

**Testimony of Emily Near  
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**Before the Committee on the Judiciary and Public Safety,  
the Committee on Housing and Executive Administration, and  
the Committee on Human Services  
Council of the District of Columbia**

**Public Oversight Roundtable  
Examining the District’s Legislative Prohibition  
on Evictions During the COVID-19 Pandemic**

**February 4, 2021**

The Legal Aid Society of the District of Columbia<sup>1</sup> submits the following testimony to express its support for the eviction filing moratorium. Being sued for eviction is incredibly stressful for tenants and can cause undue harm, the impacts of which can stretch far beyond the actual case. Without this moratorium, a number of cases will be filed unnecessarily as tenants scramble to get newly-available rental assistance.

One of my primary responsibilities as Legal Aid’s housing case manager is assisting our clients with applying for rental assistance and maintaining updated information on how to best access these programs. Most commonly, these efforts are focused on the Emergency Rental Assistance Program, and now the COVID-19 Housing Assistance Program, and we know a new program with federal funds soon may be set up as well. I have helped dozens of Legal Aid’s clients apply for programs and have worked closely with application processors at a number of providers to ensure my clients receive the help they need. My testimony is based on those experiences.

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

## **Tenants Often Must Endure a Long and Taxing Process to Receive Approval for Rental Assistance, With Delays of a Number of Months Being Relatively Common**

In my experience working with and speaking to tenants who are applying for rental assistance, I can tell you that the process is far from intuitive and transparent. There are now a number of ways that tenants may submit applications directly to providers, forgoing an appointment, but this significant change was made just at the beginning of this year. Once an application has been submitted, there are still a number of variables that tenants and community advocates are trying to gauge and navigate, including the fact that each provider has a large backlog of unviewed applications and that it is unclear how long, in practice, the process will take from application submission to payment issuance. At this time, many of my clients have had open applications for anywhere between two and five months.

To give you a sense of how long this 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: this process takes a lot of time and effort.

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. If there were no eviction filing moratorium, many tenants would have cases on their records that could be avoided altogether if there was just more time to get through the process of applying for rental assistance.

### 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. Nearly a month later and we are

still waiting for a determination to be made on her file. I have sent six follow up emails regarding this case since it was submitted for supervisory review.

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. Five days later, we received confirmation that the application was approved. By this time, nearly six weeks had passed since Ms. Johnson's initial appointment. While this delay may seem minimal compared to others, someone like Ms. Johnson still would face an unnecessary risk of eviction while waiting if the filling moratorium were not in effect.

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 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.

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, and submitted 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.

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."

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.

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, during this public health crisis, the process that tenants must go through to receive rental assistance that could avoid an unnecessary, havoc-causing eviction often takes months. Without the eviction filing moratorium, cases will be filed unnecessarily while tenants wait to access and receive rent relief.

**Agencies and Providers Also Need Time to Implement New Program and Resolve Implementation Problem As They Arise**

The public health emergency has also presented a number of unique challenges for agencies and providers. The process of rapidly creating or improving their current systems takes time. Tenants and community advocates first must learn new systems, identify their weakness and flaws, and communicate them to the agency responsible. The agency then requires time to respond. We have seen this time and time again with the Departments of Human Services (DHS) and Housing and Community Development (DHCD).

For example, advocates are still waiting for the Department of Human Services to publish updated regulations for ERAP consolidating the legislative changes of the Emergency Rental Assistance Act of 2020,<sup>2</sup> passed in November. They have not yet been published for public comment. Below are two additional instances of agencies requiring significant amounts time to respond to concerns and implement new modifications. This is another reason why the eviction filing moratorium is so important: it gives agencies the time they need to absorb feedback and improve processes without tenants bearing the brunt of administrative or programmatic delays.

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<sup>2</sup> Source: <https://lms.dccouncil.us/downloads/LIMS/45738/Meeting1/Enrollment/B23-0938-Enrollment1.pdf>

1) Addressing Language Access Issues

On July 17, 2020, Legal Aid, together with many of our partner organizations, sent a letter to DHS Director Laura Zeilinger demanding that ERAP be brought into compliance with the Language Access Act of 2004.<sup>3</sup> At the time, the rental assistance portal was only available in English, as were the vast majority of ERAP documents. In order to be in compliance, both Spanish and Amharic options needed to be accessible. Within a week, DHS had translated the forms and distributed them to the program providers, however more time was needed to adapt the relatively new online portal system. A Spanish option was added to the online tool on August 17; the Amharic option followed some weeks later in September.

2) Responding to Other Concerns

On December 4, 2020, I sent a letter on behalf of Legal Aid to Director Zeilinger and DHCD Director Polly Donaldson requesting that they address a myriad of issues related to the rental assistance programs currently in use by District tenants.<sup>4</sup> Over the course of December and January, the agency made significant efforts to remedy some of the issues Legal Aid had raised, especially in how the programs can be accessed by tenants. Legal Aid received a response letter written jointly by Directors Zeilinger and Donaldson on January 27, 2021, detailing the changes made over the course of the two months prior.

**Conclusion**

The eviction filing moratorium has the potential to protect thousands of DC tenants from experiencing undue, irreparable hardship that would result from cases filed against them. It also provides District government agencies the time needed to implement necessary improvements to vital rental assistance programs as we continue to navigate the COVID pandemic and resulting historic economic downturn.

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<sup>3</sup> Source: <https://dccouncil.us/wp-content/uploads/2020/07/2020-07-15-Subject-to-Funding-Legislation-quarterly-report.pdf>

<sup>4</sup> A copy of this letter is attached.

December 4, 2020

*Via electronic mail only*

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Re: Concerns Regarding Tenant Access to Rental Assistance Programs

Dear Directors Donaldson and Zeilinger:

I am writing this letter to share our concerns regarding access to rental assistance currently available in the District of Columbia. This was motivated by multiple statements made over the course of the last several months regarding the supposed under-utilization of rental assistance by tenants. While it is true that there is a significant amount of financial assistance designated for tenants that has not been utilized at this time, the reason those programs are not fully subscribed is not a lack of need or interest, but rather lack of accessibility. Our observations are based on speaking with many tenants over the past few months, as well as my own experience helping dozens of tenants apply for rental assistance. The issue of access breaks down into four main areas: appointment availability, stringent eligibility criteria and documentation requirements, frequency of access, and lack of transparency in public messaging. This letter will address problems related to both the COVID-19 Housing Assistance Program (CHAP) and Emergency Rental Assistance Program (ERAP). We ask that both the Department of Housing and Community Development and Department of Human Services take action to remedy these issues.

#### Access to Appointments

At the present moment, tenants are encouraged to schedule appointments to apply for rental assistance through the Department of Human Services (DHS) online portal released this spring. In order to effectively use the portal, a tenant must have access to a “full browser” from a desktop or laptop computer, which is noted on the first page of the site. This makes it very difficult or nearly impossible for many tenants to access both CHAP and ERAP, and disproportionately affects low-income tenants who are more likely to struggle with access to

both digital technology<sup>1</sup> and broadband<sup>2</sup>. This issue is exacerbated by the current limited availability of libraries due to the public health emergency.

I am also concerned that many tenants may find the language on the site to be misleading. In order to initiate an online screening assessment, a user must hit the ‘Start Application’ button, which may lead the user to reasonably believe that they have affirmatively applied for an assistance program. In reality they have merely requested an appointment to submit an application. Once the screening assessment has been submitted, an email is sent to the user prompting them to specify an appointment date and time. When the tool was first introduced, appointments were readily available. However in the last several months, there has been a significant decline in available appointment slots. At this time, a user attempting to schedule an appointment will find that they can click through the year 2024 and still find that no appointments are available. I have heard Director Zeilinger encourage tenants to continue checking this link until an available appointment slot appears. But these appointment slots are only available sporadically, and with no apparent pattern, making it difficult or impossible for tenants to schedule an appointment with a provider. This may account for why it appears that so few DC residents are submitting applications for assistance.

Since there are no apparent alternatives to using this site, it is imperative that it be accessible, easy to use, and transparent about appointment availability. At this time, this is simply not the case. While community-based organizations have recently publicized alternative phone numbers and email addresses for tenants to use to request appointments, for months the portal was the only access point for CHAP, and the current process of starting an application or even receiving an appointment is still far too difficult. In my experience, attempting to connect with a provider through phone or email can take dozens of follow ups over the course of many weeks, and I am not confident that these alternatives will meaningfully remedy the issue of appointment access.

### Eligibility

The eligibility criteria for both CHAP and ERAP also intrinsically create barriers to receiving rental assistance. Most pressingly, the program requires tenants submit a significant amount of substantive documentation proving their basic eligibility, emergent need, and ability to sustain their unit in the future. In a presentation to the Coalition for Nonprofit Housing and Economic Development<sup>3</sup>, the executive director of Housing Counseling Services cited incomplete applications as being one of the primary reasons for rental assistance funds not being dispersed more quickly to landlords. This comes as no surprise to those who work with tenants to complete these applications. Compiling documents such as leases, proof of income, bank statements, or

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<sup>1</sup> Exemplified by a DCPS survey released in July 2020, which showed that 44% of DCPS students did not have access to a device to use for online classes *available at* [https://dccouncil.us/wp-content/uploads/2020/07/School-Year-20-21-Presentation\\_07.30.20.pdf](https://dccouncil.us/wp-content/uploads/2020/07/School-Year-20-21-Presentation_07.30.20.pdf)

<sup>2</sup> “State of the Digital Divide” *available at* [https://connect.dc.gov/sites/default/files/dc/sites/connect/page\\_content/attachments/State%20of%20the%20Digital%20Divide%20Report.pdf](https://connect.dc.gov/sites/default/files/dc/sites/connect/page_content/attachments/State%20of%20the%20Digital%20Divide%20Report.pdf)

<sup>3</sup> Source:

[https://us02web.zoom.us/rec/play/pfpwVhZSGgBIYKojjA7SJzRTErCpxZ1hJ4BoP2\\_53J46tQUU57mzOYp4f252ZoOc1Z5pDvqdOfVrtCUQ.L-3kGRLQOdvZZ0ZJ?continueMode=true&\\_x\\_zm\\_rtaid=-E7wF-3xRX2VudLA2gYocg.1606918859694.c35f6ec1416d0273868e242476112c7d&\\_x\\_zm\\_rtaid=217](https://us02web.zoom.us/rec/play/pfpwVhZSGgBIYKojjA7SJzRTErCpxZ1hJ4BoP2_53J46tQUU57mzOYp4f252ZoOc1Z5pDvqdOfVrtCUQ.L-3kGRLQOdvZZ0ZJ?continueMode=true&_x_zm_rtaid=-E7wF-3xRX2VudLA2gYocg.1606918859694.c35f6ec1416d0273868e242476112c7d&_x_zm_rtaid=217)

identification documents can be an arduous process for tenants, public health emergency notwithstanding. But now, with the added complexities of office closures, limited access to computers and printers, and the impossibility for in-person meetings, collecting these seemingly basic documents can be impossible.

On top of these eligibility documents, many tenants may also struggle to provide third-party documentation of loss of income due to the public health emergency (such as a letter from an employer) in order to even qualify for CHAP. This creates a significant barrier to receiving assistance, particularly for those who are fearful that requesting such information may provoke retaliation in the form of job loss or diminished hours. And in a time when some pandemic unemployment benefits have ceased (for those able to receive them) and many remain out of work, requiring that tenants provide proof that they will be able to pay their rent in the future is ineffectual and cruel.

### Frequency of Access

There is also the issue of how frequently tenants are able to access CHAP. According to information published on the Mayor's site, tenants can apply for rental assistance from "April 2020 onward for up to 3 months of overdue rent depending on available funds" and that "eligible applicants may be able to apply for an additional 3 months for a total of 6 months of rental assistance"<sup>4</sup>. Not only is this language confusing, it also makes it unclear how much assistance a single household can receive from CHAP.

Additionally, in the Deputy Mayor for Planning and Economic Development's Weekly Check-In on December 1<sup>st</sup>, Director Zeilinger announced that tenants are now able to apply for rental assistance more than once a year<sup>5</sup>. It is unclear where this change comes from, as it was not a part of the legislation passed by Council, and presents logistical difficulties. According to DHS and various ERAP providers, tenants are still limited to only 5 months of assistance up to their area's Fair Market Rent or their actual rent, whichever is lower, as determined by the federal Department of Housing and Urban Development. For tenants with larger household of 6 or more individuals or with a disabled household member, this amount increases to just 7 months. For low-income tenants whose monthly rent is far below their neighborhood's FMR, this amounts to a significant cut in the amount of assistance they can receive. ERAP was a high-volume and vital program for low-income DC residents prior to the pandemic. We are now nine months into this public health emergency, and it is unclear how providing tenants with an opportunity to apply multiple times a year will effectively assist them when the cap on assistance is even lower for our most vulnerable neighbors.

Given the limitations of both of these programs, tenants must decide strategically when to apply to ensure that they at once maximize rental assistance without jeopardizing their chance of approval due to a high balance or its effectiveness in eliminating their arrears. Many tenants may also not apply at all, thinking they may face greater need for this assistance in the future or because they are under the false impression that they must either be court-involved or have a writ in order to get help. CHAP and ERAP should be continuously available to tenants throughout the

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<sup>5</sup> Source: <http://video.oct.dc.gov/DCN/jw.html>

year, but the financial caps need to be substantially increased in order to be effective. This may also help in preventing a bottleneck of applicants once residents across the District are able to return to work full-time and seek to clear any arrears that may have accrued during the public health emergency.

### Lack of Transparency in Public Messaging

In the last several months, public messaging from DHCD and DHS about their respective rental assistance programs has been inconsistent and increasingly confusing. From trying to reach a provider when the online screening assessment shows no available appointments to attempting to parse through the conflicting information regarding ERAP's recent legislative changes, it is no wonder that tenants are struggling to keep up with whether or not they should attempt to apply for rental assistance. I have worked with a number of Legal Aid clients in some capacity to complete rental assistance applications and regularly communicate with staff at multiple providers, and even I am struggling to keep up with the conflicting information.

Even the online materials do not clearly reflect eligibility criteria, caps on assistance, or all options to contact providers of both ERAP and CHAP. As Director Zeilinger stated at DMPED's Weekly Check-In on December 1<sup>st</sup>, ERAP regulations are currently being updated to reflect the changes made through legislation passed by DC Council. Some of these changes, such as increasing income eligibility criteria and providing tenants with the option to self-certify much of their information, are needed and very welcome. However it is unclear how and if they have been implemented. Currently, there is only one place on the DHS website<sup>6</sup> where this information has been partially updated. This page, however, does not have information about each provider's call-in dates for those that offer this option. Otherwise, the information on coronavirus.dc.gov<sup>7</sup> has yet to be updated, along with other links<sup>8</sup> on the DHS site<sup>9</sup>, the fact sheet<sup>10</sup>, and even the income guidelines<sup>11</sup> published in the online screening assessment tool itself do not reflect update information on the program.

The recent message that the programs currently available to tenants are under-subscribed is not only misleading, it is incredibly harmful. The programs are not being effectively accessed because they are in fact inaccessible. What is worse, these do not rise to the level of need of tenants in the city during this unprecedented disaster. We are concerned that contrary messaging from both DHCD and DHS could lead Councilmembers to conclude, for example, that eviction protections could be lifted in the coming months without significant harm, when we have every reason to believe the opposite is true. Low-income tenants, and disproportionately people of color, will be at the receiving end of this failure.

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<sup>6</sup> Source: <https://dhs.dc.gov/service/emergency-rental-assistance-program>

<sup>7</sup> Source: <https://coronavirus.dc.gov/rent>

<sup>8</sup> Source: <https://dhs.dc.gov/service/eviction-prevention-rent-assistance>

<sup>9</sup> Source: [https://dhs.dc.gov/sites/default/files/dc/sites/dhs/service\\_content/attachments/ERAP\\_03162020.pdf](https://dhs.dc.gov/sites/default/files/dc/sites/dhs/service_content/attachments/ERAP_03162020.pdf)

<sup>10</sup> Source:

[https://dhs.dc.gov/sites/default/files/dc/sites/dhs/service\\_content/attachments/ERAP%20Fact%20Sheet\\_0.pdf](https://dhs.dc.gov/sites/default/files/dc/sites/dhs/service_content/attachments/ERAP%20Fact%20Sheet_0.pdf)

<sup>11</sup> Source:

<https://octo.quickbase.com/db/bfpwsjvi2?a=nwr&nexturl=%2Fdb%2Fbfpwsjvh2%3Fa%3Dshowpage%26pageid%3D40>

Please let us know if you have any questions or concerns regarding this message. I can be reached by phone at (202) 386-6697 or email at [enear@legalaiddc.org](mailto:enear@legalaiddc.org).

Sincerely,

Emily Near  
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Copies to:

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