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Council of the District of Columbia

Public Oversight Roundtable on
Rental Assistance and Eviction Prevention

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The Legal Aid Society of the District of Columbia\(^1\) submits the following testimony regarding rental assistance programs currently available in the District of Columbia. I will be highlighting the many issues with the District’s current model for rental assistance which has fallen far short of the kind of robust program this moment calls for, despite best efforts by District government agencies. My testimony is informed by my own experiences working with these programs, as well as the experiences of my clients and colleagues.

One of my primary responsibilities as Legal Aid’s housing case manager is assisting our clients with applying for rental assistance. I also maintain updated information on how to best access these programs. For the last several months, these efforts have been focused on the Emergency Rental Assistance Program (ERAP) and COVID-19 Housing Assistance Program (CHAP), although we know a new program with federal funds soon may be set up as well. I also monitored the much smaller Tenant-Based Rental Assistance Program (TBRA), which ended in December 2020. I have helped dozens of Legal Aid’s clients apply for these programs and have

\(^1\) 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 89 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.
worked closely with application processors at a number of providers to ensure my clients receive the help they need.

**Despite Recent Improvements, Tenants Often Must Endure a Long and Taxing Process to Apply for and Receive Approval for Rental Assistance**

In the last two months, a number of changes have been made to both ERAP and CHAP. These changes have most notably made these programs easier to apply to and simplified the application process significantly with the introduction of a self-certification form. Despite these changes, there are still a number of barriers tenants face when applying for rental assistance. These barriers not only create extended delays in application processing time, but also still make it difficult for tenants to initiate an application for these programs.

**Improvements in Application Accessibility Have Created New Issues in the Application Process**

Since mid-December, applications for rental assistance have become easier to submit than ever before. Appointments are no longer required as part of the application process and tenants can now submit an application directly through the DHS online portal. Alternatives to this portal have been added as well, including physical drop box locations and dedicated application submission email addresses. Two providers are still hosting call-in dates.

While these developments are very welcome, they do not adequately address the issue of accessibility. If anything, these new systems have brought to light a host of other challenges that our current rental assistance programs present.

Once an application has been submitted, it may be weeks before it is assigned to a provider and processor. In the past two weeks, I have submitted three applications through the online portal with clients. I have yet to receive a response from a provider on any one of these new applications. I have been told by providers that each organization has a large backlog of unviewed applications, potentially up to a month or more. It is unclear how long, in practice, the process will take from application submission to processor assignment, let alone approval and payment issuance.

**The Introduction of Self-Certification Forms Has Made Rental Assistance Available to Many for Whom Providing Documentation Was a Significant Barrier to Getting Help**

One recent change to ERAP that has significantly simplified and quickened the application process has been the introduction of self-certification forms. These forms are especially beneficial for those whom the previous documentation requirements were an excessively high bar to clear. Spending time and money to locate vital records, such as birth certificates, or getting bank statements was not only burdensome, it led to many eligible tenants being denied assistance or having their application listed as ‘Abandoned’.
The use of self-certification forms also makes the administration of ERAP more efficient for the providers. Rather than spending hours talking through documentation requirements with applicants or pouring over bank statements as part of income verification, providers can now focus on getting funds to those most in need.

The fact that an excessive amount of documentation is no longer required means that ERAP will help more tenants than ever before, especially some of the most vulnerable. This change was needed long before the public health emergency began, and should continue being a staple of ERAP once this difficult period has come to an end.

**Tenant Stories**

To give you a sense of how long the application process may take, below are seven distinct examples of tenants that I or my colleagues have worked with to apply for and receive rental assistance funds (names and some identifying details have been changed to protect the anonymity of the individuals involved). For each of these tenants, this was a complicated, multi-month process that took or has taken far too long and was burdened by administrative pitfalls, landlord obstruction, and accessibility issues. While each tenant’s experience is unique, all point to the same theme: at a time when high numbers of tenants at risk make the efficient processing of applications especially crucial, this model for providing relief to tenants is not working.

It is worth noting that our clients experienced these hurdles and delays despite working with an advocate. I believe these stories demonstrate common experiences of tenants across the District, and indeed, those who do not have Legal Aid or someone like us by their side are likely experiencing exponential challenges.

1) **Deirdre Washington**

Deirdre Washington is a single mother whom I assisted with completing and submitting an online assessment through the Department of Human Services’ online portal at the end of September 2020. We received an auto-generated email response to her assessment stating that she had been determined to be ineligible for the program. I could not understand why this was the case – Ms. Washington is very low-income (under 125% of the federal poverty guidelines, ERAP’s maximum income at the time), is a DC resident, and has children with disabilities. There was no clear reason why her assessment was rejected. I sent two follow up emails to the DHS email address listed on her rejection email, but never received a response.

In late October, we were able to secure an appointment with one of the providers using the call-in method. We submitted the completed application three days after her appointment, and received her processor assignment a week and a half later. All requested documents were submitted in mid-December. The processor informed us at that time that she was still awaiting documents from my client’s rental office. The file was not submitted for supervisory review until early January. After sending six follow up emails since this case was submitted for supervisory review, we finally received a determination.
in the first week of February. From initial application to approval took four and a half months.

2) Mary Johnson

Mary Johnson’s initial appointment to apply for rental assistance took place in late October and we submitted her completed application to the provider in mid-November. After sending two follow up emails, we received Ms. Johnson’s processor assignment two weeks later. A month after submitting the completed application, Ms. Johnson received the option to self-certify the remainder of her required eligibility information. We returned the self-certification within 24 hours and received confirmation from the processor that the application had been submitted to supervisors for final review the same day. In late December, we received confirmation that the application was approved. From initial application to approval took nearly two months.

3) Katharine Gilbert

Katharine Gilbert is a tenant with disabilities who has very limited access to technology. I assisted Ms. Gilbert with attending a virtual appointment in October 2020, a requirement of the program at the time. We submitted the application two days after the appointment. After two weeks of follow up, we received the contact information for Ms. Gilbert’s processor. In late November, we supplied the remaining documents required from Ms. Gilbert with the exception of her ledger. The processor assured us that she would request the ledger from the landlord during her standard verification call. It was not until January that the application was submitted for supervisory review, and we just received notice this month that the application had been approved. From initial application to approval took four months.

4) Stella Hill

Stella Hill is a monolingual Spanish speaker with disabilities who is unable to read or write. She and I first completed an assessment through the DHS portal in mid-August 2020. Her phone appointment was scheduled for two weeks later. Having put my email address as the primary point of contact on her assessment, I received a response from her assigned processor the day after the phone appointment took place. In this email, the processor requested that a number of documents be completed and returned before the application’s close date in late October. When I asked if any of these documents had been discussed during their intake phone appointment, the processor indicated that Ms. Hill was expected to complete all of this on her own or with the assistance of a third party, whom she was responsible for finding. By mid-September, Ms. Hill and I had compiled and submitted all necessary documents. The processor began reaching out to the landlord to confirm information necessary for them to render payment.
For nearly a month, I went back and forth with this staff member about whether or not he had received this information. In late October, he stopped responding. After more than two weeks of following up, I received notice from a different staff member that the original processor was no longer assigned to this case. The newly assigned processor picked up where the previous had left off and began contacting the landlord as well, but was met with resistance from the landlord to providing documentation such as a W9. In late November, the processor informed me that she needed to close the application as it was older than the allotted 60 days, even though Ms. Hill had been compliant and responsive. I attempted to advocate to the provider, explaining that the delay was entirely the fault of the landlord, and pointed out that the application had been left languishing after the departure of her original processor. But this staff member required that we submit a new application. We did this, submitting it on December 1.

The application processor spent the next two weeks following up with the landlord and finally prevailed in receiving the information she required. A check was cut and mailed in late December. It took yet another month, until late January, for the rental office to acknowledge receipt of this payment and apply it to Ms. Hill’s balance. From initial application to Ms. Hill’s ledger reflecting her approval took five and a half months.

5) **Aaron Smith**

Aaron Smith is a tenant who has very limited English proficiency. I assisted him with applying directly to a rental assistance provider in early January. After four hours and three separate phone calls, Mr. Smith and I were able to successfully complete an entire rental assistance application, which I submitted directly to a provider. Ten days later, I followed up with the provider to see if any updates were available as to when Mr. Smith’s case would be assigned to an application processor’s case load. The provider told me that they are a month behind in assigning new applications and estimated that it would be another month before my client heard back. The staff member was unable to provide a specific timeframe in which my client and I could expect a response. When I asked if it would be best for us to submit this application to a different provider, I was told that “Every organization is dealing with a similar backlog and so if you apply to multiple, you can go with whoever reaches out first.”

We are still waiting to learn if Mr. Smith’s application will be processed by a provider. It has been one month since it was initially submitted.

6) **Amy Paulson**

Amy Paulson came to our organization for assistance with finalizing an application for rental assistance in August 2020. She had provided all of her necessary documents, but the provider was still unable to finalize her application due to her landlord’s complete lack of response to their requests for documentation. The provider had done all they could to get the needed information, but had been unsuccessful. After my efforts to get in touch with the landlord went unanswered, one of Legal Aid’s attorneys began pressing as well
in an attempt to get her to comply with the terms of the rental assistance program. Ms. Paulson’s landlord still has not responded to any attempts to solicit this documentation, effectively resulting in a denial of the relief to which her tenant is entitled. It has been six months since Ms. Paulson first applied.

7) Tanya Kraft

Tanya Kraft is a senior with disabilities and limited literacy. She struggles with access to technology but was fortunate enough to have a family member who was able to assist her with applying for rental assistance through the DHS portal in December 2020. Believing that the application was submitted, both Ms. Kraft and her daughter were confused by an email they received with additional information about the application process and did not know how to move forward. In late January, one of Legal Aid’s staff attorneys assisted Ms. Kraft with completing a PDF application and submitted it on her behalf directly to one of the rental assistance providers. Just days later, Mr. Kraft received a call from a different provider offering her an in-person appointment in the first week of February. This appointment was then canceled due to inclement weather. Ms. Kraft attempted to contact the person who initially scheduled the appointment, but was unable to get through by phone. No one provided an email address. Therefore, Ms. Kraft is still unsure of whether one of her applications has officially been accepted or not, nor does she know how she should reschedule the canceled appointment. Her path to receiving rental assistance, which began well over a month ago, is still very unclear.

As you can see from these examples, the process that tenants must go through to receive rental assistance often takes months, even with the benefit of an advocate by their side. The programs have been described as “under-subscribed” in the past, and yet providers are unable to keep up with the volume of applications they are receiving. Even for tenants who are fortunate enough to receive an approval, there is no guarantee that these programs will be sufficient to prevent their eviction in the future.

Funds from Current Programs Will Not Adequately Protect Tenants from the Looming Eviction Crisis

In the Emergency Rental Assistance Reform Emergency Amendment Act of 2020, passed in November, ERAP’s maximum assistance caps were substantially increased. Tenants who apply are now eligible for 5 months of assistance up to their area’s Fair Market Rent, as determined by the federal Department of Housing and Urban Development. This is calculated based on zip code and unit size. For tenants with larger households of 6 or more individuals or with a disabled household member, this amount increases to 7 months. This means that some tenants can now receive more help than ever before from ERAP, though it depends heavily on the size

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2 Source: B23-0938-Signed_Act.pdf (dccouncil.us)
3 Source: Monthly Income Limits & Fair Market Rent | dhs (dc.gov)
of the unit and which neighborhood the household lives in.\textsuperscript{4} For households who do not deplete their available assistance in their initial application, the option is now also available to apply for ERAP a second time if needed, and should funds still be available.

Ultimately, the fact that ERAP can now cover higher balances is a good thing, and was a change needed prior to the COVID-19 crisis. We are heartened to see tenants receive meaningful rent relief because of an ERAP payment. Some even have additional funds available that may be accessed in the future. Unfortunately, with the ongoing economic crisis even this increase in assistance caps will not be enough to curb the oncoming eviction crisis.

In the legislative amendments passed in November, Council gave the Department of Human Services discretion to waive the cap on assistance completely during the public health emergency. While advocates are still waiting for new ERAP regulations to be published for public comment, it has become clear that this is a discretion that DHS has chosen not to utilize. Given the limited amount of funding available to this program, we can only assume that the belief driving this decision is that less money going to more tenants is better than more money going to fewer tenants.

In reality, smaller amounts of money going to more tenants will do nothing to prevent their eviction. To only cover partial balances puts tenants in a corner. With no additional assistance or protections and an ongoing public health crisis, tenants have nowhere else to turn to resolve their emergency. This leaves ERAP functioning as a landlord stimulus fund accessed through low-income tenants in need of assistance. It does nothing to guarantee that these tenancies will be preserved when COVID-related protections are lifted. If a household’s balance is not entirely covered, or additional measures are not put in place, they are still very much at risk of being evicted.

In addition, we are already hearing that providers are running low on funds and expect ERAP to be depleted far earlier than in years passed. This has come in conjunction with messaging from some providers that tenant applications for CHAP are not currently being processed. The funds allocated to ERAP and CHAP are around $14,000,000 and $6,200,000, respectively, nowhere near enough to cover the $80,000,000 to $130,000,000 estimated rental shortfall the District is already facing,\textsuperscript{5} which we can only expect to increase. Given the length of this emergency and the high price of rent, the funding levels for these programs are clearly insufficient to meet the need of the District’s renters. And even if more money was poured into these programs, the barriers to applying are so high it is impossible that they would effectively resolve every household’s emergency.

\textsuperscript{4} For example, on one end of the spectrum, a non-disabled individual living in an efficiency unit in Deanwood will be eligible for a maximum of $4,950 from ERAP. On the other end, a family of 8 living in a four-bedroom unit in Navy Yard could be eligible for up to $28,840. That same family living in Congress Heights would only qualify for $13,230.

A New Kind of Program is Required to Meet the Need of The Current Moment

It is clear that the current model for distributing rental assistance is not sufficient to provide tenants with meaningful relief. Tenants struggle to even start the application process while providers cannot keep up with the volume of renters applying. On their own, the programs are simply unable to provide the level assistance needed to stem the tide of eviction we can anticipate once the temporary tenant protections are lifted.

District leaders must establish a new kind of program, one that encourages landlords to apply if they have experienced hardship due to lost rent revenue. This program should specifically target aid to small and nonprofit landlords, those hardest hit by the steep economic downturn, and should have clear metrics of how landlords are assessed and approved for rent relief. It must prioritize keeping tenants in their homes and provide meaningful relief, ensuring that no tenant is evicted due to or experiences negative impacts from any rent debt accumulated during the pandemic.

This new program must be transparent, and information on which landlords receive funding must be made public so tenants and advocates alike can ensure that tenants benefit from this program. This has not been the case with the Housing Stability Grants program of December 2020, which has left many tenants confused about how the funds their landlord received has affected their balance. For one of my clients, for example, funds had to be returned to ERAP at the request of a Legal Aid attorney after we learned that the landlord had received a Housing Stability Grant, but failed to appropriately apply funds to my client’s ledger. This led to an overpayment from ERAP, and had Legal Aid not pressed the landlord to return these funds, my client would have robbed of the opportunity to access rental assistance in the future. There is no telling how common this issue must be for tenants across the District or how frequently landlords may double-dip into various pots of assistance.

Most importantly however, this new program must prioritize preventing evictions and ensure that any relief received by a landlord benefits the tenant and must be coupled with comprehensive, extended moratoria on evictions and eviction filings related to non-payment of rent due to the pandemic so that all tenants can rest assured that they will not lose their homes due to COVID-19.

Conclusion

We are now nearly a year into this public health emergency, and it is clear that our usual mode of providing assistance to tenants is inadequate and ill equipped to protect tenants from eviction. While both the Department of Human Services and Department of Housing and Community Development have done much to improve their respective programs in recent months, these changes have made it obvious that it is not the programs that are the problem, it is the model of how assistance is provided. These tenant-based programs cannot manage the high volume of renters who are in need of assistance. They cannot provide enough money to each household to clear their arrears and protect them from eviction. It is not reasonable to place the burden of jumping through so many bureaucratic hoops on the thousands of households who will
desperately need help in the coming months, and the thousands that already do. And it is clumsy and difficult to administer a program with the intention of it doing so.

What the District of Columbia needs is a program that removes the burden of application from tenants and allows landlords to pursue aid, aid which must be contingent upon the landlord continuing to provide all tenants with safe, stable housing. The top priority of this program must be the prevention of eviction and displacement, not economic relief to landlords. District leaders must prioritize protecting tenants and must invest in building a functional, meaningful rent relief program.