



www.legalaiddc.org
1331 H Street, NW
Suite 350
Washington, DC 20005
(202) 628-1161

***Testimony of Jennifer Klein Joseph
Supervising Attorney, Consumer Law Unit
Legal Aid of the District of Columbia***

***Before the Committee on Housing
Council of the District of Columbia***

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

February 13, 2023

Legal Aid of the District of Columbia¹ submits this testimony regarding the Department of Housing and Community Development's (DHCD) role in administering the District's Homeowner Assistance Fund to share **three principal concerns**. First, the substantial and unacceptable delays in application review and payment disbursement. Second, the current lack of a meaningful appeals process. Third, the lack of a coordinated approach to utility assistance, which leaves homeowners at imminent risk of having utilities disconnected.

¹ Legal Aid 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.

The Homeowner Assistance Fund (HAF) uses \$50 million in federal funds to provide grants to District homeowners who are suffering financially from the pandemic to save their homes and avoid displacement. HAF provides assistance to help homeowners catch up on mortgage payments, condominium fees, property taxes, utilities, and other housing-related payments.

The HAF program is a unique opportunity to stem the tide of displacement, to preserve low and moderate-income homeownership, and to build intergenerational wealth, which would in turn help to narrow D.C.'s racial wealth gap. Effective administration of the HAF program is critical to preserving Black and Latinx homeownership in the District given that Black and Latinx homeowners face disproportionately high risks of losing their homes.²

We acknowledge the hard work and dedication of DHCD's staff in administering HAF. In addition, we greatly appreciate the agency's invitation for input and its receptivity to our feedback. DHCD has kept the lines of communication with advocates open to the benefit of District homeowners. We look forward to our ongoing collaboration with DHCD to help HAF reach its full potential.

Over the past weeks and months, we have begun to see the life-changing potential of HAF funds. Legal Aid's clients who were already struggling to make ends meet and were then hit hardest by the pandemic have started getting approved for HAF funds that will enable them to keep their homes, maintain stability for their families, and build equity.

We are encouraged by data that DHCD shared indicating that, once reviewed, the overwhelming number of completed applications for the HAF program are being approved. We are similarly encouraged by data indicating that homeowners most in need – those below 50% of area median income – have made up the bulk of HAF approvals.

² A recent *Washington City Paper* article highlights a new Urban Institute study finding that Black homeownership is declining in communities east of the Anacostia River. The study found that 87% of homeowners east of the river identified as Black between 2017 and 2021, a reduction from 94% in 2005-2009. The number of home purchase mortgages taken out by Black homeowners was also substantially reduced. Bailey, Camila, *Racial Disparities in D.C. Homeownership Persist*, *Washington City Paper*, (February 9, 2023), https://washingtoncitypaper.com/article/588462/racial-disparities-in-d-c-homeownership-persist/?utm_medium=email&utm_source=Editorial+and+Events&utm_campaign=8170bc7768-EMAIL_CAMPAIGN_2023_02_09_04_03&utm_medium=email&utm_term=0_-8170bc7768-%5BLIST_EMAIL_

We also applaud the agency for designing a program with language access at the forefront where homeowners can apply for assistance in their preferred language.

Despite the achievements of the program to date, there are several areas of implementation that need to be improved. We hope the Committee will use the oversight process to ask the following questions of DHCD:

- Why is it often taking four or more months to review and approve a HAF application?
- After a homeowner's HAF application has been approved, why is it often taking many months to *over a year* to make payments?
- What is currently being done to address ongoing delays in the application review and payment disbursement processes?
- What faster alternatives to D.C.'s current vendor registration process could be used to expedite payment disbursement?
- What is the status of implementing an appeal process for homeowners whose HAF applications have been denied?
- How can DHCD coordinate with the Department of Energy and Environment (DOEE) to prevent utility shutoffs and restore services for homeowners with pending HAF applications?

DHCD must address the substantial delays in the application review and the payment disbursement processes

Application review and payment disbursement is taking many months and homeowners are facing negative consequences from the delay

Simply put, the process for both application review and payment disbursement is taking too long.

The District opened a HAF-Pilot program in October 2021. The pilot was limited in scope to a narrow subset of homeowners: condo owners with DHCD loans in four zip codes of the city. The full HAF program opened to the public on June 22, 2022, making it one of the last few programs in the country to open.

Since the pilot opened, Legal Aid has assisted over 50 homeowners with HAF applications. In both the HAF-Pilot program and the full program, the delays at all stages of the process have been substantial.

Several Legal Aid clients who were approved for HAF-Pilot funds in 2021 or early 2022 still have not received payment. One homeowner has been waiting for payment for **over 14 months** after approval. Another has been waiting for **almost a year**.

On average, our clients' applications to the full Homeowner Assistance Fund program have taken **over four months from application submission to decision**.

The overwhelming majority of Legal Aid's clients who have been approved for HAF funds are still waiting for payment. Of Legal Aid's 21 clients who have been approved for at least one form of HAF assistance through the full program, only 3 clients have received confirmation of payment. Of Legal Aid clients who applied for the full HAF program, some were approved **over five months ago and have yet to receive confirmation of payment**.

The substantial delays in reviewing applications and processing payments have serious negative impacts for homeowners. Chief among them are the stress and anxiety experienced by homeowners who fear losing their homes as mortgage companies and condo associations continue to threaten or pursue foreclosure and debt collection action. Homeowners with HAF applications that have been pending for months regularly receive collection calls and notices, even when a HAF application has been approved.

Moreover, the legislative protections against foreclosure only apply to applicants that applied for HAF and provided proof of their application to the foreclosing entity *prior to* September 30, 2022. Applicants who applied for HAF on October 1, 2022, or later are *not* protected from foreclosure. Foreclosing mortgage lenders, condo associations and their attorneys are increasingly losing their patience with the HAF process. Foreclosing entities are growing frustrated with the program delays, and homeowners are at the mercy of asking lenders and associations to cooperate with a lengthy review and payment process.

The delays also cause balances to grow as legal fees, collection costs, and additional arrears pile up. The additional costs associated with these delays mean that the \$50 million will be less effectively used as money is spent on collection costs and legal fees that could have been avoided. And finally, growing arrears make other alternatives to foreclosure (like loan modifications) less viable, particularly in the current high interest rate climate.

Underlying cause of delays

We understand that one of the principal causes of payment delays has been a burdensome process that required all payees (mortgage servicers, condo associations, etc.) to register as vendors of the District. We understand that during the pilot program and the initial weeks of the full program, the vendor registration process required completion of seven different documents and multiple points of contact. Our understanding is that the vendor registration process was streamlined somewhat in July 2022; nonetheless, payment delays remain unacceptably long.³

We also understand that the District as a whole overhauled its financial system in October 2022. While this may result in payments being disbursed more quickly in the long run, we have yet to see significant improvement in payment processing times. We urge the agency and the Council to take steps to prioritize updating the payment process for HAF disbursements and to take any other steps necessary (including adding additional staff) to ensure that payment wait times are cut exponentially.

With regard to application review, to the extent that the delays are caused by insufficient staff capacity, we encourage the agency to ensure that staffing is adequate to review and process new applications. We understand that some additional resources were dedicated to address the backlog of applications that were submitted prior to September 30, 2022. However, timely review of applications is particularly important now for homeowners who submitted applications after September 30, 2022, as they are not protected from foreclosure. Review timelines will need to be substantially shortened to minimize the likelihood of foreclosure while applications are pending approval or payment.

DHCD must establish a meaningful appeal process for denied applications

We appreciate that DHCD recognizes that every applicant who is denied for HAF assistance must have the opportunity to appeal. Thus far, information on the reason for denial of an application and how to address it has been lacking or confusing.

³ Legal Aid previously testified about the importance of addressing delays in payment disbursement during DHCD's performance oversight hearing in January 2022. Unfortunately, the concerns we raised then remain ongoing. See Testimony of Shirley Horng, Legal Aid of the District of Columbia, Performance Oversight Hearing Regarding the Department of Housing and Community Development (January 19, 2022), <https://www.legalaiddc.org/media/297/download>.

We understand that DHCD is in the process of implementing an appeal process and reiterate the feedback which we have shared in ongoing conversations with the agency. Specifically, we think the key components to any appeal process are:

- Providing applicants with clear notice explaining the basis for any denial;
- Providing clear information about how to appeal the denial and the deadline to do so;
- Providing applicants with an opportunity to explain why they believe their application was incorrectly denied; and
- Providing an opportunity to appeal for applicants who are denied at the “initial screening” stage of the HAF application.

We urge the Council to follow-up with DHCD to ensure that a meaningful appeal process is implemented as soon as possible.

DHCD should consider a coordinated approach to utility assistance designed to prevent shutoffs and restore services when a HAF application is pending

One of the particularly concerning impacts of the delay in HAF application review and payment processing is that homeowners who need assistance with utility arrears have waited months for review and payment while their utilities are in danger of being shut off or, in some instances, have already been disconnected.

We urge DHCD to prioritize reviewing requests for utility assistance for homeowners who have already lost utility services or are in imminent danger of losing services. We also urge DHCD, DOEE, and the Council to collaborate on ways to prevent utility shutoffs and restore services when homeowners have HAF applications that are pending or approved. Given the high likelihood of approval and eventual payment, we believe utility providers should be encouraged to continue providing services (or restore services after a disconnection) wherever possible when a homeowner has applied for HAF utility assistance.

Conclusion

Effective and timely administration of the HAF program is essential in preventing avoidable foreclosures and displacement, which is critical to addressing the racial wealth and homeownership gaps in the District. Cutting down the length of time needed to review applications and process payments will protect homeowners from avoidable

foreclosures, reduce stress and anxiety experienced by homeowners in financial distress, and maximize the reach of the limited pool of federal money. We urge the Council to work with the agency to ensure that the current timelines for approval and payment are substantially shortened.

In the meantime, we urge the Council to consider adopting legislation that would protect homeowners from foreclosure regardless of when they applied for HAF so that all homeowners are protected from foreclosure while their application is pending agency review and payment.

We thank the Committee for the opportunity to submit this testimony, and we thank DHCD for its ongoing collaboration and receptivity to input from Legal Aid and other community stakeholders on how implementation of the HAF program can be improved.