

**Testimony of Rachel Rintelmann
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**Before the Committee on Human Services
Council of the District of Columbia:
Bill 22-0293
“The Homeless Services Amendment Act of 2017”**

June 14, 2017

The Legal Aid Society of the District of Columbia¹ submits this testimony to express its serious reservations about the Rapid Rehousing Program provisions in the Homeless Services Amendment Act of 2017. We have testified in the past about our deep concerns about the Rapid Rehousing program, and rather than addressing those concerns, this bill formalizes some of the most problematic aspects of the program. In particular, this testimony will address: 1) the codification of terminations based on time limits and 2) new procedures which have the effect of depriving program participants of due process of law.

Time-Limited Subsidies Set Families up to Fail.

Legal Aid has regularly expressed concern that imposing time limitations upon recipients of Rapid Rehousing is wholly counterproductive and more likely to cycle families back into homelessness than to result in permanent and stable housing. Currently, we do not believe that the HSRA allows for terminations based upon time limits alone. This bill would change that, sanctioning the current DHS practice of terminating families based solely on time limits by adding a “Program Exits”² section to the HSRA. We strenuously oppose this change, and would recommend instead a reasonable standard for exiting participants from Rapid Rehousing only when they can reasonably afford their rent.

The issue of terminations, now “program exits,” of families who are unable to afford their rent is a perennial one, which has been the focus of advocates – including myself – for many years. I have personally seen numerous tenants in landlord and tenant court facing eviction after the termination of their Rapid Rehousing subsidies. Many of these tenants complied diligently with program rules, paying rent even when it ballooned to 60% of their monthly income, which is unaffordable by any measure.³ But, ultimately, they still faced eviction when their Rapid Rehousing subsidy terminated due to time limitations.

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 § 4-754.36b(a).

³According 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
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For perspective, the life of a typical Rapid Rehousing tenancy is thus: A family experiencing homelessness is moved out of shelter with the promise of stable housing. With little or no support from caseworkers, they identify a landlord willing to accept their Rapid Rehousing subsidy.⁴ However, most landlords now understand what many vulnerable new Rapid Rehousing participants do not, which is that at some point, the subsidy will be terminated, abruptly and without cause, leaving the family with a contract rent obligation that it cannot afford to pay. And, when that happens, the family is evicted. They cycle back into homelessness, this time with an eviction on their rental history, expanding even further the gulf between that family and stable and sustainable housing.

I have spoken to numerous Rapid Rehousing participants who have expressed regret that they had ever entered the program, wishing instead that they had remained in shelter until a permanent subsidy became available.

The agony of the brief and often traumatic cycle of a Rapid Rehousing tenancy is often compounded by unsafe housing and predatory landlords. Many of the few landlords willing to put up with the risk of renting to a family which will shortly be unable to pay the rent tend to be slumlords, relying on the family's desperation to find housing as they exit shelter, and counting on their willingness to endure deplorable conditions as an alternative to homelessness. I have met Rapid Rehousing participants who are living with bedbugs, roaches, rats and sewage leaks, in units approved by the subsidy provider prior to move-in. There is a thriving sub-market for Rapid Rehousing rentals, with landlords like Sanford Capital accepting District dollars to rent uninhabitable units to unsuspecting tenants.⁵ And, this is largely a successful model because, by the time the family complains or pursues legal remedies, the subsidy has ended, and the landlord can evict the family for nonpayment of rent without consequence or need to make repairs.

The expectation that families can transition, without other holistic supportive services, from shelter to sustainable permanent housing within one year – or even two – is optimistic, but in most cases, utterly unrealistic. Given the District's exorbitant market rents, many families cannot increase their incomes to a level enabling them to afford market rents with only one or two years of housing assistance. Someone earning the \$11.50 minimum wage would have to

as food, clothing, transportation and medical care.”

https://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/affordablehousing/.

⁴ Incidentally, many landlords are not. Although refusing to accept a subsidy is a form of source of income discrimination, many landlords have been burned by the program, which requires tenants to sign leases at rent levels far exceeding what they can afford to pay without the assistance of the subsidy. So they refuse to take Rapid Rehousing tenants in the first place.

⁵ 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. 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>

work 107 hours per week to afford fair market rent for a two-bedroom apartment.⁶ According to DHS's own data, 70% of families in Rapid Rehousing receive TANF.⁷ DHS also reports that the average monthly income of families in Rapid Rehousing is \$465,⁸ while the average rent for a two-bedroom apartment is \$1,200.⁹ Moreover, according to DHS, only 10% of families in the Rapid Rehousing Program increased their income in FY 2016.¹⁰

In sum, terminations or “program exits” based solely on time limitations should be eliminated, not made permanent. If it is to succeed, the Rapid Rehousing program needs fair and reasonable guidelines on program exits, based not on time but on the likelihood that a participant family will be able to afford the monthly rent.

Removing Notice and Hearing Rights Deprives Rapid Rehousing Participants of Due Process

Also of great concern to Legal Aid is the fact that the proposed bill would not only allow terminations for time limitations, but also strip participants of the notice and hearing rights currently afforded to them. Under the proposed language of the bill, participants are entitled to “oral and written notice and shall be informed of the reason for the program exit,” but there is no timeframe provided whatsoever.¹¹ Participants can be “exited” from Rapid Rehousing with just days – or even hours – of notice. Inadequate notice has long been a problem in the Rapid Rehousing program, with terminations on short notice leaving families scrambling to scrape together funds to pay rent or find alternate accommodations. Incredibly, rather than fixing this chronic problem, this Amendment seeks to codify it.

Additionally, under this new legal framework, participants would no longer have the right to appeal to the Office of Administrative Hearings. Instead, their only remedy would be an appeal to the director of DHS.¹² Allowing DHS to be the sole reviewer of its own decisions removes an important independent layer of review and – to someone reasonably skeptical of a system of having an agency policing itself – is tantamount to providing no remedy at all.

In sum, this bill vests in DHS complete and total authority over program rules, including program exits, with no oversight and no meaningful appeal rights. Somehow, this bill affords even fewer protections to Rapid Rehousing program participants than they currently have.

⁶ See *Out of Reach 2017: The High Cost of Housing*, available at http://nlihc.org/sites/default/files/oor/OOR_2017.pdf, at 51.

⁷ The Department of Human Services, *Responses to Fiscal Year 2016-2017 Oversight Questions*, at p. 33 http://dccouncil.us/files/user_uploads/budget_responses/DHS_FY16-17_POH_Pre-Hearing_Questions_FINAL.pdf.

⁸ *Id.* at p. 34.

⁹ *Id.* at p. 26; fair market rent for average mid-market units is significantly higher, at \$1746. See *Out of Reach 2017: The High Cost of Housing*, available at http://nlihc.org/sites/default/files/oor/OOR_2017.pdf

¹⁰ *Id.* at p. 33.

¹¹ § 4-754.36b(b)

¹² § 4-754.36b(c).

Revisiting the Efficacy of the Rapid Rehousing Program

Ultimately, Legal Aid does not believe that the Rapid Rehousing program truly helps the majority of participants achieve long-term housing stability. To the contrary, we have seen countless families terminated from the program and finding themselves in a worse position than they were before accepting assistance.¹³ It is our belief that resources should be shifted away from Rapid Rehousing and instead invested in permanent subsidy programs with a proven track record of success.

If, however, the District remains committed to investing in the Rapid Rehousing program – even in the face of strong evidence that it frequently makes participants worse off – the Council simply cannot approve amendments like the ones before the Committee today. Rather than ensure long-term stability, this bill grants DHS the authority to “exit” program participants without so much as considering whether the family will be able to afford the rent. Rather than improving the Rapid Rehousing program, this Amendment expressly authorizes and formalizes its flaws. If we are truly committed to ending homelessness and assisting families in achieving housing stability, the first step is to prevent bills like this from becoming law. Accordingly, Legal Aid cannot support The Homeless Services Amendment Act of 2017.

Thank you for the opportunity to submit this testimony.

¹³ The flaws of the program are expertly highlighted in the Washington Legal Clinic for the Homeless’ report *Set Up to Fail: Rapid Re-Housing in the District of Columbia*, available at <http://www.legalclinic.org/wp-content/uploads/2013/06/Set-up-to-fail-FINAL.pdf>.