

**Testimony of Damon King
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**Before the Committee on Human Services
&
the Committee on Housing & Neighborhood Revitalization**

Council of the District of Columbia

Public Hearing Regarding:

**Bill 23-0180
“The On-Site Services Act of 2019”**

July 11, 2019

The Legal Aid Society of the District of Columbia¹ submits the following testimony opposing Bill 23-0180, the On-Site Services Act of 2019. The legislation would require landlords of buildings with 20 units or more to provide “on-site services” whenever 30% or more of their units are rented by tenants receiving various housing subsidies.

While Legal Aid supports the goal of ensuring that District residents have easy and timely access to any services or supports that they may need, we cannot support the bill in its current form. Though we applaud the introducers’ intent, this bill affords landlords too much power to make decisions regarding service selection and delivery. We believe this is likely to lead to an *under*-utilization of the very services that the bill seeks to promote – a problematic potential outcome given the finite resources that are often available for these types of services. Further, there is significant potential for landlords to misuse the power granted to them by this legislation, with potentially damaging consequences for tenants.

If the Committee does move forward with a version of this bill, we urge it to adopt substantial amendments that would create a tenant-led process for deciding service needs and delivery. The Committee should also identify alternatives to the 30% subsidy-holder trigger for its on-site services requirement and the bill’s language requiring landlords to hire an on-site social worker in certain instances. And the Committee should explore ways to promote coordination across

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.

buildings in service selection and delivery, rather than the building-by-building approach that the current version of the bill envisions.

If the Committee is unable to make these amendments, it should not mark up this legislation, and should instead, continue to use the existing oversight and budget processes to improve the delivery and reach of existing safety net programs.

Decision-Making About Services for Tenants Should Be Led by Tenants

Before addressing the details of the legislation, it is important to pause and discuss the role of the services that it envisions being made available to tenants. Legal Aid believes that each of the services listed in the bill – including childcare, after-school programming, and legal services – can substantially improve people’s lives. How these services are selected, organized, and delivered, however, is just as important as the substance of the services themselves.

In particular, we believe that a given service is most likely to be effective when people clearly identify it as responsive to their needs. For example, when members of a community come together and decide that children in their neighborhood would benefit from after school activities, or that working parents need nearby, easily accessible childcare, they are more likely to be invested in the creation of resulting programs, and ultimately, to use them for their families.

By contrast, services and programs may be less effective when decision-makers make choices about service offerings and delivery based on their own judgments about what certain people “need” – without a direct understanding of their goals. This approach to service provision can have a range of negative consequences. When people do not feel that a given service or program actually helps them achieve their goals, they will be less likely to utilize it or fully participate. Under-utilization, in turn, leads to negative results for everyone involved: service providers waste resources and are often frustrated, because they are offering a service that few are using. And, more importantly, the individuals and families for whom the services were intended continue to struggle because they do not actually receive the support that they need. It is important, then, that when we look to expand the availability of services, we ask ourselves: does the approach that we’re taking ensure that these services actually match the expressed goals and needs of the people they are supposed to reach?

The Legislation’s Top-Down Approach to Service Provision Is Likely to Be Ineffective

Unfortunately, Bill 23-0180 fails to make sure that its proposed on-site services are actually responsive to what low-income tenants want and need for themselves and their families. While the bill requires landlords whose buildings meet the 30% trigger to offer services, it leaves decisions about what services to offer to the landlords themselves. There is nothing in the bill that ensures that tenants with low incomes have a voice in process, much less the ability to ultimately decide which supports (if any) they need. Because landlords are not well-versed in social services programs or community engagement, we are deeply concerned that this lack of tenant participation and guidance will lead landlords to offer services that tenants would not want, need, or ultimately, use.

The potential for failure is most obvious in the case of bad-actor landlords, who would not want to lose money providing these services (or go through the process of applying to the Department of Human Services for funding). These landlords would likely make decisions about what service to offer based primarily on cost. In these buildings, tenants would simply be offered the services that carry the lowest out-of-pocket cost for their landlords, even if they bear no reliable relationship to tenants' actual needs. Needless to say, this would in turn depress utilization.

Well-intentioned landlords may not necessarily fare better. Without a strong understanding of how various services work or how to engage their tenants about them, these landlords may develop their own ideas about what their tenants "need." However, these ideas would not necessarily be driven by systematic tenant input, and in absence of such input, could instead be driven by anecdotal evidence and/or (conscious or unconscious) biases. In spite of these landlords' good intentions, this could ultimately lead to the same result: services that people in the building do not use because they do not see them as responsive to their goals and needs.

Without a requirement that low-income tenants lead the process of deciding which services and supports they need, the bill runs the risk of mandating services that are a poor match to individual and community needs. This, in turn, would lead to the underuse of services – an outcome that is both an inefficient use of resources and unhelpful to tenants.

The Legislation Fails to Account for the Power Dynamics of the Landlord/Tenant Relationship

In addition to the potential for underutilization, the bill's ceding of decision-making power to landlords does not take into account that there is often a power imbalance between landlords and tenants – especially tenants with low incomes whose alternative housing options are limited. While it is our understanding that any on-site services contemplated by the bill would be voluntary, there is the potential for tenants to feel pressured to engage in services, particularly if a landlord expresses that he/she believes that the tenant would benefit.

Further, we are concerned about whether tenants' failure to engage in services, or even information obtained during a tenant's engagement, could be used against them in landlord/tenant proceedings or otherwise negatively impact the landlord/tenant relationship. These are concerns that the Committee must grapple with before the bill moves any further, as the existence of on-site services should not *endanger* tenants' ability to stay in their housing.

A Potential Way Forward

While Legal Aid is hesitant about the idea of the Committee moving forward with this bill, if the Committee does so, we recommend that the bill be amended to make the provision of on-site services a tenant-driven and controlled process. For example, the bill could allow groups of tenants to partner with community-based organizations to apply for funding for services that tenants identify, while requiring landlord cooperation to bring the resulting programs on-line. By making the process tenant-driven rather than landlord driven, the Committee could make it more likely that resulting services would be used, and reduce the potential for the power

dynamics between landlords and tenants to interfere with tenants' decision-making with respect to whether to engage.

It must be noted, however, that even these amendments are not without potential complications. For example, when a building houses a mix of tenants of varying socioeconomic backgrounds or interests, steps should be taken to avoid a scenario in which one faction of tenants applies for funds for services that it believes would be beneficial for another. For this reason, we urge the Committee to proceed with caution. It may well be the case that focusing on improvements to the delivery of already-existing services would be a better way forward than new legislation to mandate building-by-building service expansion, with all of its accompanying complications.

The Bill Suffers from Further Problems That the Committee Must Address

If the Committee does decide to move forward with a version of this bill, there are additional problems that should be addressed.

The 30% Subsidy-Holder Trigger Should be Eliminated

Chief among these problems is the 30% subsidy-holder trigger, which determines whether a landlord is required to provide services.² We urge the Committee to eliminate this trigger for two reasons.

First, the unfortunate reality is that source-of-income discrimination against households with housing vouchers is still very much a problem in the District, and Legal Aid continues to have concerns about how well existing law against voucher discrimination is actually enforced -- including significant concerns about the overall functioning of the primary agency responsible for enforcing the District's Human Rights Act.³ Creating a trigger that is based on the percentage of units landlords rent to subsidy-holders will provide an additional disincentive for landlords to rent to applicants with vouchers, and we do not have confidence that existing enforcement mechanisms will be sufficient to deter discrimination.

Second, as a broader matter, while we understand that the introducers' intent is to target the expansion of services to households with low incomes, singling out low-income tenants who

² Bill 23-0180, The On-Site Services Act of 2019, Sec. 2-3.

³ Over the last two years, Legal Aid has testified regarding the significant inadequacies of the Office of Human Rights complaint process, which we do not believe serves complainants well. *See*, Testimony of Maggie Donahue, Staff Attorney, Legal Aid Society of the District of Columbia, Before the DC Council Committee on the Judiciary & Public Safety, February 22, 2018, available at: <https://dev.legalaiddc.org/wp-content/uploads/2018/02/Legal-Aid-Performance-Oversight-Testimony-re-OHR-FINAL.pdf>; *see also*, Testimony of Maggie Donahue, Supervising Attorney, Legal Aid Society of the District of Columbia, Before the DC Council Committee on Government Operations, February 28, 2019, available at: <https://www.legalaiddc.org/wp-content/uploads/2019/02/Legal-Aid-FY18-19-OHR-Oversight-Testimony-FINAL.pdf>

hold vouchers is an imperfect way of achieving this, and is itself discrimination against a subset of District residents based on their source of income.

The Staffing Requirement for Landlords Receiving DHS Funds Should Be Revisited

In addition to requiring certain landlords to provide on-site services, the bill also sets up an On-Site Services Program, administered by DHS, to which landlords can apply for funding. Among the requirements that landlords must meet in order to receive funding is that their on-site program be “staffed by at least one social worker.”⁴ The Committee should reconsider this requirement for two reasons. First, given the range of different types of services contemplated by the bill, it is not clear that certain services will need to be staffed by a social worker. Second, the requirement that a social worker be involved could unnecessarily impact families’ decisions about whether, and how much, to engage. A better approach would be either to eliminate the staffing requirement or more specifically tie a social worker staffing requirement to the types of services for which it would be most relevant.

The Committee Should Gather More Data on the Scope and Cost of the Legislation Before Moving Forward

One thing that is not clear at this point is how many buildings might potentially be required to offer on-site services under this bill. This, of course, matters because the number of buildings affected is directly relevant to the bill’s fiscal impact. But it also matters because uncertainty over the bill’s scope makes it harder to answer the question of whether building out services building by building is the most efficient way to expand these types of services. Because the bill leaves decision-making to individual landlords, there is the potential for duplication of services at buildings in close proximity to one another, or for large numbers of landlords to simultaneously attempt to contract for a service when the corresponding provider community has limited capacity to expand rapidly.

We urge the Committee to get a better sense of the scope and reach of this legislation before it takes any further action on it. In addition, the Committee should consider creating a mechanism in the bill for buildings (led by tenants) across an entire community to coordinate the selection, planning, contracting for, and access to services. This would reduce the potential for duplication, inefficiency, and other implementation issues.

Conclusion

Although Legal Aid supports the goal of making a full range of services and supports available to any struggling District residents who might need them, unfortunately, we cannot support Bill 23-0180 in its current form. We urge the Committee to take seriously the concerns that we raise in this testimony and to proceed with caution with respect to this bill. If the Committee moves forward, we urge Committee members to make substantial changes to the bill so that it is low-

⁴ Bill 23-0180, The On-Site Services Act of 2019, Sec. 5.

income tenants, not landlords, who determine what services they need and how they are delivered. And regardless of the future of this legislation, we urge the Committee to continue its work of breaking down barriers to our social safety net.