

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

Budget Oversight Hearing Regarding:

The Department of Housing and Community Development

and

The Housing Production Trust Fund

April 13, 2018

The Legal Aid Society of the District of Columbia¹ submits this testimony:

(1) to highlight the impact of the Department of Housing & Community Development (DHCD) and its Housing Production Trust Fund on low-income tenants in the District of Columbia; and

(2) to urge the Committee to substantially increase its investment in affordable housing.

Legal Aid represents hundreds of low-income tenants in housing cases each year. We work with countless families who are struggling to make ends meet, often because of lack of access to affordable housing. Far too many of these families are at risk of or are being pushed into homelessness because they cannot secure safe, stable, affordable housing. Many are long-time Washingtonians who face the difficult decision of leaving the District, as housing costs escalate out of reach.

The District government can and must dedicate more funding to preserve affordable housing and address this crisis. The Housing Production Trust Fund remains one of the most important tools the District has at its disposal for supporting the production and preservation of affordable housing. Even as DHCD works to address challenges revealed in recent reports from the D.C. Auditor, this Committee should take steps to increase funding for both the Trust Fund and related affordable housing programs.

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 85 years, Legal Aid staff and volunteers have been making justice real for tens of thousands of the District’s neediest residents. Legal Aid currently works in the areas of housing, family law, public benefits, and consumer law.

EXREMELY LOW-INCOME TENANTS IN THE DISTRICT FACE A SEVERE SHORTAGE OF AFFORDABLE HOUSING

Extremely low-income tenants – those whose incomes fall at or below 30 percent of area median income – are being pushed out of the District because of a severe and deepening shortage of affordable housing. The vast majority of Legal Aid’s clients have household incomes at or below this income level, which equates to \$33,100 or less for a family of four. These families can afford rent of \$828 per month or less. And many of Legal Aid’s clients fall far below this income threshold. Adults with disabilities awarded minimum benefits through the Social Security Administration, for example, receive only \$750 per month and can afford rent of only \$225 per month.

In a city where the average rent for a one-bedroom apartment now tops \$2,000 per month, these residents are being left behind. Since 2002, the District has lost over half of its low-cost rental units, those renting for \$800 or less.² As private market affordable options continue to disappear, subsidized housing remains out of reach for most low-income tenants. The centralized waiting list for subsidized housing maintained by the D.C. Housing Authority (DCHA) has been closed for five years and still numbers over 40,000 families. At the same time, the pool of available subsidized housing units has been shrinking, as DCHA has pulled public housing units offline and site-based subsidy contracts through the U.S. Department of Housing & Urban Development (HUD) have ended at some properties.

The result of this deepening affordability crisis is that low-income families are paying far too much of their limited incomes for housing. Nearly two-thirds of extremely low-income households in the District pay half or more of their monthly income towards rent, a threshold that HUD classifies as “severely housing cost burdened”.³ In fact, nearly half of these families pay 80 percent or more of their monthly income towards rent.⁴ Put another way, three-quarters of those District residents who are severely housing cost burdened are extremely low-income; these families have the most pressing need for affordable housing.⁵ This issue also is one of racial equity; of the approximately 27,000 extremely low-income, severely rent burdened households, 88 percent are headed by a person of color.⁶

As housing costs consume a higher and higher portion of a family’s monthly budget, other needs go unmet. Severely rent-burdened households are at higher risk for food insecurity, employment instability, and lack of proper medical care.⁷ These families also are far more likely to face eviction and, ultimately, possible homelessness. Eviction not only results in the loss of a

² D.C. Fiscal Policy Institute, *Going, Going, Gone: DC’s Vanishing Affordable Housing* (March 2015).

³ D.C. Fiscal Policy Institute, *A Broken Foundation: Affordable Housing Crisis Threatens DC’s Lowest Income Residents 3* (Dec. 8, 2016).

⁴ *Id.*

⁵ D.C. Fiscal Policy Institute, *Building the Foundation: A Blueprint for Creating Affordable Housing for DC’s Lowest-Income Residents 2-3* (April 2018).

⁶ *Id.* at 1.

⁷ *See id.* at 1-2.

family's home; it can have devastating, long-term negative effects on physical and mental health, employment, and school performance.⁸

Extremely low-income tenants in the District will continue to struggle as housing costs escalate, unless the Council takes action to expand the production and preservation of housing units that are affordable at these income levels. The Housing Production Trust Fund is one of many tools available to create deeply affordable housing units.

FUNDING FOR THE HOUSING PRODUCTION TRUST FUND SHOULD BE STABILIZED AND INCREASED

The Housing Production Trust Fund provides critical support for affordable housing in the District. The Trust Fund provides loans and grants to developers for the dual purposes of preserving and producing housing units that are affordable to tenants at targeted income levels.⁹ Forty percent of these loans and grants are allocated for projects that are affordable to extremely low-income households.¹⁰ Rental units produced using Trust Fund dollars generally must be maintained at affordable rent levels for 40 years, ensuring long-term affordability.¹¹ The D.C. Auditor reports that between 2001 and 2016, the Trust Fund was used to produce or preserve over 10,000 units of affordable housing.¹²

With the Mayor and the Council's support, the District has allocated \$100 million annually to the Trust Fund for the current and past two fiscal years, making the Trust Fund one of the largest sources of local government funding for affordable housing. This funding comes from a combination of 15 percent of real property transfer tax funds, 15 percent of deed recordation tax funds, and a balance of general revenues.

While funding at this level places the Trust Fund at the forefront of similar housing trust funds across the country,¹³ more can and should be done. Legal Aid supports Bill 22-226, the Housing Production Trust Fund Guarantee Funding Amendment Act of 2017. The bill would increase the portion of the real property tax and deed recordation tax funds that are allocated to the Trust Fund from 15 to 25 percent and would guarantee a minimum annual funding level of \$120 million. This Committee should seek to include these provisions in the Budget Support Act or should mark up the existing bill for consideration by the full Council.

Funding the Trust Fund at this level should be a minimum goal; there is little doubt that even greater investments are needed if the District truly wants to address the ever-deepening affordable housing crisis, particularly for extremely low-income tenants. The D.C. Fiscal Policy

⁸ See, e.g., Matthew Desmond, *Evicted: Poverty and Profit in the American City* 296, 298, 299 (2016); Matthew Desmond and Carl Gershenson, *Housing and Employment Insecurity Among the Working Poor*, 63 Soc. Prob. 46, 59 (2016); Matthew Desmond, *Eviction and the Reproduction of Urban Poverty*, 118 Am. J. Soc. 88, 89, 118 (2012).

⁹ D.C. Code § 42-2802.

¹⁰ *Id.* § 2802(b-1)(2).

¹¹ *Id.* § 2802.02(a).

¹² Office of the District of Columbia Auditor, *Stronger Management of the Housing Production Trust Fund Could Build More Affordable Housing* 6-8 (March 2018).

¹³ Office of the District of Columbia Auditor, *The District of Columbia Housing Production Trust Fund: Revenues and Expenditures and Five-City Comparison* 7-8 (June 2016)

Institute's recently-released report, *Building the Foundation*, outlines a path to create 30,000 units of deeply affordable housing over a ten-year period. That report finds that achieving this goal would require \$2.6 billion in funding over a decade for construction costs, through the Trust Fund or a similar funding mechanism, and then \$732 million per year in ongoing operating assistance.¹⁴ Legal Aid is a member of the Fair Budget Coalition, which is advocating for \$287 million in the Fiscal Year 2019 budget for the Trust Fund, specifically targeted to rental units affordable to extremely low-income households, along with additional funding for operating assistance for these units and additional tenant-based subsidies.¹⁵ While we recognize funding at that level would represent a substantial increase, we believe that request accurately reflects the current need. This Committee and the Council should be focused on how to reach higher levels of funding for affordable housing production and preservation across all District housing programs, particularly for funds targeted at extremely low-income households.

DHCD MUST ENSURE THAT THE HOUSING PRODUCTION TRUST FUND MEETS ITS GOALS FOR BUILDING AND PRESERVING AFFORDABLE HOUSING FOR EXTREMELY LOW-INCOME FAMILIES

Whatever funding level is allocated to the Housing Production Trust Fund, it is vital that those funds are targeted to extremely low-income households. The D.C. Auditor's third and most recent report on the Trust Fund found that only 19 percent of units funded between 2001 and 2016 are affordable to these families, even though the statute requires that a minimum of 40 percent of expenditures be targeted to this group.¹⁶ Indeed, while only 20 percent of Trust Fund expenditures are supposed to go to units affordable for households at 80 percent of area median income or above, these relatively high-rent units comprise 69 percent of all units funded to date.¹⁷

These results are unacceptable. The need for affordable housing is most acute for extremely low-income households, and that is where the District must target available resources. DHCD has made improvements in its targeting of Trust Fund dollars in more recent years – averaging closer to 30 percent of funds dedicated to extremely low-income households – but this still falls short of the statutory requirement.

DCFPI has found that almost all deeply affordable projects within reach of extremely low-income households and funded by the Trust Fund have included a combination of Trust Fund investments for up-front purchase and capital expenses plus ongoing operating support through the Local Rent Supplement Program (LRSP).¹⁸ Ongoing operating assistance often is necessary for projects with rents that are affordable to extremely low-income households, because the rents levels those households can pay often are below per-unit operating costs.¹⁹ In

¹⁴ *Building the Foundation, supra*, at 7-8.

¹⁵ Legal Aid also testified at the Department of Human Services Budget Oversight hearing on April 12, 2018 and will be testifying at the D.C. Housing Authority Budget Oversight hearing Authority on April 20, 2018, further outlining our recommendations for both tenant-based and project/sponsored-based LRSP funding, as well as funding for the Emergency Rental Assistance Program.

¹⁶ *Stronger Management of the Housing Production Trust Fund, supra*, at 9-10.

¹⁷ *Id.*

¹⁸ *Id.* at 4.

¹⁹ *See id.*

addition to increasing funding for the Trust Fund, it is equally important that the Council provide increased funding for operating assistance through LRSP or a similar program. Unfortunately, the Mayor's FY 2019 budget does not include any new funding for project-based LRSP beyond the long-standing New Communities projects, and such funding has been uneven and insufficient in recent fiscal years as well. DHCD will continue to face challenges funding projects that are affordable for extremely low-income households unless the budget includes sufficient funding for project-based LRSP or similar operating assistance for new affordable housing projects.

FUNDING FOR NEIGHBORHOOD-BASED ACTIVITIES, WHICH INCLUDES HOUSING COUNSELING FOR TENANTS, SHOULD BE RESTORED

The Mayor's proposed Fiscal Year 2019 budget includes a cut of 36 percent to Neighborhood-Based Activities, part of DHCD's Residential and Community Services Division. The Neighborhood-Based Activities budget funds Housing Counseling and Tenant Technical Assistance, which DHCD awards as grants to community-based organizations such as the Latino Economic Development Center and Housing Counseling Services to provide housing counseling for tenants seeking assistance with the Tenant Opportunity to Purchase Act process, housing conditions problems, and home purchase. Legal Aid frequently works closely with these organizations to support this work, providing know-your-rights sessions and, where appropriate, legal representation for tenant association and individual tenants.

Legal Aid recommends that the Committee either restore this funding cut or increase the Neighborhood-Based Activities budget so that DHCD can maintain (or increase) these grants so that community-based organizations can continue to provide these services, which support affordable housing preservation and the expansion of wealth-building through home purchase for the District's low-income residents.

Thank you for this opportunity to submit written testimony.