

**Testimony of Amanda Korber  
Senior Staff Attorney, Housing Law Unit  
Legal Aid Society of the District of Columbia**

**Before the Committee on Housing and Neighborhood Revitalization  
Council of the District of Columbia**

**Public Oversight Hearing Regarding the District of Columbia Housing Authority**

**February 22, 2019**

The Legal Aid Society of the District of Columbia<sup>1</sup> submits this testimony to address concerns we have with the D.C. Housing Authority's (DCHA) performance over the last year. As a general matter, Legal Aid has been disappointed with DCHA's unwillingness to engage and solicit meaningful feedback from tenants and advocates when the agency is making important decisions that impact public housing residents and Housing Choice Voucher Program (HCVP) participants. We hope that in the coming year, DCHA's leadership will work to build the agency's relationship with residents and housing advocates, and, instead of just informing us once they have made decisions about the agency's direction, engage us before doing so.

We also would like to offer testimony on two specific areas of concern. First, DCHA's Board of Commissioners recently passed Resolution 19-01, which signals the agency's intent to privatize at least one third of its public housing stock. DCHA made this decision after conducting an internal audit on the condition of its public housing buildings and coming to a conclusion that residents and advocates have known to be true for decades: many public housing residents are living in homes with dangerous, unsanitary, and unhealthy housing code violations. While Legal Aid is happy that DCHA is finally acknowledging the deplorable condition of some of its public housing stock, we cannot and do not approve of the agency's rushing forward with a plan that involves ceding control over its public housing. Legal Aid has seen first-hand how prior efforts at privatization in the District have put tenants' rights in danger and left tenants living in conditions that are no less deplorable.

Second, Legal Aid is concerned with the number of participants DCHA has been terminating from the Housing Choice Voucher Program (HCVP), and the reasons for those terminations. Over the last year, Legal Aid has seen an alarming number of HCVP participants seeking legal assistance because DCHA has recommended them for termination from the voucher program. Two common reasons we see are: 1) alleged failure to recertify, and 2) failure to place a transfer

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<sup>1</sup> 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 87 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, immigration, and consumer protection. More information about Legal Aid can be obtained from our website, [www.LegalAidDC.org](http://www.LegalAidDC.org), and our blog, [www.MakingJusticeReal.org](http://www.MakingJusticeReal.org).

voucher within six months of receiving it. Instead of terminating participants for these administrative reasons, DCHA should be working with families to help them recertify and find homes they can lease using their vouchers.

### **DCHA and the Council Should Explore Alternative Ways to Repair Public Housing That Do Not Involve Privatizing It**

It is hard for Legal Aid to offer a nuanced analysis of DCHA's plan for dealing with the deteriorating public housing in its portfolio because, at this time, we still do not know what DCHA's plan is. What we do know is that DCHA is putting together a proposal for "repositioning" at least 2,500 public housing units that is has deemed to be in "extremely critical" condition.<sup>2</sup> This plan very likely includes converting traditional public housing to site-based section 8 housing using the Rental Assistance Demonstration (RAD) program and the demolition/disposition process.<sup>3</sup> We have serious concerns with any plan that would involve DCHA ceding day-to-day control of its properties to a private entity.

Privatizing public housing is not a new concept, and Legal Aid has seen first-hand how it does not achieve its desired results and how damaging it can be for public housing residents. A large part of the argument for redeveloping public housing through privatization is that private partners can bring in new sources of capital, including tax credits, to make the necessary repairs, or, in many cases, to tear down and rebuild a development altogether. HOPE VI was the federal government's last iteration of privation before RAD, and DCHA used it. For example, Capitol Gateway was redeveloped through HOPE VI about a decade ago, and Legal Aid has been in litigation with the private entity that now controls the development for nearly five years. Tenants are already living with serious housing code violations in units barely 10 years old, including leaks, mold, and deteriorating fixtures and structures. Tenants receive utility bills of hundreds of dollars per month, far above their calculated utility allowances. We believe these discrepancies are due in part to poor conditions. The private property management company is unresponsive to repair requests. On top of the serious conditions issues at the property, management does not understand the rules or its obligations. At one point, the property manager hired legal counsel who thought it could waive the Brooke amendment, which is the federal law requiring a resident's rent to be set at 30% of their income. This type of serious mismanagement has real consequences, including tenants unlawfully losing their affordable housing.

Families in public housing have been suffering for decades in deplorable conditions. The District owes it to these families to not cause further harm by rushing through RAD conversions and/or demolitions. Because privatizing public housing can have catastrophic consequences, we urge DCHA and this Council to explore ways to publicly fund any necessary repairs so that the District can keep public housing public. This would require DCHA to be more transparent with its information, and share with us the details behind its needs assessments, how it calculated its projected repair and rehabilitation costs, and how much money it believes it needs to run public housing that the District can be proud of.

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<sup>2</sup> See Resolution 19-01, To Adopt a Framework for the Stabilization and Repositioning DCHA's Portfolio of Properties, *available here* <http://www.dchousing.org/docs/git3vcz5221.pdf>

<sup>3</sup> *Id.*

To reach this goal, we recommend that:

- 1) DCHA turn over all its data to the Committee and advocates, including the details behind its recent assessments and how it is calculating repair costs;
- 2) DCHA share its plan for “repositioning” its public housing as soon as possible, and not just days before it introduces it to its Board of Commissioners; and
- 3) The Council consider holding a series of roundtable discussions over the coming months so the public can be kept up to date on DCHA’s plans for moving forward and the Council, the community, and DCHA can work together to identify a funding plan that will keep our public housing stock public.

**DCHA Should Keep Better Track of the Reasons It Terminates Participants from the HCVP and Provide Participants with More Assistance Before Attempting to Terminate Them**

DCHA issues Recommendations for Termination (RFTs) when it alleges that a family has violated HCVP rules. Once a family gets an RFT, it can request a hearing to challenge DCHA’s decision. In its oversight responses, DCHA reported the number of terminations in FY18, but did not provide a complete breakdown of the reasons for these terminations.<sup>4</sup> The extent to which DCHA tracks the exact number of families terminated for specific reasons is unclear, and there is a similar lack of clarity around the number of families that DCHA recommended for termination, but that ultimately weren’t terminated from the program due to a favorable hearing decision or some other outcome. It is critically important that DCHA and advocates know the reasons why the agency recommends families for termination, and actually terminates families, from the HCVP. This includes knowing the number of families who are recommended for termination for any given reason. This would allow DCHA and advocates to recognize patterns in the reasons and analyze whether there are any changes DCHA can make to decrease the number of attempted and actual terminations.

For example, we are concerned with what appears to be an increase in the number of families seeking Legal Aid’s assistance after DCHA has issued RFTs based on 1) alleged failure to recertify, and 2) failure to use a transfer voucher before its expiration date. The first type of RFT – those based on a family’s alleged failure to recertify – seem largely avoidable. In the past, HCVP participants would have a meeting with their program specialist when it was time to recertify. In recent years, DCHA changed its recertification process such that it is done entirely through the mail. DCHA mails recertification packets to participants, and the participants are to fill out the paperwork, gather necessary documents, and return everything to DCHA. If there is any problem with the documents, DCHA sends a letter to the participants, which, in theory, clearly explains what they need to fix. While this new mail-in process is convenient for many

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<sup>4</sup> DCHA’s oversight responses only identify the “most common” RFTs and do not provide numbers for each RFT. DCHA FY18-FY19 Oversight Responses, Q53.

families who have a hard time getting to DCHA, it can be challenging for individuals to understand the complex written instructions. As a result, it is often the most vulnerable families that have the hardest time completing their recertification. Instead of moving to terminate these families, DCHA should be proving them with more assistance.

The second type of RFT – those that DCHA issues for a family’s failure to use a transfer voucher before it expires – is an entirely new phenomenon. Transfer vouchers are vouchers that participants get when they want to move to a new apartment. One of the most common reasons that a family gets a transfer voucher is that DCHA terminated its contract with the landlord because the landlord failed multiple inspections. In the past, if a family wasn’t able to find a new home before its transfer voucher expired, DCHA would simply issue the family a new transfer voucher. Now, DCHA terminates those families unless they need an extension as a reasonable accommodation. While we believe this practice is unlawful, perhaps the more important thing for the Council to understand is that it is bad policy. Finding a new place to live in DC is hard. Though illegal, source of income discrimination remains a challenge. Moreover, apartments that have more than two bedrooms are hard to come by, and application fees are expensive. Families can work hard to find a place to move to, and still be unsuccessful after six months of diligent searching. DCHA has decided to ignore this reality, and instead terminate these families. This is a callous policy that needs to change.

We recommend that DCHA do the following:

- 1) Implement a system to track and regularly report each family that is recommended for termination from the HCVP, why they were recommended for termination, and whether they were ultimately terminated;
- 2) Offer families more intensive services if needed to help them get through the recertification process; and
- 3) Not terminate families for failing to place vouchers within six months, and instead offer more meaningful help to those families so they can locate a suitable apartment.

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Legal Aid looks forward to working with DCHA and the Council in the coming year to ensure that more of DC’s families have access to safe, stable, and affordable housing. DCHA has acknowledged the deplorable conditions its residents have been living in for years. The agency and the Council should use this as an opportunity to bring everyone together – residents, Council, DCHA, and advocates – to forge a path forward. Legal Aid urges the Council to provide DCHA with the funding it needs and is not getting from the Federal government to properly carry out its duties, serve our shared clients, and keep public housing public. Public housing, and the families living in it, are worth the investment.