

**Testimony of Amanda Korber
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Performance Oversight Hearing of the Department of Human Services

**Committee on Human Services
Council of the District of Columbia**

March 15, 2017

The Legal Aid Society of the District of Columbia¹ submits this testimony to discuss the ways in which the Department of Human Services (“DHS”) can improve the Rapid Rehousing Program. My testimony will focus on five problems that our clients who participate in the program consistently encounter: (1) paying an unreasonably high portion of their monthly income towards rent; (2) long delays between when they report a loss of income and the recalculation of their monthly rent; (3) late or missing rent payments from the subsidy provider; (4) terrible housing conditions in their subsidized units; and (5) facing eviction when their subsidy ends because they are unable to afford market rent.

While some of these problems can be addressed by changing the way in which the Rapid Rehousing Program operates, the most critical problem – that families simply cannot afford DC’s exorbitant market rents after only a year or two of assistance – is a fundamental flaw in the program. Instead of investing resources into Rapid Rehousing, we urge the Council to focus on funding long-term housing subsidies for the District’s most vulnerable families.

Unreasonably High Rents in the Rapid Rehousing Program

Unlike any other affordable housing program in the District, Rapid Rehousing allows a family’s monthly rent to account for up to 60% of its income – twice the rate of what is considered affordable.² Even on the low end, the program requires a family to pay at least 40% of its income toward rent, meaning that every single family in the Rapid Rehousing program is rent burdened according to local law. Additionally, unlike other subsidy programs in the District, Rapid Rehousing does not budget for the cost of utilities for tenants, meaning that the total amount that they spend on housing with utilities may far exceed even 60%. The regulations allow for, but do not guarantee, additional financial support for utilities.

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 29 D.C.M.R. §7805.1; According to the U.S. Department of Housing and Urban Development, “[f]amilies who pay more than 30 percent of their income for housing are considered cost burdened and may have difficulty affording necessities such as food, clothing, transportation and medical care.” https://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/affordablehousing/.

Because of this, all participating families are having to make choices between paying their rent and affording other basic necessities. Such a practice is particularly problematic when a family's only income is small and invariable, such as Temporary Assistance for Needy Families ("TANF") or Social Security Insurance ("SSI"). Recently, Legal Aid assisted a Rapid Rehousing Program participant whose rent portion accounted for 60% of her TANF payment, leaving her family of two (2) with \$146 to live on each month. Unsurprisingly, this family ended up in eviction court because it, like all other families who are expected to pay more than half of their income in rent, was set up to fail.

There is no reason that a family's rent should be set at greater than 30% of its income while that family is receiving housing assistance. Allowing otherwise ensures that some families will fall behind on their rent or struggle to get by each day, and quite likely end up in landlord and tenant court with an eviction on their record – a permanent black mark on their rental history. If a housing subsidy program is to have a meaningful impact in alleviating homelessness, it cannot set its participants up for failure, which is exactly what the Rapid Rehousing Program is currently doing for all too many families.

Delays in Recalculating Tenant Rent Portions

Rapid Rehousing providers often do not timely recalculate participants' rents after job loss, leaving families to accrue balances that they cannot possibly afford to pay back. Rapid Rehousing regulations provide that after a family reports a loss of income,³ their rent will decrease on the first day of the following month, unless they report the income loss after the 15th of the month (in which case the decrease will carry over to the following month).⁴

Even if Rapid Rehousing providers were following this rule, it would be unreasonable. It means that if a mother loses her job on the 18th of the month, and reports it immediately, she will still have to pay rent the following month as if she were still working. However, providers are not even following that rule: Legal Aid regularly sees families whose monthly rent payments are not recalculated for two, three, or even four months following job loss. Legal Aid recently assisted one mother whose rent was not recalculated until four (4) months after she reported losing her job. During this time, her only income was TANF. She was sued in landlord and tenant court, and had to seek out Emergency Rental Assistance ("ERAP") to try and pay off the balance she should never have accrued in the first place.

Unlawfully long delays in rent recalculation work against the goals of the Rapid Rehousing Program in at least three ways. First, these families are more likely to end up with landlord and tenant cases on their rental histories, making it harder for them to find apartments in the future. Second, instead of spending their time looking for new jobs and getting back on their

³ Another problem with the Rapid Rehousing regulations is that they require the participant to provide documentation of his or her income change before his or her rent is recalculated. 20 D.C.M.R. § 7805.14(c). This is unlike the Housing Choice Voucher Program ("HCVP"), where a family's rent is decreased in the month after which the job loss is report. 14 D.C.M.R. § 5310.1(2). This is an important difference because of the trouble families often have getting verification documents from places they are no longer working.

⁴ 20 D.C.M.R. § 7805.14(e)-(f).

feet, participants are forced to fight to save their housing, spending long days in landlord and tenant court and trying (often unsuccessfully) to obtain an appointment to seek Emergency Rental Assistance. Third, those participants who cannot find ways to pay off the rental balances they accrue during a period of unemployment are evicted and lose the benefit of the program altogether.

Late or Missing Payments from Subsidy Providers

One thing that most of Legal Aid's clients who receive Rapid Rehousing assistance have in common is that, on at least some occasions, DHS's portion of their rent is paid late or not paid at all. At best, this results in tenants being charged unlawful late fees. At worst, it results in tenants being sued in landlord and tenant court for rent that DHS owes. It is not uncommon for those tenants who do not obtain legal assistance to agree to pay back rent they never owed in the first place. For tenants in this situation who are fortunate enough to get a lawyer, it means they will have to spend multiple days in landlord and tenant court joining their Rapid Rehousing provider to the lawsuit,⁵ and trying to force the agency to make the payments it should have already made to the landlord. Often this means tenants are forced to take time off from work, which is of course inconsistent with the goals of the program.

Housing Code Violations in Units Subsidized by Rapid Rehousing

Participants in the Rapid Rehousing program are regularly being placed in units with substandard conditions and serious housing code violations. One recent newspaper article reported that DHS has placed 114 of the agency's subsidies with Sanford Capital – a landlord being sued by DC's Office of the Attorney General in two separate lawsuits for failing to maintain its properties.⁶

It is not surprising that Rapid Rehousing providers have trouble placing subsidies, forcing them to place subsidies with known bad actors. DHS's own Oversight responses state that there has been a decrease in the number of landlords willing to accept Rapid Rehousing vouchers.⁷ Rapid Rehousing subsidies are particularly unappealing to landlords who know that the vouchers are time limited in nature, and that they will likely have to sue the tenant for nonpayment of rent once the subsidy runs out. This means that only the worst and most desperate landlords will want tenants with Rapid Rehousing subsidies, increasing the likelihood that participants in the program will live with serious housing code violations.

⁵ Prior to October 2016, a contractor, The Community Partnership ("TCP"), handled DHS's Rapid Rehousing payments. When Legal Aid handled these cases in court, we would move to join TCP, not DHS. Now, TCP is no longer handling DHS's payments. Instead, the D.C. Housing Authority will be doing this job. We are hopeful that this will resolve some of the problems.

⁶ The newspaper article does not clarify how many of these 114 subsidies are Rapid Rehousing. *See Life Is Hell for Tenants of Giant D.C. Slumlord Sanford Capital*, available at <http://www.washingtoncitypaper.com/news/article/20850914/life-is-hell-for-tenants-of-giant-dc-slumlord-sanford-capital>.

⁷ The Department of Human Services, *Responses to Fiscal Year 2016-2017 Oversight Questions*, at p. 31 http://dccouncil.us/files/user_uploads/budget_responses/DHS_FY16-17_POH_Pre-Hearing_Questions_FINAL.pdf.

Facing Eviction after Being Terminated from the Program

Ultimately, Rapid Rehousing is an unsustainable solution to the District's affordable housing crisis. Given the District's exorbitant market rents, families cannot increase their incomes and afford to keep their apartments with only one or two years of housing assistance. According to DHS's own data, 70% of families in Rapid Rehousing receive TANF.⁸ DHS also reports that the average monthly income of families in Rapid Rehousing is \$465,⁹ while the average rent for a two-bedroom apartment is \$1,200.¹⁰ Moreover, according to DHS, only 10% of families in the Rapid Rehousing Program increased their income in FY 2016.¹¹

All of these data points taken together suggest that a short-term housing subsidy simply cannot move families from homelessness to stable housing within a year or two. This is not surprising to housing advocates. We see the fallout of terminated Rapid Rehousing subsidies every week. For example, one of Legal Aid's clients who would be considered a success by Rapid Rehousing standards – after two years in the program, this mother of two had a full-time job – was forced to consider what she would do when her subsidy ran out because one thing was certain: she could not continue to live in her \$1,245/month apartment.

While Legal Aid agrees that no family should have to live for an extended period of time in shelter, Rapid Rehousing is an ill-fated solution to the District's ever-growing affordable housing crisis. While some small, common-sense fixes – including capping each participant's rent at 30% of his or her income, recalculating rents in a timely manner, and ensuring that subsidy providers reliably pay their portion of the rent – will make the program run more smoothly, there is simply no fix to the program's time-limited nature. Instead of investing in short term housing solutions for its families, we urge the Council instead to increase funding for permanent affordable housing alternatives, such as Local Rent Supplement Program vouchers.

⁸ *Id.* at p. 33.

⁹ *Id.* at p. 34.

¹⁰ *Id.* at p. 26.

¹¹ *Id.* at p. 33.