



**Testimony of Beth Mellen Harrison
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**Committee on Housing & Neighborhood Revitalization
Council of the District of Columbia**

**Hearing on B22-441, B22-442, B22-570
“Rental Unit Fee Adjustment Amendment Act of 2017”
“Rental Housing Registration Update Amendment Act of 2017”
“Rental Housing Affordability Re-Establishment Amendment Act of 2017”**

December 18, 2017

The Legal Aid Society of the District of Columbia¹ supports the three bills before the Committee today:

- Bill 22-441, the Rental Unit Fee Adjustment Amendment Act of 2017, which will provide new funding the Committee intends to allocate to ensure that elderly and tenants with disabilities living in rent control units are exempt from dramatic rent increases;
- Bill 22-442, the Rental Housing Registration Update Amendment Act of 2017, which will ensure that the Rental Accommodations Division has current data about the number, type, and location of rent control units, and that this same information is broadly available to the public; and
- B22-570, the Rental Housing Affordability Re-Establishment Amendment Act of 2017, which will close a loophole in current law to ensure that housing providers renting to tenants with vouchers are not allowed to take dramatic rent increases otherwise barred under rent control.

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 85 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 law, public benefits, and consumer protection. More information about Legal Aid can be obtained from our website, www.LegalAidDC.org, and our blog, www.MakingJusticeReal.org.

These bills will help to strengthen the District's rent control law as a tool for preserving affordable housing, but they are not enough. Still pending before this Committee are two other critical bills: B22-25, the Rental Housing Affordability Stabilization Amendment Act of 2017; and B22-100, the Preservation of Affordable Rent Control Housing Amendment Act of 2017. We urge the Committee to schedule these bills for mark-up so that they can be considered by the full Council during this legislative session.

Rent Control Preserves Housing Affordability in the District.

Rent control was implemented in the District to address the severe shortage of affordable housing available, particularly for low- and moderate-income renters. See D.C. Code § 42-3501.01. The purposes of the rent control law include “protect[ing] low- and moderate-income tenants from the erosion of their income from increased housing costs,” “protect[ing] the existing supply of rental housing from conversion to other uses,” and “prevent[ing] the erosion of moderately priced rental housing while providing housing providers and developers with a reasonable rate of return on their investments.” *Id.* § 42-3501.02. By stabilizing annual rent increases and limiting dramatic rent increases to extraordinary circumstances, rent control helps to preserve affordable housing.

Rent control is vitally important today, as the District faces a housing affordability crisis of historic proportions. Recent reports from the D.C. Fiscal Policy Institute put this crisis in stark relief. Between 2002 and 2013, the District lost nearly half of its stock of low-cost units (monthly rents below \$800) and nearly one-third of its moderate-cost units (monthly rents between \$800 to \$1,000). See Wes Rivers, D.C. Fiscal Policy Inst., *Going, Going Gone: D.C.'s Vanishing Affordable Housing* 4 (Mar. 12, 2015).² D.C. now is ranked as the fourth most expensive city in the United States for renters. See Michele Lerner, *Washington Post*, “If you think D.C. has the most expensive rents in the nation, it’s not a far stretch” (Feb. 28, 2017).³ As a result, nearly two thirds of extremely low-income households in the District spend more than half of their income on housing costs – and most spend 80 percent or more. See Claire Zippel, D.C. Fiscal Policy Inst., *A*

² Available at <http://www.dcfpi.org/wp-content/uploads/2015/03/Going-Going-Gone-Rent-Burden-Final-3-6-15format-v2-3-10-15.pdf>. \$800 is an affordable housing cost (based on the “affordability” definition used by the Department of Housing and Urban Development) for someone making \$32,000 per year, or working a full-time job at \$15.38 per hour, slightly above minimum wage.

³ Available at https://www.washingtonpost.com/news/where-we-live/wp/2017/02/28/if-you-think-d-c-has-the-most-expensive-rents-in-the-nation-its-not-a-far-stretch/?utm_term=.b83303988753.

Broken Foundation: Affordable Housing Crisis Threatens D.C.'s Lowest-Income Residents 3 (Dec. 8, 2016).⁴

The erosion of rent control housing contributes to rising rents in the District. Strengthening the rent control law is one of many steps the Council can and must take to ensure that low- and moderate-income residents are not priced out of the city.

Increasing the Rental Unit Fee Could Provide Funding to Protect Elderly and Tenants With Disabilities From Dramatic Rent Increases.

The Rental Unit Fee Adjustment Amendment Act of 2017 (B22-441) would increase the annual rental unit fee that housing providers in the District must pay from \$25 to \$30 per unit. This increase is in line with inflation and would impose no more than a modest additional burden on housing providers.⁵

The key question is what will happen with the additional funds. This Committee has expressed its intention to earmark the additional money to fund L21-239, the Elderly and Tenants with Disabilities Protection Amendment Act of 2015. Among other provisions, this law exempts low-income elderly and tenants with disabilities from extraordinary rent increases that housing providers take via petitions approved under the rent control law. To ensure that housing providers are not harmed by this new exemption, the law provides matching tax credits for the rent lost as a result. This is an important protection for those District residents most at-risk for displacement from dramatic rent increases.

Unfortunately, this portion of the law will remain ineffective until the Council allocates funding for its implementation. Funding the Elderly and Tenants with Disabilities Protection Amendment Act of 2015 should be a priority for this Committee and the Council. We support the Committee's intent to ensure that the additional funds raised by the Rental Unit Fee Adjustment Amendment Act of 2017 be allocated for this purpose, and we suggest amending the bill to make this intent a requirement. More fundamentally, we would support amending this bill or introducing future legislation to ensure that all funds raised from the annual rental unit fee are allocated for affordable housing priorities. We believe this is a change that housing providers would support as well.

⁴ Available at <http://www.dcfpi.org/wp-content/uploads/2016/12/DCFPI-Broken-Foundation-Housing-Report-12-8-16.pdf>. Extremely low-income households are those earning below 30 percent of area median income, or less than \$32,100 for a family of four. *Id.*

⁵ Since 2004, the annual rental unit fee has increased from \$15 to the current \$25, or 67 percent. For tenants in rent control units subject only to the annual CPI increase (other than elderly and tenants with disabilities, subject to slightly lower increases), rents have increased by 70 percent during this same period.

Requiring All Housing Providers to Re-Register Will Ensure Accurate Data About Rent Control Units.

The Rental Housing Registration Update Amendment Act of 2017 (B22-442) would require housing providers to re-register all units covered by the District's rent control law. Legal Aid supports this proposal but also suggests that the Committee expand the scope of this bill to include *all* rental units in the District, including those that are exempt from the rent control law.

A broad registration update is necessary because the Rental Accommodation Division (RAD) currently lacks accurate data about the number of units registered as covered by or exempt from the law, as well as key details about the size, location, and (where applicable) reason for exemption for these units. On an individual level, this information is critical for a tenant to understand her rights. In the aggregate, this data can inform policy decisions facing the Council.

Legal Aid previously has testified about the myriad of problems that tenants and their advocates encounter when trying to obtain accurate and up-to-date information about the registration status of particular rental units. We appreciate that the new Rent Administrator is implementing new procedures and systems to address these problems, and we are encouraged that we will see results soon, but problems do continue. Last month, we met with a tenant who was facing a large rent increase. When she visited RAD, she was told that her housing provider had not properly registered as exempt, which would mean the proposed rent increase was illegal. Legal Aid then worked with RAD and found that the property in fact was properly registered as exempt. Mistakes like this must be addressed.

Earlier this year, Legal Aid submitted a Freedom of Information Act request to RAD for all current registration statements for rental units in the District. Legal Aid sought this information on behalf of a coalition of tenant advocates exploring ways to strengthen the District's rent control law. In follow-up discussions, we learned from RAD that the agency was unable to produce all current registration statements because of the way the documents currently are stored. Lack of access to this information leaves an information gap that hampers efforts to strengthen and expand rent control.

With a new Rent Administrator in place and the Office of Tenant Advocate currently working on a rent control database, the time is right to close this information gap. Requiring re-registration will provide an important reset, ensuring that the rent control database and changes underway at RAD will move forward based on accurate data. We strongly support Bill 22-442's requirements that all housing providers re-register their units, and that all new registration statements also be available online to ensure easy public access.

Closing a Loophole in Current Law Will Ensure That Tenants With Vouchers Are Protected.

Finally, the Rental Housing Affordability Re-Establishment Amendment Act of 2017 (B22-570) closes a potential loophole in current law that may incentivize housing providers to rent to and then evict tenants with vouchers to evade the rent control law.

The Rental Housing Act currently exempts all subsidized housing units from the rent control law, including units that are rented to tenants with vouchers or similar, tenant-based subsidies. This exemption makes perfect sense; for subsidized housing units, other laws control the calculation of rent and ensure that tenant rents are kept affordable. Currently, the rent control law provides that once the subsidy ends, the unit falls back under rent control at whatever rent level was last charged. As a practical matter, this rent may be far higher than the prior rent control level, creating the possibility for abuse.

When housing providers with rent control units rent to voucher holders, they may be able to collect much higher monthly rents. This is because subsidy providers typically pay market-rate rents to housing providers who accept voucher holders, in part to ensure that voucher holders can compete with other tenants on the private market. If rent control has kept rent on a unit below market, the voucher rent level typically will be higher – and at times substantially higher. Paying market-rate rents for rent control units creates an incentive for housing providers to rent to voucher holders. These incentives are helpful because while source of income discrimination – i.e., refusing to rent to voucher holders – is illegal in D.C., it continues to create a barrier for more than a quarter of voucher holders looking for housing. *See The Equal Rights Center, Will You Take My Voucher: An update on Housing Choice Voucher discrimination in the District of Columbia 10-12 (March 2013).*⁶

At the same time, renting to a voucher holder should not provide an end-run around rent control. Current law creates that possibility. A housing provider with a below-market rent control unit may be able to lock in a large increase under rent control – sometimes far beyond what the law otherwise might allow – simply by renting to and then getting rid of a voucher holder. Set against the backdrop of ongoing source of income discrimination, this loophole in the law may create perverse incentives to rent to and then evict voucher holders from rent control units.

⁶ Available at https://equalrightscenter.org/wp-content/uploads/will_you_take_my_voucher.pdf; see also Andrew Giambrone, *Washington City Paper*, “Nonprofit Sues D.C. Landlord for Housing Discrimination Against Voucher Tenants” (April 13, 2017), available at <https://www.washingtoncitypaper.com/news/housing-complex/blog/20858153/nonprofit-sues-dc-landlord-for-housing-discrimination-against-voucher-tenants>.

The way the subsidy exemption currently operates also can create challenges for tenants with short-term subsidies such as Rapid Re-Housing. Legal Aid has seen examples of housing providers seeking significant rent increases when they rent to tenants with Rapid Re-Housing subsidies. In one case, a rent control unit being marketed for approximately \$800 per month with utilities included then rented to a Rapid Re-Housing tenant for almost \$1200 per month without utilities. When this tenant's short-term Rapid Re-Housing subsidy ended, she struggled to pay the rent, now locked in at a significantly higher rate than it would have been without the subsidy exemption.

Bill 22-570 addresses these problems by changing the formula for the rent that a housing provider may charge when a tenant with a subsidy leaves a unit and the rent control exemption ends. The new rent control level would now be calculated starting with the prior rent control level and then adding all annual CPI rent increases that have gone into effect in the intervening time period. This change will remove the potential loophole and perverse incentive in current law, while ensuring that housing providers still have strong incentives to increase their rental income by bringing in voucher holders. In fact, housing providers with below-market rent control units will have even greater incentives to bring in and keep in place tenants with subsidies, because only then can the housing provider capture a higher rent. For tenants with short-terms subsidies, keeping rental units affordable long-term will help ensure such tenants can take over payment of the full rent when their subsidies expire.

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The three bills before the Committee today will help to ensure that the District's rent control law remains an effective tool for preserving long-term housing affordability for low- and moderate-income residents of the District. We urge the Committee to move forward with these bills, as well as the critical protections provided in B22-25, the Rental Housing Affordability Stabilization Amendment Act of 2017, and B22-100, the Preservation of Affordable Rent Control Housing Amendment Act of 2017.

Thank you for this opportunity to testify.