Monitor the private management companies and require regular reporting from the private management companies to the Housing Authority to hold them accountable.
- Hold the private management companies accountable if they fail to meet their obligations or do not properly implement the rules and regulations governing subsidizing housing.

We hope that as the Housing Authority moves forward on these New Communities Initiatives, that it 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 NCI redevelopment.

## **II. Local Funding for Public Housing Capital Funds**

Legal Aid supports District funding for much-needed repairs to public housing units, including but not limited to specifically \$1 million to get 22 offline units back online.<sup>4</sup> Local funding for public housing repairs will:

- Bring units that are currently offline back online, thereby increasing the number of subsidized housing units;
- Prevent online units from falling into disrepair, thereby preserving the existing public housing units for current and future residents;
- Improve living conditions for tens of thousands of families living in public housing; and
- Free up funds that the D.C. Housing Authority is currently having to spend on litigating Housing Conditions Cases.

Public housing, like all housing, requires regular maintenance, occasional improvements, and sometimes, substantial rehabilitation. Legal Aid is concerned about three detrimental effects resulting from inadequate capital funds for public housing. First, many public housing units are currently offline because the D.C. Housing Authority has had inadequate capital funds to substantially rehabilitate units that need more than just routine maintenance or repairs.

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<sup>4</sup> Public housing is crucial to making the District affordable to everyone, including to no income and low income individuals and families who cannot afford market rent in DC. Affordable housing is increasingly more difficult for District residents to find due to a variety of factors, including expiring HUD contracts, expiring tax credits, increasing vacation rentals, fewer rent controlled units, and market pressures driving up rents. Investing in public housing serves the dual objectives of increasing the affordable housing stock in DC and decreasing the number of people and families that are homeless.

Rehabbing offline public housing units so that they can be brought back online is an expedient and financially responsible way to increase the number of subsidized housing units in DC. Some of these offline units suffer from severe fire damage or require extensive mold remediation. Some may require complete gut jobs of the entire interior. By making \$1 million available in capital funds to the D.C. Housing Authority, the DC Council can bring 22 public housing units back online. That is an additional 22 families that could come out of homelessness and off the long waiting list.<sup>5</sup> New construction, on the other hand, is far more time-consuming and costly.

Second, public housing units that are currently online suffer from deferred maintenance, which can over time give rise to more serious problems and force those units to go offline too. Current public housing units must be preserved for future residents through proper maintenance and repairs.

Third, deferred maintenance leads to unsafe and unsanitary living conditions for current public housing residents. Many public housing clients that Legal Aid represents report mice and roach infestations, broken locks to the building, inadequate lighting in the common areas, broken windows, missing window screens, cracks in the walls and ceilings, peeling paint, mold and mildew, and defective appliances. While Legal Aid is able to get the D.C. Housing Authority to make repairs for the limited number of tenants that we represent in housing conditions cases and Landlord Tenant cases, many more are living in unsafe or unsanitary conditions and choose not to file a suit against their landlord or raise defenses of housing code violations. Money that the D.C. Housing Authority spends to defend these housing conditions cases or counterclaims is money better spent on actually making the repairs at the properties.

We urge the D.C. Council to allocate funds toward both types of repairs for public housing: substantial rehabilitation of currently off line units so that they can become homes again for families in need, and necessary regular maintenance and repair to the current public housing units ensuring that they remain viable and continue to house future families in need.

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Although it has its fair share of problems, the Housing Authority nonetheless is overall effective at its job. The Housing Authority is part of the solution to ending homelessness in DC,

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<sup>5</sup> There are currently 40,951 households on the D.C. Housing Authority waiting list; 27,520 households are on the public housing waiting list, and 38,806 are on the voucher program waiting list. Applicants may apply for one or both programs. *D.C. Housing Authority Agency Performance Oversight Hearing before the Council of the District of Columbia Committee on Housing and Community Development*, at 9, (February 26, 2015)(written testimony of Adrienne Todman, Executive Director).

On April 12, 2013, the D.C. Housing Authority closed its waiting list and stopped accepting new applications for public housing and the voucher program. Accordingly, the waiting list figures do not accurately reflect the current need for subsidized housing.

and it is a part of the answer to preserving and increasing affordable housing for DC residents. With additional funding, the Housing Authority can better serve and house more of our most vulnerable families.