

**Testimony of Rachel Rintelmann
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**Before the Committee on the Judiciary & Public Safety
Council of the District of Columbia**

Performance Oversight Hearing Regarding the Office of the Attorney General

February 13, 2020

The Legal Aid Society of the District of Columbia¹ submits the following testimony regarding the District of Columbia Office of the Attorney General (“OAG”), and specifically the housing and consumer work of its Public Advocacy Division Social Justice Section.

The Social Justice Section has used its Litigation Resources and Authority to the Substantial Benefit of Low-Income District of Columbia Tenants

Legal Aid has had the privilege of working with attorneys from the housing and consumer practices of the Attorney General’s new Social Justice Section on a number of matters over the past three years. We have been impressed by OAG’s renewed commitment to securing safe and affordable housing for low-income residents and to ensuring that housing providers are held to a high standard under the law.

The lack of safe and affordable housing in the District of Columbia has reached a crisis point. As the availability of affordable units decreases, demand for affordable housing far outstrips supply, leaving landlords with multiple applicants for every vacancy, no matter the location or condition of the property. This dynamic gives landlords unequal bargaining power and little incentive to make repairs. Much of the remaining affordable housing stock is in serious disrepair, forcing low-income DC residents into neglected and substandard housing. We regularly meet tenants living with serious housing code violations, including rodent, roach and bedbug infestations, no

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.

heat in the winter and no air conditioning in the summer, severe plumbing and roof leaks, untreated mold, broken windows and door locks, and more.

Tenants living with such conditions have historically had limited options for the enforcement of their rights: they can withhold rent and risk being sued for eviction; they can sue in Housing Conditions Court (which can be a long and frustrating ordeal);² they can file an affirmative civil action, which is difficult without legal counsel; or they can contact DCRA (but recalcitrant landlords know they can ignore threats of fines because they are rarely enforced). We have assisted tenants in pursuing their rights through each of these channels, none of which is perfect, and all of which require significant expenditure of time and resources on the part of the tenant.

Within this bleak landscape, we have been heartened to watch as OAG has prioritized this issue, using the Tenant Receivership Statute to enforce tenants' rights to safe and habitable housing. Landlords that have long neglected the condition or safety of their properties have suddenly had to answer for their misconduct on a larger scale, forced to either abate housing conditions themselves, or see a receiver appointed to do so. Because OAG generally pairs these cases with claims under the Consumer Protection Procedures Act, landlords are becoming increasingly aware that maintaining properties in these conditions is not only unlawful, but expensive.

These actions have had wide-ranging effect, securing needed repairs for all tenants in properties with poor conditions, even those who have not pursued claims themselves. In so doing, OAG has eliminated barriers for tenants who are elderly or disabled and for whom frequent court appearances simply are not practicable, as well as for tenants whose work or childcare obligations prevent them from prosecuting claims on their own behalf. In a single action, OAG can vindicate the rights of hundreds of tenant households, having a massive impact on the security and habitability of those families' homes.

In many cases, receivership actions have not replaced, but have complemented tenants' own exercise of their rights. For example, where OAG has filed a receivership action and the landlord has responded by filing for bankruptcy, Legal Aid has assisted tenants in pursuing their claims in bankruptcy court so that their individual claims relating to the housing conditions were not waived. Where receivership actions have prompted landlords to file eviction cases against tenants in bulk, Legal Aid has done affirmative outreach to conduct intake with those tenants and provided them legal representation in the eviction cases, where they can assert housing conditions defenses. Where a receivership action prompts the owner to sell a property, Legal Aid can assist the tenants in exercising their rights pursuant to the Tenant Opportunity to Purchase

² The DC Superior Court created the Housing Conditions Calendar in 2010, allowing tenants to sue their landlords to make required repairs to address housing code violations. Unfortunately, Housing Conditions Court has not proven to be an ideal or effective forum for the resolution of these claims. The Court is slow to require even emergency repairs, does not issue or enforce written orders, declines to take testimony from tenants, often dismisses cases even when repairs are not complete, and fails to hold landlords sufficiently accountable for failures to make repairs. Tenants are often frustrated by what they (reasonably) see as a huge investment of their time to obtain slow and incomplete relief.

Act, bargaining for long-term affordability and building improvements. These coordinated efforts serve to maximize the effects of our efforts, as well as the efforts of the Attorney General.

Even Beyond Litigation the Practices of the Social Justice Section Demonstrate a Commitment to the Public Interest

In addition to its litigation priorities, the Social Justice Section's hiring, community stakeholder engagement, and policy initiatives reflect a real commitment to the social and economic justice of low-income District residents.

Legal Aid is supportive of two currently pending bills proposed by OAG, the Abatement and Condemnation of Nuisance Properties Amendment Act of 2019 and the Attorney General Civil Rights Enforcement Clarification Amendment Act of 2019, both of which will strengthen the enforcement mechanisms for the laws they amend. We believe that they – along with prior bills, like the At-Risk Tenant Protection Clarifying Act of 2017 – are reflective of OAG's commitment to identifying and overcoming obstacles to obtaining meaningful relief for our low-income neighbors.

We also applaud the Social Justice Section's track record of hiring attorneys with a demonstrated commitment to public interest work, and its skill in collaborating with community organizations. We believe that the work of the Social Justice Section is made more impactful with the input of lawyers and organizers who are doing the work on the ground, and OAG has not only been receptive to such input, it also affirmatively seeks such input on a regular basis.

Conclusion

On the whole, we have been pleased to observe the work of the Social Justice Section, with its demonstrated commitment to using its resources for the public interest. We look forward to continuing to engage and partner with them on housing and consumer protection matters in the future.