

**Testimony of Samantha Koshgarian
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**Before the Committee on Human Services
Council of the District of Columbia**

Budget Oversight Hearing Regarding the Department of Human Services

April 10, 2019

The Legal Aid Society of the District of Columbia¹ submits this testimony in support of increased funding for the Department of Human Services' (DHS) Emergency Rental Assistance Program (ERAP). Over the years, Legal Aid has testified repeatedly about the need for adequate funding for this critical program. Legal Aid is testifying again today to urge the Council to increase funding for ERAP to ensure that there is enough funding in FY20 to meet the full demand for assistance.

ERAP is one of the most effective tools the District has to offer to keep individuals and families in stable housing and prevent evictions. In our landlord-tenant practice, Legal Aid sees firsthand that ERAP funds are frequently the difference between housing stability and homelessness. Demand for ERAP remains high from year to year – so high, in fact, that each year, need for ERAP outstrips funding availability. Given the District's housing affordability crisis, this is not surprising. According to the DC Fiscal Policy Institute, "In 2016, the most recent year for which data is available, 63 percent of DC's extremely low-income renters spent at least half of their income on housing. These 27,000 households are considered "severely housing cost burdened" by the US Department of Housing and Urban Development and classified as a "worst case housing need."² For families with a rent burden that high, any emergency may be enough for them to fall behind on housing costs and face displacement or eviction as a result.

Yet despite the consistently high demand for ERAP, the District's budget fails to adequately fund the program year after year. For FY20, the administration's proposal amounts to a more

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 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, and our blog, www.MakingJusticeReal.org.

² Building the Foundation: A Blueprint for Creating Affordable Housing for DC's Lowest-Income Residents, Claire Zippel, April 4, 2018. Accessible at: <https://www.dcfpi.org/all/building-the-foundation-a-blueprint-for-creating-affordable-housing-for-dcs-lowest-income-residents/>

than \$600,000 cut, as one-time funding has not been renewed.³ While the administration points to investments in affordable housing, most of which will not serve families and individuals with low enough incomes to be eligible for ERAP assistance, it is failing to invest in this cost-effective, critical program that serves the District's most vulnerable residents.

ERAP's Effectiveness Suffers From Inadequate Funding

For as long as our affordable housing crisis continues, there will be a significant demand for assistance for families who are living a single emergency away from crisis, and as a District, we should want ERAP to be available and accessible when families need it. Yet, we have seen that, for many families, this is not the case. All too many encounter significant obstacles when they try to access funds. One of the greatest obstacles that families encounter is providers running out of funding before the fiscal year ends – a direct result of the underfunding of ERAP. This is also the barrier with the most simple and obvious solution: ERAP simply needs more money.

In FY2018, for example, three of the six providers ran out of funds prior to the end of the fiscal year and stopped processing applications. A similar scenario plays out every fiscal year. DHS reports that for FY18, 61 customers were denied assistance due to lack of funding.⁴ However, this figure does not appear to account for those individuals who may have been prevented from applying in the first instance because half of the providers stopped scheduling appointments based on lack of funding. The real number is likely much higher. Accordingly, not only are people turned away from those providers, but they are spending hours trying to call and schedule an appointment with providers that are out of funds, and possibly missing the call-in date for a remaining providers entirely.

The shortage also creates even more demand for a limited number of appointments with the remaining providers by effectively reducing the number of providers by half. This means that a family is more likely to experience eviction simply based on the bad luck of experiencing an emergency close to the end of the fiscal year, regardless of the merit of their application for assistance. While there is a deep need for broader solutions around ERAP administration to address problems in the appointment process and centralize information, there is a simple way to prevent these specific issues in the immediate term so that providers can serve applicants effectively, and that is to ensure that providers have adequate funds to administer year-round.

That ERAP providers do not receive enough funds to serve applicants over an entire fiscal year can be deeply damaging, even for tenants who *are* able to get assistance. During periods of low funding, ERAP providers prioritize individuals with judgments and live writs.⁵ Not only is this practice not supported by ERAP regulations, it also creates a perverse incentive that legal services attorneys regularly see play out in Landlord-Tenant Court. Tenants often come before

³ FY 2020 Proposed Budget and Financial Plan, Vol. 4 Agency Budget Chapters – Part III, E-8 (April 9, 2019), available at https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/DC_OCFO_Budget_Vol_4.pdf

⁴ Department of Human Services, Performance Oversight Questions, at 89.

⁵ *Id* at 89.

the Court with their landlord's attorneys to confess judgment, stating that they had been told by an ERAP provider that they could not receive assistance without a judgment or a writ. These judgments on the tenants' records make it more difficult to rent other properties in the future. Often this court proceeding takes place before tenants even have the opportunity to get accurate advice about their eligibility for assistance through ERAP. In cases where the tenants are ultimately not approved for assistance, this merely accelerates the legal process toward eviction in cases that the tenant might otherwise have chosen to defend and resolved more favorably. Even in cases where tenants are approved, they often forgo the opportunity to assert meritorious defenses that might reduce their rental arrearages, thereby conserving ERAP resources over the long term, all in the name of having a writ to present to a provider. Adequate funding would remove the need to prioritize based on the existence of a judgment or a writ, thereby removing the incentive for tenants to unnecessarily tarnish their rental records, simply because they had the bad luck to be sued in August.

ERAP Funding Should Not Be Reallocated For the Homelessness Prevention Program

As outlined above, ERAP is hamstrung in its ability to serve low-income DC residents by chronic underfunding. However, the program remains one of the District's most effective tools to prevent evictions, promote housing stability and alleviate poverty.

For this reason, we are concerned that in recent years, DHS has suggested that they are inclined to reduce funding for ERAP in favor of the Homelessness Prevention Program (HPP) model. Diverting ERAP funding to HPP ignores the reality that ERAP fundamentally addresses a very different community need than HPP. Community of Hope, an HPP provider, acknowledged this very distinction in response to the Committee's questions during the Oversight Performance Hearing for DHS.

It is well-recognized that the District has an affordable housing crisis. The fact is that for low-income families in the District, low wages and lack of affordable housing often means that one medical emergency or reduction in work hours can mean an imminent risk of eviction. For families in this situation, the problem is not a lack of budgeting skills or a need for case management to connect them to services – there is simply not enough money to get through the emergency, because their rent is too high a percentage of their income for there to be money left over. Because rents in DC are high and always rising, there is not a less expensive housing option that would allow them to budget for an emergency. This is precisely the need that ERAP is designed to fill.

DHS has pointed to the incidence of repeat ERAP applications to suggest that those clients who are seeking assistance in multiple years would obviously benefit from case management. But this applies a broad diagnosis that simply does not acknowledge the reality of DC's rental market. Ultimately, the reason families need ERAP assistance in multiple years is not because they need comprehensive services. It is because the housing affordability crisis in the District persists and deepens with each passing year. To require those families to engage in more comprehensive programming to receive that assistance does nothing but create an additional unnecessary burden

on the already-scarce time resources of the family and fiscal resources of DHS homelessness programming.

Finally, we are concerned about funding being shifted from ERAP to HPP based on the information provided by DHS in response to oversight questions regarding HPP. The model of HPP assistance – that families must already be eligible for homeless services, and have less than 30 days of safe housing – requires that a family already be closer to crisis point, increasing the likelihood of ultimate instability. In a case where that same family might be served by a fully funded ERAP program at a point of greater stability, they will be able to avoid the stress and trauma that accompany acute housing insecurity, and also have a better chance of maintaining that stability. HPP has significantly higher administrative costs than ERAP, and the outcomes reported by DHS make it difficult to assess the ultimate effectiveness of the model. For example, the agency reports that in FY2018, 2,638 families were served, suggesting an extremely low cost per family of only \$600.⁶ The responses fail to indicate, however, what proportion of those families actually received what kind or level of service. In fact, HPP offers a wide range of services – everything from transportation assistance to full case management. The responses also indicate that HPP served the same number of families that were referred to the program in FY2018 (2,638), despite the fact that 623 cases were closed for no contact, and 838 cases were “reopened” (presumably meaning those families were not successfully diverted from the risk of homelessness).⁷ The lack of transparency around the services families are receiving and HPP outcomes is concerning in its own right, but it is particularly concerning in light of DHS’s apparent inclination to fund this program at ERAP’s expense.

ERAP is demonstrably stabilizing housing for families who might otherwise face homelessness and require shelter stays or short or long-term housing subsidies. Given the high costs of those kinds of assistance, ERAP presents a remarkably cost-efficient way to keep individuals and families housed in a rental market that presents significant affordability challenges for even the most capable and resourceful low-income families. Until the affordability crisis is resolved, robust ERAP funding is one of the best tools the city has to alleviate that burden.

The Council Should Fund Post-Eviction Storage

In addition to fully funding ERAP in order to prevent evictions, we urge the Council to make use of ERAP’s administrative structure and further expand funding in order to address one of the most damaging impacts of eviction. As this Committee is aware, last year, the Council passed the Eviction with Dignity Act of 2018, which made significant changes to the eviction process. During the public hearing on the bill, we and our legal services partners discussed the destabilizing effects of eviction on low-income District residents, including the devastating effects of losing one’s personal belongings in the course of losing housing.⁸ Losing one’s

⁶ *Id* at 92.

⁷ *Id* at 94.

⁸ *See, Legal Aid Testimony Regarding Bill 22-0809, the Eviction with Dignity Act of 2018* (September 24, 2018), <https://www.legalaidcc.org/wp-content/uploads/2018/09/Legal-Aid-Testimony-re-B22-0809-FINAL.pdf>

possessions during or following an eviction can greatly hamper efforts to both search for new housing and rebuild one's life.

During the legislative process, multiple Councilmembers expressed support for allocating public funds to cover the costs of storing the belongings of tenants who have lost their homes to eviction. Such a publicly-funded storage resources would help low-income District residents who have lost their homes to begin the process of rebuilding their lives by protecting their belongings. Legal Aid continues to support public storage assistance, and believes that the Council should take steps to begin funding it in FY20.

Specifically, we urge the Council to allocate funding in the FY20 budget to create a post-eviction moving and storage fund within ERAP, and amend the Budget Support Act to add language permitting low-income District residents to access these funds through ERAP. ERAP currently is available to help pay back rent for a tenant to stay in a current unit or to assist with first month's rent and security deposit for a tenant to move to a new unit. Creating a separate fund within ERAP for moving and storage costs would provide comprehensive support to families facing eviction.

As we have highlighted in previous budget testimony, ERAP is a program that is well-known in the community. Utilizing ERAP's popularity, as well as its existing administrative structures, would be more efficient than establishing a separate storage program. It would also make it more likely that residents would know that it is available. Overall, allowing District residents who have lost their housing to access funds through ERAP to move and store their belongings would significantly aid their recovery post-eviction. However, for this program to improve the District's services to DC's lowest-income residents, it is critical that additional funding be allocated for this purpose, to ensure that it will not divert already-inadequate resources away from helping people keep and secure stable housing. We hope to work with the Committee, as well as the Committee on the Judiciary and Public Safety, to accomplish this reform for FY20.

Conclusion

ERAP is an invaluable program – a lifeline for low-income District residents who are on the brink of losing their homes. But for too many years, it has been underfunded and undervalued by the agency. This Committee should increase the funding proposed in the Mayor's budget to put the program on firm financial footing, making sure that a tenant's ability to access assistance is not dependent on the time of year or providers' efforts to stretch limited funds to meet a significant community need.