

**Testimony of Jennifer Klein Joseph  
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**Before the Committee on Housing and Executive Administration  
Council of the District of Columbia**

**Budget Oversight Hearing Regarding the  
Department of Housing and Community Development**

**June 4, 2021**

The Legal Aid Society of the District of Columbia<sup>1</sup> submits the following testimony regarding the Mayor’s proposed budget for the Department of Housing and Community Development (DHCD). This testimony focuses on the District’s critical role in making sure that vulnerable homeowners have access to the financial relief and protections they need to have a meaningful chance at economic and housing stability coming out of the pandemic.

The American Rescue Plan Act of 2021 established the “Homeowner Assistance Fund” (HAF), which will provide up to \$50 million for the District to provide direct assistance to homeowners struggling with their mortgage and other housing-related payments, as well as utilities. If HAF programs are designed and rolled out effectively, this new source of federal funding has the potential to prevent thousands of foreclosures and to preserve Black and Latinx homeownership in the District. But without careful planning, the District is at risk of intensifying the displacement of Black and Brown residents and widening the already stark racial wealth gap in the District.

We urge DHCD to ensure that the HAF programs are designed to be low-barrier and to meet the needs of District’s most vulnerable homeowners. The Committee should use the budget process to ask DHCD how it will ensure that homeowners will be able to navigate the application process without unnecessary obstacles, and its oversight authority to monitor implementation of the District’s HAF program. We also urge the Council to ensure that the HAF programs are open and working effectively *before* lifting the moratoria on foreclosure and utility disconnection.

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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).

Moratorium protections have been crucial to keeping District residents who are struggling safe and in their homes. To avoid a wave of displacement and protect homeowners – including Black and Brown homeowners – the Council must provide homeowners time to successfully access relief before allowing foreclosures and utility disconnections to resume.

**The end of the foreclosure moratorium will immensely impact District residents, especially Black and Latinx residents.**

By enacting the foreclosure moratorium prohibiting mortgage and condo foreclosures of owner-occupied homes during the District’s public health emergency and for sixty days after, the D.C. Council has kept thousands of individuals and families housed during the ongoing pandemic. Pre-pandemic, at the beginning of 2020, there were already 1,389 mortgage foreclosure cases pending in D.C. Superior Court – not including any homeowners who were at risk of foreclosure for other reasons, such as inability to pay their condominium dues or property taxes. After the pandemic hit, the number of households struggling to make their mortgage payments skyrocketed. The Census Bureau’s Housing Pulse Survey released in April 2021 indicates that more than 20,000 households in the District reported being behind on their mortgage payments.<sup>2</sup>

Against a backdrop of systemic racism in lending, reverse redlining, and already racially disparate rates of homeownership, homeowners of color face a grossly disproportionate risk of losing their homes when pandemic protections are lifted. Of all District households reporting being behind on their payments, 90% identify as Black or Hispanic.<sup>3</sup> Black and Brown homeowners nationally are also less likely to have accessed mortgage relief through forbearance programs.<sup>4</sup>

Despite the staggering data on the impact of the pandemic and the number of people who stand to lose their housing when pandemic protections end, there is a way forward that can mitigate these impacts and work to support a more equitable transition from pandemic protection to recovery.

**The District should design its Homeowner Assistance Fund programs to be low-barrier and targeted to meet the needs of the District’s most vulnerable homeowners.**

If HAF programs are designed and rolled out effectively, this new source of federal funding has the potential to prevent thousands of foreclosures. To have this kind of an impact, it will be

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<sup>2</sup> U.S. Census Bureau, Week 27 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/hhp27.html>.)

<sup>3</sup> *Id.*

<sup>4</sup> 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>.

critical for the District to design its HAF programs with several goals in mind. Specifically, the District’s planning and design efforts should be guided by the following priorities:

1. *Creating a Low-Barrier, Streamlined Application Process*

In setting up its HAF programs, the District should make the application process as low-barrier as possible to avoid creating unnecessary obstacles and delays in application processing. To that end, the District should prioritize the following in its program design:

- Allowing self-attestation wherever possible to avoid documentation barriers;
- Creating multiple entry points for applications – giving homeowners flexibility on whether to apply on their own or go through another organization, such as a community-based organization or a legal services organization;
- Allowing application submissions through a variety of means, including paper applications, to reduce barriers for homeowners with limited technology access; and
- Ensuring that HAF application materials, instructions, correspondence, and program documents are available in other languages, particularly Spanish.

2. *Engaging in significant data collection about mortgage, condominium, homeowners’ association, and property tax delinquencies so that the District has a clear picture of the scope of the community’s need*

The District should engage in significant data collection to determine the scope of mortgage, condo/HOA, property tax, and utility delinquencies to determine the amount of assistance that will be required to help homeowners fully recover from the pandemic and keep their homes. The District should start collecting these data immediately so that they can inform HAF program design, such as targeting of funds and setting maximum assistance levels. Moreover, Treasury has conditioned receipt of the full amount of HAF funds on approval of a HAF plan that includes a data-driven assessment of homeowner needs, disaggregated by demographic categories and geographic areas.<sup>5</sup>

3. *Targeting funds so that they reach the District’s most vulnerable homeowners*

Data collection will also be critical in targeting funds to the District’s homeowners most in danger of foreclosure. The Department of Treasury guidance issued for HAF requires that funds be targeted such that not less than 60% of the funds provided to the District are used for expenses to assist homeowners having incomes equal or less than 100% of the area median income or equal or less than 100% of the median income for the United States, whichever is greater.<sup>6</sup> Treasury’s guidance requires that any amounts not made available to homeowners that meet this income targeting must be prioritized for assistance to “socially disadvantaged individuals.”<sup>7</sup>

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<sup>5</sup> U.S. Department of the Treasury, Homeowner Assistance Fund Guidance (April 14, 2021), available at <https://home.treasury.gov/system/files/136/HAF-Guidance.pdf>.

<sup>6</sup> *Id.*

<sup>7</sup> Treasury’s guidance defines “socially disadvantaged individuals” as “those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.... There is a rebuttable presumption that the

The District should go further than what Treasury requires to make sure that the most vulnerable homeowners are being targeted with outreach – including outreach materials in languages other than English – and have priority access to funds. The District should use this money strategically as a tool in preventing displacement and preserving affordable housing.

4. *Engaging with community stakeholders before making major programming decisions*

Consistent with Department of Treasury guidance, we also urge the Council in its oversight capacity to require DHCD to post its draft HAF plans for public comment and to hold public hearings so that stakeholders and community members have the opportunity to comment on the proposed plans before they are finalized.<sup>8</sup> With substantial stakeholder input, the design of any new homeownership retention programs should take into account the lessons learned from the successes and challenges of other housing-related programs, including but not limited to DC HomeSaver and the STAY DC program for renters.

**The District must ensure that Homeowner Assistance Fund programs are open and working effectively for eligible homeowners *before* lifting restrictions on home foreclosures and utility disconnections.**

Timing will play a critical role in whether the District’s pandemic protections work as intended: to not only stave off immediate harms, but also to give the District’s most vulnerable residents a real chance at recovery, including achieving housing and economic stability. The purpose of the moratoria was never to simply delay the devastation of the pandemic until after the public health emergency, and the District should not accept that result now.

As of the date of this hearing, the Department has not yet submitted its proposals for the design of its HAF programs because it and other agencies across the country continue to wait for further guidance from the Department of Treasury regarding program implementation. Jurisdictions are required to submit their proposed HAF plans to Treasury by June 30, 2021, or, alternatively, to inform Treasury of the date by which their HAF plans will be submitted.

It is essential that foreclosure moratorium protections remain in place – even if that means that extending the foreclosure moratorium for longer than 60 days beyond the public health emergency – until the District has rolled out its HAF programs, conducted outreach to target communities, and collected data to indicate that the programs are working effectively. The widespread problems experienced by renters trying to apply for assistance from STAY DC should serve as a clear example of how the mere existence of relief funds or availability of programs does not translate into actual relief for those eligible to receive assistance.

By keeping the existing foreclosure moratorium protections in place until HAF programs are open and operating effectively, the District can leverage these substantial federal funds to

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following individuals are socially disadvantaged: Black Americans, Hispanic Americans, Native Americans, and Asian Americans and Pacific Islanders.” *Id.*

<sup>8</sup> U.S. Department of the Treasury, Homeowner Assistance Fund Guidance (April 14, 2021), available at <https://home.treasury.gov/system/files/136/HAF-Guidance.pdf>.

dramatically increase housing and economic stability for residents hardest hit by the pandemic, rather than driving large-scale foreclosure and displacement.

Finally, keeping the District's utility disconnection moratoria in place is also critical. The federal legislation creating HAF specifically allows states to create programs for the payment of utilities for struggling homeowners. But homeowners cannot apply for a program that does not yet exist in the District, and homeowners are categorically ineligible for utility assistance from STAY DC (even though that program also is not working effectively for renters who qualify). Until such programs are opened and working effectively, the existing automatic protections against utility shutoffs should remain in place.

### **Conclusion**

We thank the Committee for the opportunity to submit this testimony, and we look forward to working with the Department and members of the Committee and the Council on continuing efforts on HAF planning.