

**Testimony of Matthew Boucher
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**Before the Committee on Human Services
Council of the District of Columbia**

**Oversight Hearing on the Department of Human Services' Implementation of Historic
Housing Investments and Pandemic Recovery Efforts**

November 10, 2021

The Legal Aid Society of the District of Columbia¹ submits the following testimony regarding the Department of Human Services' implementation of historic housing investments and pandemic recovery efforts, specifically addressing the Rapid Rehousing Program, the need for additional emergency rental assistance funds, and the DC Flex Program.

The Covid-19 pandemic exposed and exacerbated long-standing racial and economic inequalities in our community. After the worst effects of the pandemic passed, this Council made historic investments in new rental subsidies in the Homes and Hearts Amendment Act of 2021, and the federal government allocated historic funding to provide rental assistance to tenants through what is now the Stronger Together by Assisting You ("STAY DC") program. The benefits of these investments are overwhelmingly likely to be felt by those residents who suffered the greatest harm during the pandemic: low-income DC tenants of color. The Department of Human Services (DHS) is charged with administering and overseeing both investments, and as a result DHS has an incredibly important role to play in facilitating a more equitable pandemic recovery for DC residents.

As we have previously noted, research shows that the best and single most cost-effective poverty reduction tool is the provision of stable and affordable housing.² The unprecedented investments

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, <https://www.LegalAidDC.org/>, and our blog, <https://www.MakingJusticeReal.org/>.

² See, e.g., The Nation Low Income Housing Coalition, *Explore Issues: The Problem* available at <https://nlihc.org/explore-issues/why-we-care/problem>.

in affordable housing made by this Council through the Homes and Hearts Amendment Act have given DHS the ability to provide more DC residents access to stable and affordable housing. These new subsidies have ensured that DHS does not have to exit any current participant from Rapid Rehousing and have also provided DHS substantial resources to end its reliance on the Rapid Rehousing program in the future. Following these investments, this Council should ensure that DHS does not exit any family from Rapid Rehousing based solely on that family having exceeded the program's maximum length of stay, without ensuring that the family either can afford their rent or has safe, affordable, and sustainable alternate housing arrangements. The Council should also require DHS to begin to transition future resources away from this fundamentally flawed program.

The Council must also find a way to meet the needs of DC tenants in the wake of the exhaustion of federal funds that were awarded to the District and distributed through the STAY DC program. The FY22 ERAP budget is grossly inadequate considering the current need. Without additional funding for eviction prevention, thousands of DC households could face eviction.

Finally, Legal Aid sees potential in the early results of the DC Flex Program. We encourage DHS's expansion of the program where it is used with the correct families, governed by regulations that are clear regarding eligibility criteria and the program's target population, and subject to a rigorous oversight process including data collection regarding program participants' outcomes.

Rapid Rehousing does not work in DC

Legal Aid has long advocated for the Council to end DHS's overuse of Rapid Rehousing and maintained that these funds should instead be used on other tools that are more efficient and effective in reducing homelessness. Specifically, Legal Aid has advocated that these funds could be better spent on long-term rental subsidies that keep participant families stably housed, like the ones provided for in the Homes and Hearts Amendment Act.

The theory behind the Rapid Rehousing Program has always been that once a participant has temporary housing, they will quickly be able to earn more income due to the increased stability and support that comes with it. Under the program guidelines, when new participants enter the program, they are generally required to pay 40% of their income in rent, but after 12 months they are expected to be able to pay their entire rent themselves. This graduated subsidy makes sense in theory and may even be successful in parts of the country with available affordable housing and few barriers to employment. It may even be a reasonable option for an otherwise high-income family that experiences an unexpected short-term financial hardship.

Unfortunately, Rapid Rehousing has never been effective in DC. For families served in FY20, the average monthly income at entry was \$952.³ At exit, families had an average monthly income of \$992, an increase of only \$40 per month after completing the program.⁴ Only 9.3% of

³ DHS FY20-FY21 Performance Oversight Responses, Q62.

⁴ Id.

households increased their income.⁵ Meanwhile, the average rent for a two-bedroom apartment for a program apartment is \$1,546.34.⁶ These numbers mean that upon completion of the Rapid Rehousing Program, the average participant family must pay 155% of their income in rent, or face eviction. The numbers from FY20 are not an anomaly. In FY19, the last year before the Covid-19 pandemic, the average monthly income at entry was \$929.75, and \$1,006.37 at exit.⁷ Only 7% of families experienced an increase in income.⁸

These numbers demonstrate just how ineffective Rapid Rehousing has been in helping participants secure stable, affordable housing. Legal Aid has watched year after year as participants struggle with the decision that this program forces most families to make, which is choosing between leaving their homes with nowhere to go or facing an eviction case in Landlord Tenant Court. In order for a participant family to be able to “afford”⁹ the full rent for the average two-bedroom apartment in the program, participants would suddenly need to more than quadruple their average household income in the wake of a global pandemic, and in the face of a continuing affordable housing crisis. This outcome is unimaginable and demonstrates that continued investment in Rapid Rehousing is extremely unlikely to achieve the goals that DHS has set.

DHS should ensure that current program participants remain stably housed

It remains Legal Aid’s position that no new families should be entered into this failed program. However, given these unprecedented new resources, DHS has a responsibility to ensure that current program participants remain stably housed if they are to be exited from the program. According to the notice for this hearing, the Homes and Hearts Amendment Act of 2021 invested \$65 million in housing vouchers and housing subsidies and created more than 2,400 long-term rental subsidies.¹⁰ This amounts to approximately \$27,083 per subsidy. Comparatively, the total funding for Rapid Rehousing in FY21 was \$88.2 million,¹¹ and there are approximately 3,000 families in the program.¹² If that sum were put towards long-term subsidies on the same cost basis as in the Homes and Hearts Amendment Act, this would create approximately 3,256 additional long-term subsidies, which would be slightly more than one subsidy per family currently in the Rapid Rehousing Program. While we recognize that the cost basis for the new subsidies provided for in the Homes and Hearts Amendment Act may differ in certain ways from what it would cost to provide a similar subsidy to a family currently in Rapid Rehousing, it is clear that DHS has sufficient resources to ensure that all current program participants remain stably housed in the near-term.

⁵ Id.

⁶ DHS FY20-FY21 Performance Oversight Responses, Q59.

⁷ DHS FY19-FY20 Performance Oversight Responses, Q99.

⁸ Id.

⁹ The Department of Housing and Urban Development defines affordable housing as that which costs no more than 30% of household income.

¹⁰ Notice of Public Oversight Hearing on “The Department of Human Services’ Implementation of Historic Housing Investments and Pandemic Recovery Efforts.”

¹¹ DHS FY20-FY21 Performance Oversight Responses, Q59

¹² Id.

Legal Aid has long advocated that no family should be exited unless they can afford their monthly rent without a subsidy (based on the federal definition of affordability) and that all families who cannot afford the rent without a subsidy should be exited into permanent subsidy programs. DHS now has the resources to make this a reality. These extensions will also prevent terminations from contributing to the eviction and homelessness crisis that is likely to follow the expiration of pandemic-era tenant protections, especially in light of the current shortage of emergency rental assistance funds.

DC should transition resources away from Rapid Rehousing and now has the resources to do so

Legal Aid believes that passage of the Homes and Hearts Amendment Act of 2021, which invested in long-term housing subsidies instead of Rapid Rehousing, should signal the beginning of widespread recognition that Rapid Rehousing is a failure. As more current program participants enter long-term stable housing, DHS should reallocate the funds currently devoted to Rapid Rehousing to the same permanent subsidies funded by the Act, because they lead to permanent and stable housing. Specifically, the Council should use this funding to increase spending on the Local Rent Supplement Program (LRSP), Targeted Affordable Housing (TAH), and Permanent Supportive Housing (PSH). Each of these three interventions – intended to meet different needs within the population of families struggling to escape homelessness – has been shown to be more effectively address family homelessness in the District.

DC must ensure that additional emergency rental assistance is available to its residents who need it most

No discussion of pandemic recovery efforts would be complete without addressing the dire need for additional funding for emergency rental assistance. The Council permitted actual evictions and eviction case filings alleging nonpayment of rent to resume shortly after the expiration of the Public Health Emergency, based on widely available rental assistance. DHS then closed the STAY DC portal to new applications on October 27, 2021, and DHS anticipates that pending applications will exhaust all remaining federal funds. While the Council has paused the filing of new eviction cases based on nonpayment of rent where a STAY DC application has not already been initiated until January 1, 2022, those protections soon will fall away.

More importantly, there is still tremendous need for additional rental assistance in DC. Approximately 13,900 DC households are still behind on rent, according to U.S. Census Pulse data from September 1st to October 11th.¹³ This estimate is from just weeks before the STAY DC portal closed to new applications. Without additional funding, thousands of DC tenants and households could face eviction, and if unaddressed, this crisis is almost certain to lead to a surge in homelessness in DC.

¹³ Center on Budget and Policy Priorities analysis of the U.S. Census Bureau Pulse Survey September 1 through October 11: <https://www.census.gov/programs-surveys/household-pulse-survey/data.html#phase3.2>

At approximately \$15 million,¹⁴ the current funding for the Emergency Rental Assistance Program is woefully insufficient to meet the needs of these tenants. The budget was passed before much of the \$352 million allocated to STAY DC had been spent, and at a time when many anticipated that the STAY DC funds would cover most if not all of DC residents' pandemic arrearages. Notably, the \$15 million budgeted for ERAP was only intended to cover amounts ineligible for STAY DC, in particular arrearages due from before the Covid-19 pandemic. Now that STAY DC funding has been exhausted, and with STAY DC funding having been spent at a rate of approximately \$10 million per week in recent months, it is obvious that the ERAP budget will be depleted quickly. Legal Aid supports PR24-468, the Sense of the Council Eviction Prevention Resolution of 2021, which calls on the U.S. Treasury Department to identify additional emergency rental assistance funds for the District and asks the Mayor to address this funding shortfall by allocating money from other sources, whether from the federal government or from elsewhere within DC's budget (but not areas of the local budget that fund other safety net programs). Providing additional funding for emergency rental assistance is critical to averting the homelessness crisis that is almost certain to follow if it fails to do so.

Expansion of the DC Flex Program Provides an Opportunity to Assess the Potential for Shallow Subsidies to Provide Housing Stability for Families on the Edge

We see potential in the expansion of the DC Flex program – the FY 2022 budget provides funding for 500 families to enter this program, which had previously been limited to a pilot of 125 families. It is no secret that there was a rent affordability crisis in the District long before the Covid-19 pandemic. Similarly, it has long been clear that ERAP is not well-suited to addressing the kind of ongoing rent burden faced by many low-income families. While the Council and DHS have often expressed concern about how to address the “problem” of families accessing ERAP multiple years in a row, we have long maintained that this is simply a reflection of the District's affordable housing crisis, and lack of adequate support programs.

The fact is that for many low-income families in the District, their rent burden is so high that they are extremely susceptible to emergencies, and may face significant difficulty recovering from economic setbacks. With no other assistance program available, these tenants are routed to ERAP, which then runs out of funding year after year. While the ideal solution would be to provide full subsidies to ensure true rent affordability for all households in the District, short of the resources required to accomplish that, we believe that a shallow subsidy program like DC FLEX may be successful in providing housing stability and meaningful financial relief to many families whose rent is currently unaffordable. To the extent that it reduces homelessness and forced moves, it is also likely to save the District money in the long run. For example, preliminary data suggests that those families in the existing DC Flex pilot program were 29% less likely to access other housing support programs, particularly Rapid Rehousing.

Early analysis from the pilot program suggests that program participants are very satisfied with the program, and that they experienced it as more empowering than the Rapid Rehousing model – it is also significantly less expensive per household assisted. However, to determine whether DC Flex is an effective use of resources, it is critical that there be full transparency and robust

¹⁴ DC FY22 Budget, Volume 6, Operating Appendices.

oversight around the program's implementation and outcomes as the scale increases. DHS should propose and finalize regulations for the program and should strive to collect and maintain data that will allow both the agency and the Council to assess whether program requirements or regulations should be adjusted. Eligibility requirements should be clear and targeted toward families on the edge of housing instability. Additionally, we encourage both DHS and the Council not to focus outcome assessment primarily on whether families are prepared to exit the program after the initial assistance period (currently 4 years for the pilot program), but instead to look holistically at available data to assess costs saved and other benefits of providing shallow subsidies indefinitely as an alternative to routing families through homeless services programs or forcing families into substandard housing or frequent relocations.

We believe that, properly implemented, DC Flex could provide meaningful assistance to families with consistent income who are nevertheless priced out by the DC housing market to maintain stability, while allowing DHS to direct full subsidies to families with the greatest need, and conserving ERAP funding for families in acute crisis or facing one-time emergencies. We look forward to working with the Council and DHS to explore the role shallow subsidies can play in working toward affordable housing for all DC residents.

Conclusion

The Homes and Hearts Amendment Act represents a significant investment in low-income communities of color, following the devastation wrought on them by the Covid-19 pandemic. The reallocation of resources away from Rapid Rehousing in favor of permanent housing subsidies, continued investment in emergency rental assistance, and the DC Flex Program, are practical solutions to avoid the economic and social cost of evictions, housing instability, and homelessness.

We appreciate the opportunity to testify before this Committee on DHS's implementation of these historic housing investments and pandemic recovery efforts. We look forward to continuing to work with this Committee to ensure that DHS effectively implements these investments.