

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

Performance Oversight Hearing Regarding the Rental Housing Commission

February 6, 2020

The Legal Aid Society of the District of Columbia¹ submits the following testimony regarding the performance of the Rental Housing Commission (RHC) and its impact on low-income tenants in the District of Columbia.

Legal Aid represents hundreds of low-income tenants in housing cases each year. Many of these cases involve eviction protections and rent control requirements found in regulations promulgated by the RHC. Through these regulations, among other functions, the RHC has a profound impact on tens of thousands of tenants in the District, including low-income tenants served by Legal Aid. It is vital that the RHC timely issue updated regulations when District law changes, to ensure that new tenant protections are fully implemented.

For several years now, the RHC has been engaged in a lengthy rulemaking process to revise all rent control and eviction regulations in the District. Proposed regulations were published on August 2, 2019, with comments due on October 31, 2019. Legal Aid and other legal services providers and community-based organizations submitted detailed comments to the RHC on the draft regulations.² We now urge the RHC to move forward with this rulemaking process

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.” Legal Aid is the oldest and largest general civil legal services program in the District of Columbia. Over the last 88 years, Legal Aid staff and volunteers have been making justice real – in individual and systemic ways – for tens of thousands of persons living in poverty in the District. The largest part of our work is comprised of individual representation in housing, domestic violence/family, public benefits, and consumer law. We also work on immigration law matters and help individuals with the collateral consequences of their involvement with the criminal justice system. From the experiences of our clients, we identify opportunities for court and law reform, public policy advocacy, and systemic litigation. More information about Legal Aid can be obtained from our website, www.LegalAidDC.org, and our blog, www.MakingJusticeReal.org.

² The comments were submitted on behalf of Bread for the City, the Coalition for Non-Profit Housing & Economic Development, the D.C. Tenants’ Rights Center, Housing Counseling Services, the Latino Economic Development Center, the Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, the Neighborhood Legal Services Program, and Rising for Justice.

promptly, while also ensuring transparency and stakeholder input. Specifically, the RHC should take the following steps to ensure the regulations can be finalized during Fiscal Year 2020:

- 1) Make public all comments received on the proposed rulemaking,
- 2) Schedule stakeholder input sessions to discuss the feedback received to date,
- 3) Provide an opportunity for stakeholders to submit additional comments based on these sessions, and
- 4) Publish revised regulations for final public comments and then move forward to issue final regulations.

The Rental Housing Commission Should Complete Rulemaking to Ensure That Tenants Receive the Full Protections of New Laws

The RHC last issued comprehensive regulations in 1986, despite numerous changes in the Rental Housing Act itself, decisional case law, and the rental housing market in the District in the intervening years. Housing providers, tenants, and judges are left to make their best judgments as to how to implement these and other legislative changes. The RHC now has invested significant time and resources to draft and publish amended regulations; the published rulemaking is 191 pages long. These proposed regulations are vital to achieving the goals of the Rental Housing Act, and specifically the rent stabilization program – to preserve affordable housing and protect tenants’ rights, while also ensuring that housing providers are able to maintain and rehabilitate the District’s existing housing stock.

The draft regulations incorporate a number of statutory changes enacted by the Council in the past few decades, which contain critical protections for tenants:

- Rent Control Reform Amendment Act of 2006 – eliminating rent ceilings, limiting vacancy rent increases, and limiting rent increases to once every 12 months
- Rent Control Hardship Petition Limitation Amendment Act of 2016 – limiting conditional rent increases in the context of hardship petitions
- Elderly Tenant and Tenant with a Disability Protection Amendment Act of 2016 – further limiting annual rent increases for protected elderly tenants and tenants with disabilities, exempting protected tenants from housing provider petition and voluntary agreement rent increases, simplifying the application process, and ensuring that petition rent increases are treated as surcharges
- Rental Housing Late Fee Fairness Amendment Act of 2016 – limiting late fees to 5 percent and ensuring late fees are not stacked or form the basis for eviction
- Rent Charged Definition Clarification Amendment Act of 2018 – ensuring housing providers do not book large rent increases beyond market rent
- Rental Housing Affordability Re-establishment Amendment Act of 2018 – ensuring formerly exempt units with subsidies remain affordable under the rent stabilization program

- Vacancy Increase Reform Amendment Act of 2018 – limiting vacancy increases to 10 or 20 percent, depending on the length of the prior tenancy

Full implementation of these statutory provisions will help to ensure that low-income tenants who are at risk of displacement from rent-stabilized and other affordable housing are protected.

We urge the RHC to adopt as a goal final publication and implementation of the proposed regulations by the end of Fiscal Year 2020.

The Commission Should Make Public All Comments Received on the Proposed Rulemaking

As noted, Legal Aid and other legal services providers and community-based organizations submitted detailed comments on the draft rulemaking. It is our understanding that other individuals and groups also submitted comments. The RHC should make all of these comments public, including posting them on the Commission’s website. Making all of the submitted comments public will increase transparency and allow for additional feedback and discussion among stakeholders and the Commission as the rulemaking process moves forward.

The Commission Should Move Forward With Receiving and Reviewing Additional Stakeholder Feedback

Based on Legal Aid’s experience in many other rulemaking processes, we believe that the best possible feedback and revisions emerge when agencies convene in-person stakeholder meetings, where representatives from all sides – here housing provider and tenant interests, along with relevant government agencies – can engage in an open, dynamic, and collaborative process. Such a process is a wise investment of resources to ensure high-quality, balanced rulemaking. It is our understanding that the RHC intends to convene several stakeholder meetings for this purpose. We also recommend that the RHC allow stakeholders a short period to submit additional, informal comments following these stakeholder meetings.

The Commission Should Aim to Publish Revised Regulations and Finalize the Rulemaking This Fiscal Year

Ultimately, the RHC should set forth a timetable that will allow the publication of revised regulations, with a notice-and-comment period of at least 30 days, such that the new regulations can be finalized by September 30, 2020, the end of this Fiscal Year. This leaves the Commission with 10 months to hold stakeholder meetings, gather additional feedback, re-publish, and finalize the rulemaking. We believe this goal is reasonable and achievable.

Conclusion

We appreciate this opportunity to submit testimony about the work of the Rental Housing Commission. We urge the Committee to monitor the Commission’s efforts to issue, review, and ultimately finalize the currently-pending regulations.