

**Testimony of Ellen Peterson
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**Before the Committee on Housing and Executive Administration
Council of the District of Columbia**

Performance Oversight Hearing Regarding the Housing Finance Agency

March 9, 2021

The Legal Aid Society of the District of Columbia¹ submits the following testimony regarding the Housing Finance Agency (HFA), specifically with respect to the agency’s critical role in administering foreclosure prevention programs for homeowners in the District.

We first want to highlight the admirable, substantial work HFA has done in reopening the HomeSaver program last month, giving District homeowners a critical opportunity to access the approximately \$4 million in federal assistance remaining from the District’s Hardest Hit Fund. We also urge HFA to engage with community stakeholders when designing any new homeownership preservation programs, especially in light of the potentially \$40 million or more in *new* federal homeowner relief funds that may soon be coming to the District.²

This Committee has a vital role to play in ensuring that HFA takes maximum advantage of the HomeSaver re-opening and any new funding streams, through renewed outreach to homeowners, the removal of barriers for applicants, and ongoing engagement with community stakeholders. Specifically, we hope the Committee will use today’s hearing to ask the following questions:

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.

² On March 6, 2021, the U.S. Senate passed H.R. 1319, the “American Rescue Plan Act of 2021,” with amendments, which provides for a homeowner assistance fund of a minimum of \$40 million for each state and the District of Columbia.

- What is HFA’s plan for ensuring full utilization of the remaining HomeSaver funds, including reaching Black homeowners, low- and moderate-income homeowners, and LEP/NEP homeowners?
- What is HFA’s plan to request and administer new federal homeownership preservation funds? How will HFA engage stakeholders in designing programming to implement the significant federal funds?
- What is HFA’s plan for bringing its application materials and programming operations into compliance with the Language Access Act?
- What other steps is HFA taking to plan for the looming surge of foreclosures in the District, in light of the substantial new federal funds and the potential limitations of those funds?

Further, in light of the limitations and conditions that are often attached to federal funds, both the Council and the Mayor need to consider preparing to supplement any new federal relief dollars that become available with local funds in the District’s FY22 budget.

As the District grapples with the complexity and urgency of how to best respond to the needs of its residents during and coming out of the pandemic, programs providing homeowner relief funds are critical. The effective administration of such programs is essential not only in preventing a new wave of foreclosures and displacement but also in addressing the racial wealth and homeownership gaps in the District, with Black homeowners facing a grossly disproportionate risk of losing their homes compared to white homeowners. HFA must ensure its programming is fully utilized and accessible to the District homeowners who are most at risk.

HFA’s Reopening of the HomeSaver Program Is A Critical Opportunity: All Remaining Funds Should Be Spent to Assist District Homeowners Before the Program Closes

HomeSaver is the District’s foreclosure prevention program funded through the U.S. Department of the Treasury’s Hardest Hit Fund. Homeowners can receive up to \$60,000 (in an interest-free, forgivable loan) for reinstatement and/or forward housing payments, including mortgage, property taxes, and condominium and homeowners’ association dues.

Historically, HomeSaver has been a lifeline for distressed District homeowners and an important tool for working to combat the District’s racial wealth and homeownership gap. From the program’s inception, 86 percent of all recipients have been Black homeowners,³ and in the first

³ DCHFA, HomeSaver Quarterly Reports, June 2020, available at: https://dchfa.org/wp-content/uploads/2020/11/hfa_dc_q22020.pdf; all HomeSaver Quarterly Reports available at <http://dchfa.org/homeownership/available-programs/homesaver/>.

six years of the program, 95 percent of recipients retained their home after two years.⁴ But in July 2019, the Treasury Department and HFA closed HomeSaver before distributing approximately \$4 million of remaining federal dollars to District residents – a subject of Legal Aid’s testimony before this Committee at the same oversight hearing last year.

After the onset of the pandemic and the major economic downturn our city and residents suffered, HFA received approval from the Treasury Department to re-open HomeSaver and continue distributing the \$4 million to homeowners.⁵ The HomeSaver application opened to the public on February 15, 2021, and HFA has announced it will remain open only until May 14, 2021.⁶

We applaud HFA for its work to reopen the HomeSaver program and appreciate that the agency worked with Legal Aid and other stakeholders in revising certain eligibility guidelines to increase program accessibility for low- and moderate-income District homeowners. With the program now reopened, it is critical that HFA spend down the approximately \$4 million in remaining HomeSaver funds to aid District homeowners. Any unused portion of the \$4 million will remain with the federal government, and District homeowners will lose out. We hope that HFA will engage in aggressive outreach on the availability of HomeSaver funds and be flexible on the May 14th application deadline in the event that the entirety of the funds has not yet been committed. The agency should also maintain transparency with the public on any extensions or other changes to relevant deadlines, providing as much advance notice as possible.

HFA Should Prepare for the Effective Administration of New Federal Funds by Involving Stakeholders in Program Design, Engaging in a Race Equity Analysis, and Ensuring Language Accessibility

As an initial matter, under the current version of the American Rescue Plan Act of 2021, the District and HFA would need to elect to receive the new federal funds, set at a minimum of \$40 million, within a certain timeframe. The Committee should ensure the District does so and that HFA builds up sufficient staffing and other resources necessary to effectively administer the new federal funds.

Stakeholder Involvement

In preparing to receive the new federal funds, HFA should engage with local stakeholders to design the programs through which it will administer the funds. With substantial stakeholder input, the design of any new homeownership retention programs should take into account the

⁴ DCHFA, Press Release: “DCHFA Relaunches the HomeSaver Foreclosure Prevention Program,” June 27, 2016, available at <http://www.dchfa.org/wp-content/uploads/2018/06/press-release-dchfa-relaunches-homesaver-foreclosure-prevention-program.pdf>.

⁵ DCHFA, Press Release: “DCHFA Relaunches the HomeSaver Foreclosure Prevention Program,” February 16, 2021, available at <https://thedcline.org/2021/02/16/press-release-dchfa-relaunches-the-homesaver-foreclosure-prevention-program/>.

⁶ DCHFA, <https://www.dchfa.org/homeownership/available-programs/homesaver/>.

lessons learned from the successes and challenges of HomeSaver. HFA should assess the demographics of which homeowners are accessing HomeSaver dollars and determine whether there are certain eligibility criteria (such as program guidelines or documentation requirements) that are standing in the way of the funds being more effectively routed to the homeowners who need them the most.

Race Equity Impact

Effective implementation of HFA's home preservation programs has critical racial equity implications, as the risk of foreclosure is particularly high for Black homeowners in the District. In general, the number of District homeowners at risk of losing their homes is already high. At the beginning of 2020, 1,389 mortgage foreclosure cases were pending in D.C. Superior Court – and that does not include *any* homeowners who fell behind on their mortgages after the pandemic hit, or any homeowners who are at risk of condominium or tax foreclosure.⁷ It is difficult to assess the number of homeowners who have fallen behind due to the pandemic. However, the Census Bureau's Household Pulse Survey from February 3 – February 15, 2021, indicates approximately 6.5 percent of District homeowners are behind on their payments.⁸

Against a backdrop of already racially disparate rates of homeownership,⁹ Black homeowners face a grossly disproportionate risk of losing their homes compared to white homeowners. **Of all District homeowners who report being behind on their payments, over 87 percent are Black and only 1 percent are white.**¹⁰ Black homeowners nationally are also less likely to have accessed mortgage relief through forbearance programs.¹¹

⁷ Summary data provided by D.C. Courts' Strategic Management Division.

⁸ U.S. Census Bureau, Week 24 Household Pulse Survey, Housing Tables, Table 1a. "Last Month's Payment Status of Owner Occupied Housing Units" (Excel spreadsheet), available at <https://www.census.gov/data/tables/2021/demo/hhp/hhp24.html>.

⁹ In the District, about 50% of Black households own their homes, compared to more than 70% of white households. Ally Schewitzer, WAMU, "For Many Black Washingtonians, Homeownership Remains Out of Reach," February 11, 2020, available at: <https://wamu.org/story/20/02/11/for-many-black-washingtonians-homeownership-remains-out-of-reach/>.

¹⁰ U.S. Census Bureau, Week 24 Household Pulse Survey, Housing Tables, Table 1a. "Last Month's Payment Status of Owner Occupied Housing Units" (Excel spreadsheet, DC tab), available at <https://www.census.gov/data/tables/2021/demo/hhp/hhp24.html>.

¹¹ Sharon Cornelissen and Alexander Hermann, Joint Center for Housing Studies of Harvard University, "A Triple Pandemic? The Economic Impacts of COVID-19 Disproportionately Affect Black and Hispanic Households," July 7, 2020, available at: <https://www.jchs.harvard.edu/blog/a-triple-pandemic-the-economic-impacts-of-covid-19-disproportionately-affect-black-and-hispanic-households>.

These disparities are consistent with the disproportionate impact the pandemic has had on Black employment. At the end of 2020, the unemployment rate in the District’s predominately Black wards, 7 and 8, was 13.4 percent and 17.5 percent, respectively,¹² while the District’s overall unemployment rate was 7.9 percent.¹³ Nationally, more than one in three Black homeowners who lost employment income struggled to make their housing payments this past year.¹⁴ These disparities place Black homeowners at a significantly and unacceptably greater risk of losing their homes than their white counterparts.

We urge HFA to take these racially disparate impacts, as well as the history of credit discrimination against Black borrowers, into account when designing and implementing its programming.

Language Access

Additionally, HFA must ensure that applications for its programs are accessible in every language covered by the Language Access Act. The District’s Language Access Act of 2004 (DCLAA) requires District agencies to assess the need for and offer oral language services, as well as written translation of vital documents, in any non-English language spoken by a limited English-proficient (LEP) or non-English proficient (NEP) population that constitutes 3% or 500 individuals (whichever is less) of the population served or encountered or likely to be served or encountered by the agency.¹⁵ In 2019, the most recent year for which the DC Office of Human Rights (OHR) has published its annual review on agencies’ compliance with the DCLAA, OHR noted that HFA failed to submit an annual report describing its language access implementation efforts and its assessment of non-English languages spoken by the LEP/NEP populations it serves.¹⁶ HFA has also failed to make certain vital documents, including applications for the newly reopened HomeSaver program, available online in languages other than English.

¹² DOES, “District of Columbia Labor Force, Employment, Unemployment, and Unemployment Rate By Ward,” available at: https://does.dc.gov/sites/default/files/dc/sites/does/release_content/attachments/DC%20Ward%20Data_Dec20-Nov20-Dec19.pdf

¹³ DOES, Press Release: “District of Columbia Unemployment Rate at 7.9 Percent in December,” January 26, 2021, available at: <https://does.dc.gov/release/district-columbia-unemployment-rate-79-percent-december>.

¹⁴ Sharon Cornelissen and Alexander Hermann, Joint Center for Housing Studies of Harvard University, “A Triple Pandemic? The Economic Impacts of COVID-19 Disproportionately Affect Black and Hispanic Households,” July 7, 2020, available at: <https://www.jchs.harvard.edu/blog/a-triple-pandemic-the-economic-impacts-of-covid-19-disproportionately-affect-black-and-hispanic-households>.

¹⁵ D.C. Code §§ 2-1932; 2-1933(a); D.C. Mun. Regs. tit. 4, § 1205.

¹⁶ D.C. Office of Human Rights, “FY 2019 Language Access Program Annual Compliance Review,” available at: https://ohr.dc.gov/sites/default/files/dc/sites/ohr/publication/attachments/OHRLAR19_FINAL_121820.pdf (“DCHFA has not met its requirement or obligation under the LA Act of 2004. In

We urge HFA to make its HomeSaver application available in Spanish and to review all of its program applications and operations to ensure that it is meeting its obligations under the Language Access Act. By implementing these changes now, HFA will be better prepared to equitably administer the \$40 million of new federal homeowner assistance funds to LEP/NEP residents.

While New Federal Funds Could be Substantial, the District May Need Local Funds to Meet Homeowners' Needs

While local and federal foreclosure moratorium protections are temporarily staving off massive losses in homeownership due to or further fueled by the pandemic, the District will be facing a surge of foreclosures when those protections come to an end.

The substantial federal funds, both from HomeSaver and the new American Rescue Plan Act of 2021, will be vital to preserving homeownership in the District. But as we know from the administration of HomeSaver, the existence of funds does not always mean that District homeowners can access them. The District may need a locally-funded program, where eligibility requirements can be tailored to District homeowners' needs. The Council and HFA should remain prepared to fund supplementary programs to help fill gaps in the federally-funded programs.

To fund a local homeownership preservation program, HFA should consider whether it can divert funds from the DC MAP COVID-19 program. DC MAP COVID-19 is a local mortgage assistance program that can provide loans to homeowners who fell behind due to the pandemic. However, the program's reach is limited: It can only help with up to six months of mortgage payments, must be repaid over three years, and is only available to people who do not qualify for any other relief option, including a forbearance.¹⁷ It is very unlikely that anyone would meet these criteria, and for low- and moderate-income homeowners, amortizing the repayments over three years on top of their mortgage payments would not be affordable. We encourage the Council to ask HFA about how much DC MAP COVID-19 funding is still available and whether it could be repurposed to fund a local supplement to the federal homeownership preservation programs.

Conclusion

We thank the Committee for the opportunity to submit this testimony. The Committee should engage with HFA through ongoing discussions to ensure HFA uses all of the remaining HomeSaver funds and effectively accesses and administers the soon-to-be-available new federal

FY19, DCHFA once again failed to report on LA compliance and implementation activities[.] In FY20, OHR urges DCHFA to fulfill language access compliance training and reporting requirements and ensure that the agency's website contains vital information in the top languages spoken by LEP/NEP customers.”).

¹⁷ DCHFA, <https://dchfa.org/dcmap-covid/>.

funds. HFA should engage community stakeholders in developing the programs through which it will administer the new federal funds to ensure that the programs reach District homeowners most in need. HFA should engage in broad, aggressive outreach, staff the programs sufficiently, and make all of its programs accessible to LEP/NEP residents. Distressed District homeowners, and particularly Black homeowners, need every dollar that can be made available to help save their homes.