

**Testimony of Shirley Horng
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**Before the Committee on Housing and Executive Administration
Council of the District of Columbia**

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

January 19, 2022

The Legal Aid Society of the District of Columbia¹ submits this testimony regarding the Department of Housing and Community Development’s (DHCD) role in administering the Homeowner Assistance Fund (HAF). HAF will deliver \$50 million in federal funds to help District homeowners who are suffering financially due to the pandemic. Over 8,000 District homeowners currently report being behind on their mortgage payments, and nearly 95 percent of them identify as Black or Latinx. Once up and running, HAF will help homeowners catch up on mortgage payments, condo fees, property taxes, and other housing-related payments to avoid foreclosure and displacement. We urge DHCD to do everything it can to make the funds accessible promptly, including expanding the existing pilot now and being ready to open the full HAF to all eligible homeowners as soon as possible after Treasury approval but no later than 45 days.

This Committee plays a vital role in overseeing and ensuring that DHCD stands up HAF successfully and opens to all eligible homeowners soon after Treasury approval. Specifically, we hope the Committee will use today’s hearing to ask the following questions:

- What plans does DHCD have to expand the HAF-Pilot as soon as possible, given that the application portal, review process, and community-based organizations

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 90 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.

are already in place; DHCD doesn't need approval from Treasury to expand the pilot; and there are still funds for homeowners in the pilot?

- After Treasury approves the District's HAF plan, what is DHCD's plan and timeline for opening HAF to all eligible homeowners?
- What infrastructure, resources, and staffing does DHCD need to be ready to open HAF to all eligible homeowners within 45 days of Treasury approval?
- Will HAF be administered by community-based organizations in conjunction with DHCD, as the HAF-Pilot has been? Or will DHCD be contracting part or all the administration to a third party?
- For the payment process, what faster alternatives is DHCD considering other than requiring all HAF payees to become District vendors, which can take many months for each payee to accomplish?

The HAF Program Has Great Potential

The HAF program is a rare opportunity to accomplish several important policy goals. It is distinct from other homeownership assistance programs because it is a grant that does not need to be repaid at any point by the homeowner. HAF therefore has the potential not only to prevent foreclosures and displacement, but also to provide long term housing stability, preserve low- and moderate-income homeownership, and build intergenerational wealth, which would in turn narrow the racial wealth gap in the District.

Both Legal Aid and DHCD share the goal of preventing foreclosures of District homeowners through equitable, effective, and efficient distribution of the Homeowner Assistance Fund. DHCD must ensure HAF is fully utilized and accessible to District homeowners most at risk, specifically Black and Latinx homeowners who face a grossly disproportionate risk of losing their homes compared to white homeowners. Legal Aid also believes that no homeowner who is eligible for HAF should be foreclosed upon while relief funds are in the pipeline.

We commend DHCD for proposing to Treasury a HAF plan that recognizes the unique challenges of being a homeowner in the District. The District's HAF proposal prioritizes ease of accessing the funds for homeowners in financial distress, and it attempts to streamline the application process and reduce barriers. We also appreciate DHCD's engagement and collaboration with Legal Aid and other community stakeholders when designing the new homeownership preservation program, and we look forward to continuing that collaboration during the administration and implementation of HAF.

To our knowledge, the U.S. Treasury Department has sped up its review of other states' HAF plans and has recently approved many. Although it has not approved the District's plan yet, that approval is expected before long. However, Legal Aid is seriously concerned that even after Treasury approves the District's plan, DHCD is far from ready to stand up and open the full HAF program.

DHCD Can and Must Act *Now* to Expand the HAF-Pilot

The HAF-Pilot, which is not subject to Treasury approval, has been open since October 2021 but only for a very narrow set of homeowners – those owning condos in four select zip codes and who have a DHCD loan.² DHCD did an admirable job with opening the HAF Pilot Program (HAF-Pilot) in the fall. Not only did the agency create a tailored, functioning application portal and process, but it also conducted targeted outreach by mail and email to homeowners who are eligible for the HAF-Pilot to encourage them to apply. DHCD’s draft HAF proposal and its opening of the HAF-Pilot reflect a substantial amount of work and careful planning by agency staff dedicated to working on the program.

However, as the agency itself will acknowledge, there is much work still to be done and the hardest part lies ahead. Despite numerous approvals of HAF-Pilot applications, not a single payment has been made to assist a homeowner.

Furthermore, while such a narrow opening of the HAF-Pilot may have been necessary in the earliest stages of the program, DHCD should now expand access to allow additional at-risk homeowners to apply. The HAF-Pilot still has funds available, and at least 50% of the \$5 million dedicated to the HAF-Pilot must be used for direct relief to homeowners. In addition, the infrastructure and staffing (*i.e.*, the online application portal and community-based organizations) are already in place and ready to receive new applications. And because no Treasury approval is required, a HAF-Pilot expansion can happen immediately.

The expansion should target homeowners most at risk of losing their homes soon. For that reason, Legal Aid recommends that the HAF-Pilot be expanded to include:

- **condos**, regardless of zip code or whether there’s a DHCD loan; and
- **homes that have an open foreclosure court case or tax sale court case.**

Condos should be prioritized for several reasons. Condo foreclosure procedures in the District are woefully inadequate, involving an entirely out-of-court process in which an auction can be held after a mere 31-day notice. Condo owners are not entitled to payment plans or even the opportunity to engage in mediation. Moreover, after a condo association refers an account to a law firm for collection, attorney’s fees can skyrocket - so the sooner the assessments can be paid to the association, the less the attorney’s fees will interfere with a homeowner’s ability to resolve the account. Finally, unlike payments to mortgage lenders, government funds that are spent to cure condo arrears stay within the community because they go to the associations that manage and operate the condo buildings.

² A portion, \$5 million, of the \$50 million from HAF is already currently available to the District. Eligibility for the Pilot program is limited to homeowners of condominium units who live in 20019, 20020, 20032, and 20024, and who also have loans with DHCD.

Homes that have open foreclosure court cases or open tax sale cases should also naturally be prioritized because they are at a later stage of the process. When court cases have been filed, the loss of homeownership is no longer theoretical. In addition, homeowners who have court cases threatening their homes are anxious and stressed through the pendency of the case. Our clients facing foreclosure court actions and the chronic stress associated with that experience regularly report having trouble sleeping, eating, working, and living their daily lives. We hope DHCD will seriously consider expanding the HAF-Pilot for these two groups now.

Time is of the Essence for Opening the Full HAF Program

We have serious concerns about the rate at which DHCD intends to roll out the full HAF program once it receives Treasury approval. DHCD must prepare and do the work now to make sure that the program is sufficiently resourced to quickly expand and accept applications from homeowners who are behind and in urgent need of help. Even with the Council's recent passage of a limited extension of the District's foreclosure moratorium, which is a critical protection, the need for DHCD to stand up the full HAF program as quickly as possible remains urgent. Delay in opening HAF to all eligible homeowners is harmful because:

- Moratorium protection stops only the worst outcome and is temporary.
- Debt collection court cases are proceeding in the District, and condo associations are suing homeowners for condo assessments. These homeowners may qualify for HAF, but they can't currently access the program to get their assessments paid.
- Mortgage delinquencies are growing rapidly. Other relief options, such as mortgage forbearances, have already expired or are expiring soon for many homeowners. Even if a homeowner is financially able to resume making payments, the homeowner is prevented from paying toward the balance because mortgage companies generally refuse to accept anything other than a lump sum of the full amount that is overdue.
- The longer it takes to open HAF, the more homeowners who will be rendered ineligible because the amount needed to reinstate grows.
- The \$50 million won't go as far the longer it takes to distribute.

These funds have the potential to change lives now and perhaps for generations to come. The sooner DHCD can get the funds to those who need them, the better.

DHCD should stand up and open HAF no later than 45 days after Treasury approval. Two other jurisdictions, NY and MD, serve as data points. Treasury approved both plans in December 2021, and the states opened the application portals to all eligible homeowners in this month, January 2022. Funds from the HAF-Pilot program were expressly permitted to be allocated for creating the infrastructure and staffing necessary to open and administer the full HAF, so funding should not be a barrier to opening.

DHCD Must Consider the Disparate Impact of Foreclosures on Black and Latinx Homeowners as it Launches HAF

Prompt and effective implementation of HAF 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.³ 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 December 1 – 13, 2021, indicates approximately 6.25 percent of District homeowners are behind on their payments.⁴

Against a backdrop of already racially disparate rates of homeownership,⁵ 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, 87 percent identify as Black.⁶ Black homeowners nationally are also less likely to have accessed mortgage relief through forbearance programs.⁷

These disparities are consistent with the disproportionate impact the pandemic has had on Black employment. In November 2021, even before the omicron variant, the unemployment rate in the District’s predominately Black wards, 7 and 8, was 8.5 percent and 11.7 percent, respectively,⁸

³ Summary data provided by D.C. Courts’ Strategic Management Division.

⁴ U.S. Census Bureau, *Week 40 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/hhp40.html>.

⁵ In the District, about 50% of Black households own their homes, compared to more than 70% of white households. Ally Scheweitzer, 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/>.

⁶ U.S. Census Bureau, *Week 40 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/hhp40.html>.

⁷ 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>.

⁸ DOES, “District of Columbia Labor Force, Employment, Unemployment, and Unemployment Rate By Ward,” available on page 3 at: https://does.dc.gov/sites/default/files/dc/sites/does/page_content/attachments/Revised_DC%20Ward%20Data%20Nov21-Oct21-Nov20.pdf.

while the District’s overall unemployment rate was 6 percent.⁹ Nationally, more than one in three Black homeowners who lost employment income struggled to make their housing payments this past year.¹⁰ These disparities place Black homeowners at a significantly and unacceptably greater risk of losing their homes than their white counterparts.

We urge DHCD to take these racially disparate impacts, as well as the history of credit discrimination against Black borrowers, into account when considering the urgency for opening and administering HAF.

DHCD Must Meet its Language Access Obligations

Additionally, DHCD 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 or non-English proficient 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.¹¹

We appreciate that DHCD has made the HAF-Pilot application available in Spanish, incorporated access to Language Line to the HAF-Pilot, and that Spanish speaking housing counselors are available to assist at the community based organizations. DHCD should similarly make its HAF 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, DHCD will be better prepared to equitably administer the \$50 million in HAF to limited English-proficient or non-English proficient residents.

DHCD Must Address Delays in Payment Processing and Disbursement

In administering HAF, DHCD must learn from the HAF-Pilot and expedite its process for disbursing payments. Specifically, to our knowledge, no funds have yet been disbursed through the HAF-Pilot to save homes. DHCD has not even provided specific projected payment dates, even though some applications were approved as early as November. We understand the delay is due to a new process unique to HAF that requires payees to register as vendors of the District. This delay means that homeowners’ unpaid balances are continuing to grow each month, accruing more interest and fees. In addition, homeowners’ credit reports have increasing months of missed payments, which can have a variety of negative impacts, including impeding their future ability to refinance a mortgage with a high interest rate to a better one. And perhaps most importantly, homeowners continue to experience stress and anxiety relating to their home and the fear of potentially losing it, especially when mortgage companies and condo associations

⁹ DOES, “Employment Status for the Civilian Population, District of Columbia,” *available at*: https://does.dc.gov/sites/default/files/dc/sites/does/page_content/attachments/Nov_2021_EmpStatus_DC.pdf.

¹⁰ Id in 7.

¹¹ D.C. Code §§ 2-1932; 2-1933(a); D.C. Mun. Regs. tit. 4, § 1205.

continue to threaten foreclosure or debt collection action despite HAF-Pilot approval. Payments must be disbursed efficiently after approval to make program funds go as far as possible and avoid the many negative impacts of delay.

District Homeowners In Financial Distress Need This Money Now

We thank the Committee for the opportunity to submit this testimony. The effective and timely administration of HAF 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 and Latinx homeowners facing a grossly disproportionate risk of losing their homes compared to white homeowners. DHCD must ensure HAF is fully utilized and accessible to the District homeowners who are most at risk. The Committee should engage with DHCD through ongoing discussions to ensure that, soon after Treasury approves the plan, DHCD is ready to effectively, efficiently, and equitably open and administer the Homeowner Assistance Fund to all eligible homeowners. In the meantime, there are funds available through the HAF-Pilot that are not currently being accessed. DHCD should expand the HAF-Pilot immediately to condos and homes that have open foreclosure court cases and tax sale cases. District homeowners in financial distress need these life-changing funds now.