



**Legal Aid Society**  
OF THE DISTRICT OF COLUMBIA

MAKING JUSTICE REAL

**Testimony of Shirley Horng  
Senior Staff Attorney, Consumer 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 Hearing Regarding:**

**Bill 23-0568**

**“The Home Purchase Assistance Amendment Act of 2019”**

**September 30, 2020**

The Legal Aid Society of the District of Columbia<sup>1</sup> submits this testimony in support of Bill B23-0568, the Home Purchase Assistance Amendment Act of 2019. The Amendment would create more homeownership opportunities for low-to-moderate income District residents by increasing the maximum amount of the Home Purchase Assistance Program loan and providing a grant for borrowers to make repairs to their newly purchased home. The bill however should take the additional step of protecting an HPAP purchaser from the potential liability arising from the new repair grant. Additionally, the bill should include a mechanism to extend the 90 days for availability of funds and address what happens if the cost of repairs exceeds the grant amount.

**Legal Aid’s Perspective on the Home Purchase Assistance Program**

Legal Aid’s Consumer Law Unit works to preserve the limited income and assets of economically-vulnerable consumers in the District, primarily in the form of foreclosure prevention and debt collection defense. We work with low-income homeowners to keep their homes, with the goal of restoring housing security and increasing opportunities to build equity

---

<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.” 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 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](http://www.LegalAidDC.org), and our blog, [www.MakingJusticeReal.org](http://www.MakingJusticeReal.org).

and intergenerational wealth for our clients. We routinely represent homeowners facing foreclosure in D.C. Superior Court, and our clients are among those most in danger of facing displacement from the District, the most intensely gentrifying city in the United States.<sup>2</sup>

Through our practice, we have developed expertise in consumer financial products and a familiarity with the impact of those products on people living in poverty. Our attorneys regularly advocate for systemic consumer protections so people do not become at risk of oppressive debts or losing homeownership. Although Legal Aid is not typically involved in the HPAP application process, many of the clients in our consumer law practice are HPAP borrowers. As advocates for low-income D.C. residents and consumers, we support the expansion of HPAP. We are also interested in ensuring that the Amendment provides sufficient clarity relating to the proposed repair grant in order to avoid any inadvertent harm to HPAP home purchasers in the event that repairs or related processes do not go as expected.

### **Legal Aid Generally Supports the Expansion of the Home Purchase Assistance Program**

HPAP is a valuable tool in creating affordable homeownership opportunities and stemming gentrification. The Program plays a particularly important role in increasing Black and Latinx homeownership in the District. In 2019, 85% of HPAP purchasers identified as Black, and 12% identified as Other (not Black, White, or Asian), and the vast majority of HPAP purchasers live in Wards 7 and 8.<sup>3</sup> Expanding HPAP is laudable, particularly in light of the alternative, that investors buy the properties instead. Legal Aid supports the Amendment, which would bring more homes within reach for working class and low-to-moderate income District residents.

### **Legal Aid Recommends Adding Clarifying Provisions to Avoid Unintended Consequences for Homeowners**

The new repair grant does however raise a few questions about possible unintended consequences that we hope the Committee will consider during mark-up.

First, the Amendment should make clear that the homeowner is neither responsible nor liable to the contractor for money that is to be paid by the District government. The new repair grant provides HPAP purchasers a grant of up to \$15,000 to make essential repairs to a newly purchased home. Essential repairs are limited to those mandated by an HPAP home inspection or required by a lender. The funds are deposited with the title company, which disburses the money to the contractors. Fifty percent is paid at settlement before any work has even begun, and the remaining 50% is paid to the contractor after approval by the HPAP inspector.

---

<sup>2</sup> See National Community Reinvestment Coalition, Shifting Neighborhoods; Gentrifications and cultural displacement in American cities (March 19, 2019), available at <https://ncrc.org/gentrification/>.

<sup>3</sup> See Department of Housing and Community Development's Responses to Questions in Advance of the 2019/2020 Oversight Hearing dated February 4, 2020 at pages 26 and 27, available at <https://dccouncil.us/wp-content/uploads/2020/02/dhcd.pdf>.

While we are generally in support of the new repair grant, the legislation does not shield the homeowner from potential liability to the contractor for money to be paid by the title company. If the title company does not pay the contractor, whether it is because the repairs were not completed properly or timely or the repairs were not approved by the HPAP inspector, then there is concern that a contractor could seek to collect the unpaid balance from the homeowner or even record a mechanic's lien against the homeowner's newly purchased house. To avoid ambiguity or unintended consequences, the Amendment should include information setting forth the legal mechanism for the repair grant and clarify that homeowners are not responsible or liable for the cost of the repairs that were contracted to be covered by the repair grant.

Similarly, the Amendment should address who is responsible if the repairs are initially estimated to cost \$15,000 or less but end up costing more. The legislation is currently silent on who would be responsible for the additional amount in that scenario. Would the homeowner be responsible for the difference or would the contractor have to absorb the loss if the cost exceeds \$15,000? We recommend that the Amendment set forth what happens in those situations and who would bear the responsibility.

Lastly, there should be a mechanism for extending the time period for availability of the repair funds to beyond 90 days. The Amendment states "After expiration of the 90 days of grant availability, any unused portion of the grant shall return to the general HPAP budget." There are however scenarios where more than 90 days may be needed to complete the repairs and get HPAP inspection approval. For example, if the contractor is making diligent progress on the repairs, and HPAP, the homeowner, and the lender all agree to extend the time for completion, there should be a mechanism to do so. Otherwise, the contractor may either stop the work in the middle of the job or not get paid for all their work, or the homeowner may be billed for repairs that the grant was originally intended to cover.

\* \* \*

Thank you for this opportunity to submit testimony on the Home Purchase Assistance Amendment Act of 2019. Legal Aid appreciates this step the Committee is taking to increase affordable homeownership opportunities in the District.