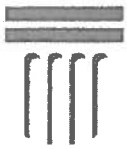

Legal Aid Society
OF THE DISTRICT OF COLUMBIA

MAKING JUSTICE REAL

Testimony of Maggie Donahue
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The Legal Aid Society of the District of Columbia

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

B21-0885: "Four-unit Rental Housing Tenant Grandfathering Amendment Act of 2016"
and
B21-0884: "Rental Housing Affordability Stabilization Amendment Act of 2016"

October 19, 2016

The Legal Aid Society of the District of Columbia[1] strongly supports the Four-unit Rental Housing Tenant Grandfathering Amendment Act of 2016 as well as the Rental Housing Affordability Stabilization Amendment Act of 2016, both of which strengthen existing protections for tenants living in rent-controlled buildings in the District.

The bulk of Legal Aid's housing law practice focuses on eviction defense. As such, we unfortunately see first-hand how many long-term District residents are being pushed from their homes in the city, or into shelter. We see the trauma that eviction and the threat of it often brings to individuals and families, old and young alike. We also see, especially for those residents living in gentrifying neighborhoods, that rent control protections are often *the* reason these residents have been able to remain thus far – in the neighborhoods where they grew up, formed relationships, and sent their children to school, sometimes for generations. Finally, we have seen the Tenant Opportunity to Purchase Act (TOPA) serve as an important stabilizing tool for otherwise often powerless tenants, so they can leverage some degree of power to get needed repairs done and to minimize tenant displacement.

Legal Aid applauds Anita Bonds, Elissa Silverman, Brianne Nadeau, and Mary Cheh for proposing the **Four-unit Rental Housing Tenant Grandfathering Amendment Act of 2016,** which is a vital piece of legislation that will close a loophole which currently exists in the rent control and TOPA laws, by preventing landlords from transferring four-unit buildings from themselves to others in order to avoid rent control restrictions at those buildings

To explain how this loophole is currently being manipulated, it's important to understand one of the most common exemptions from rent control claimed by landlords: the "small landlord exemption." This exemption allows small landlords owning four or fewer rental units in the District an exemption from rent control laws.

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[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 83 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 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.

Despite its designation as a carve out in rent control for small landlords only, some large landlords who own more than four units in the District have been taking advantage of this exemption by transferring individual buildings they own that have four or fewer units to their brothers, sisters, wives, and husbands, who then will claim the small exemption, to circumvent rent control.

To use a real life example, I want to tell the story of my current client, Sylvia Seegers. Ms. Seegers has lived in a rent-controlled four unit building in Ward 5, near the H Street corridor, for over 10 years. Ms. Seegers was born and raised in the District, and has been an active part of the fabric of this community for many years. She has worked at a group home with at-risk youth, at Walter Reed hospital, as a fashion consultant, and as a secretary. She has volunteered for the campaigns of Marion Barry and Sharon Pratt Kelly, and has volunteered at the CCNV homeless shelter at 2nd and D St. NW.

In late 2013, Ms. Seegers' building – along with several other four-unit buildings on her block – was purchased by a real estate investor looking to capitalize on rising rents in Ms. Seegers' Trinidad neighborhood. Many of the low-income tenants in these buildings were pressured to leave by the landlord, who made them "cash for keys" offers and threatened to eventually raise the rents beyond what the tenants could afford. Those who stayed endured winters without heat, and as more units were emptied and gutted to be renovated, mice took over. Pretty soon, Ms. Seegers was the only original tenant left, and she was threatened with an over 100% rent increase. The landlord, who did not qualify for a small landlord exemption because of the number of properties he owned, claimed that the building itself qualified for an obscure exemption from rent control: because it was vacant on January 1, 1980.[2] Luckily, however, Ms. Seegers' mother lived in the building for many years, including on January 1, 1980, so Ms. Seegers was able to provide first hand testimony that this claimed exemption was invalid. Ms. Seegers challenged the landlord's claim of exemption and won, with the help of an attorney from the Office of the Tenant Advocate. Her rent was rolled back to a level she could afford, and the landlord's claim of exemption was determined to be invalid. The landlord appealed her win to the Rental Housing Commission, where Legal Aid and the Office of Tenant Advocate represented Ms. Seegers. Ms. Seegers prevailed again, but the landlord appealed that decision to the Court of Appeals.

After years of appealing these decisions, the landlord finally settled the matter, but now has informed Ms. Seegers that he intends to transfer her particular building to his mother, who lives in New York. Because this is a transfer and not a sale, Ms. Seegers cannot exercise any TOPA rights. And because the landlord's mother does not own any other rental units in the District, she can claim a small landlord exemption for Ms. Seegers' building, raise the rents to

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[2] D.C. Code § 42-3502.05(a)(4)(2016) exempts from rent control any housing accommodation "previously exempt under §206(a)(4) of the Rental Housing Act of 1980. . ." Section 206(a)(4) of the Rental Housing Act of 1980 exempted "any housing accommodation which ha[d] been continuously vacant and not subject to a rental agreement since January 1, 1980: Provided, That upon re-rental such housing accommodation is in substantial compliance with the Housing Regulations when offered for rent." D.C. Law 3-131 "Rental Housing Act of 1980" (Codification D.C. Code sec.,45-161), Title II, Sec. 206(a)(4), at 25-26, *available at* http://www.openlims.org/public/L3-131.pdf (accessed 6/8/2016).

levels Ms. Seegers cannot afford, and force her out. Once an owner claims the small landlord exemption, it is perfectly legal under the rent control law to issue a rent increase that would double or even triple the tenant's rent – a rent increase the landlord knows the current tenant cannot pay. After Ms. Seegers is forced to leave, the landlord's mother can transfer her property back to her son, and he can continue with his original plan, to renovate and rent out units to the highest bidder.

The "Four-unit Rental Housing Tenant Grandfathering Amendment Act of 2016" would ensure that tenants like Ms. Seegers are not forced out of their homes through this familial transfer loophole. Legal Aid urges the Council and Mayor to act quickly to enact this law before it is too late for Ms. Seegers and people like her.

Additionally, Legal Aid also urges the Council to adopt the **Rental Housing Affordability Stabilization Amendment Act of 2016** as law. This bill would limit yearly rent increases in rent controlled buildings to the Consumer Price Index and eliminate the vacancy increase that landlords can take when a unit turns over, which currently can be as high as 30%. As rents continue to grow, capping the annual increase will help thousands of District residents be able to afford their rents. Furthermore, eliminating the vacancy increase will increase affordable housing in the District and stop incentivizing landlords to push out tenants from affordable units. Especially in larger buildings with a fair amount of turnover, owners can often take 30% increases – or close to it – playing units' recently increased prices off one another to rapidly increase rents, and turn what once was an affordable building to one that is out of reach for an average working resident.

I recently conducted an investigation in a case that led me to speak with multiple tenants in two large rent controlled buildings located in Ward 1. Both buildings have a diverse group of tenants, some old and some new. Unfortunately, many of the tenants have felt intimidated and pressured to leave their relatively affordable units in those buildings. More than one tenant expressed to me that she believed that the landlord's property manager was purposefully rude and intimidating to tenants and unresponsive to repair requests in order to force people out and take vacancy increases. Others described complaints they made about roach and mouse infestations and construction projects that were ignored by management and was the cause of their departure. We should not be rewarding poor management of buildings by allowing the now well-outdated vacancy increase to remain.

The more tenants' affordable housing can be preserved, as it will be through these bills, the less the District spends in shelter dollars, in public benefits dollars, and the more stable our families and neighborhoods can become.

For all of the above reasons, we urge the Council to enact the "Four-unit Rental Housing Tenant Grandfathering Amendment Act of 2016" and the "Rental Housing Affordability Stabilization Amendment Act of 2016." Thank you for the opportunity to testify today.