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

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

**April 3, 2023**

Legal Aid of the District of Columbia<sup>1</sup> submits this testimony to ask that the Committee prioritize Black Homeownership preservation in the Department of Housing and Community Development (DHCD) FY 2024 budget. Specifically, Legal Aid DC asks that some of the \$8 million enhancement for the Black Homeownership Fund be directed toward homeownership preservation. In addition, Legal Aid DC asks the Committee to approve the \$1.5 million enhancement for the Heirs Property Program. We also ask that the Committee allocate future local funding for the DC Homeowner Assistance Fund when the federal funds are depleted.

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<sup>1</sup> 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 91 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).

## **Legal Aid DC Asks the Committee to Direct Some of the \$8M Enhancement for the Black Homeownership Strike Force Recommendations Toward Preservation**

We have learned that the \$8 million in additional funds to implement the recommendations by the Black Homeownership Strike Force is all for the Home Purchase Assistance Program (HPAP). Legal Aid DC urges this Committee and DHCD to prioritize preserving Black homeownership and to allocate some of the enhancement toward homeownership preservation. Preserving homeownership not only helps to close the racial wealth gap by retaining the home equity already gained, but it also prevents the foreclosure and eviction of homeowners who are behind on mortgage or tax payments.

Legal Aid DC hopes DHCD is willing to work with us and our client community on implementing the Strike Force recommendations that relate to homeownership preservation.

### Home Equity is the Primary Source of Wealth

“Home equity is the single largest contributor to household wealth,”<sup>2</sup> and “having wealth means having staying power.”<sup>3</sup>

Homeowners in this region generally see even greater gains in home equity than the national average, and the typical homeowner in the DMV accumulated \$286,200 in home equity after just ten years.<sup>4</sup> However, that wealth is not evenly distributed. And in

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<sup>2</sup> See Pew Research Center Report, *Wealth Gaps Rise to Record Highs Between Whites, Blacks, Hispanics*, Chapter 3 (July 26, 2011), available at <https://www.pewresearch.org/social-trends/2011/07/26/chapter-3-net-worth-by-type-of-asset/>.

<sup>3</sup> See Urban Institute Research Report, *The Color of Wealth in the Nation's Capital*, (Nov. 1, 2016), page IX, available at [https://urban.org/research/publication/color-wealth-nations-capital-:::text=White households in DC have, significantly lower for Black families](https://urban.org/research/publication/color-wealth-nations-capital-:::text=White%20households%20in%20DC%20have%20significantly%20lower%20for%20Black%20families).

<sup>4</sup> Scholastica (Gay) Cororaton, National Association of Realtors, *Single-family Homeowners Typically Accumulated \$225,000 in Housing Wealth Over 10 Years*, (January 7, 2022), (Figure 1. Select a metro area: Wash-Arlington-Alxndria, DV-VA-MD-WV) <https://www.nar.realtor/blogs/economists-outlook/single-family-homeowners-typically-accumulated-225K-in-housing-wealth-over-10-years>.

Washington, D.C., the racial wealth gap is extreme. White households in DC have a net worth 81 times greater than Black households, with disparate rates of homeownership and home values playing a major role.<sup>5</sup> The gap in homeownership rates between white and Black households nationwide has only widened since 1960.<sup>6</sup>

Homeownership is particularly important to ensure inter-generational wealth for communities of color and to address gentrification in the District.<sup>7</sup> Black homeownership is declining in communities east of the Anacostia River.<sup>8</sup> In 2005-2009, 94% of homeowners east of the river identified as Black, and between 2017 to 2021, that number went down to 87%.<sup>9</sup> The number of home purchase mortgages taken out by Black homeowners was also substantially reduced.<sup>10</sup>

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<sup>5</sup> See Urban Institute Research Report, *The Color of Wealth in the Nation's Capital*, (Nov. 1, 2016), page VII, available at [https://urban.org/research/publication/color-wealth-nations-capital-:::text=White households in DC have, significantly lower for Black families](https://urban.org/research/publication/color-wealth-nations-capital-:::text=White%20households%20in%20DC%20have%20significantly%20lower%20for%20Black%20families).

<sup>6</sup> See Urban Institute Research Report, *Closing the Gaps: Building Black Wealth through Homeownership*, Figure 3 (Nov. 23, 2020), available at <https://urban.org/research/publication/closing-gaps-building-black-wealth-through-homeownership>.

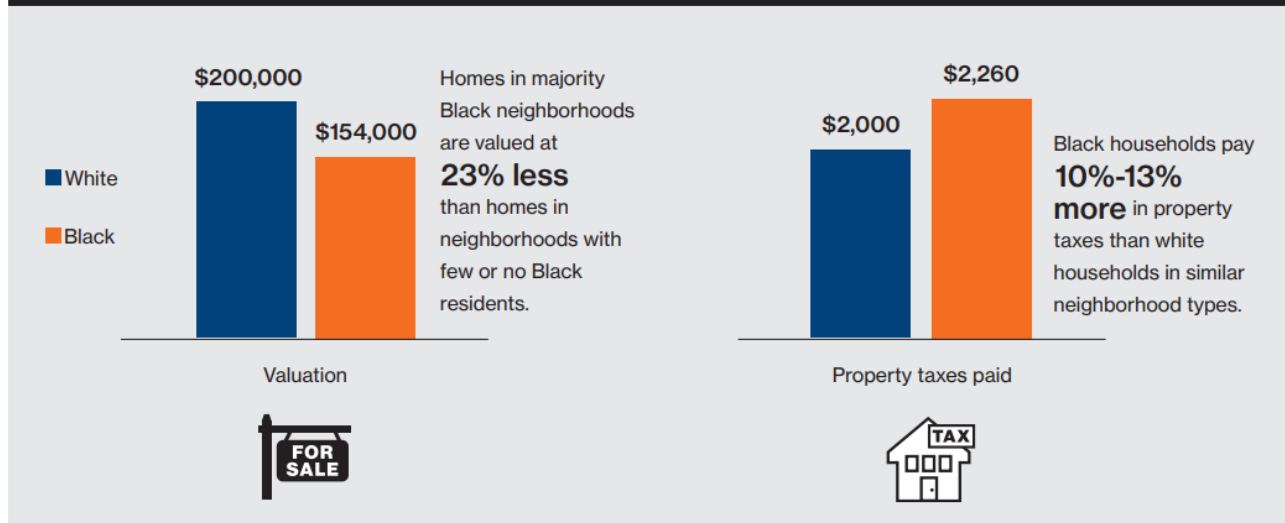
<sup>7</sup> Bailey, Camila, *Racial Disparities in D.C. Homeownership Persist*, Washington City Paper, (February 9, 2023), available at <https://washingtoncitypaper.com/article/588462/racial-disparities-in-d-c-homeownership-persist/>.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

**FIGURE 3: BLACK-WHITE GAP IN HOME VALUATION AND PROPERTY TAXES PAID**



Source: Habitat for Humanity International, How does homeownership contribute to wealth building?

However, even after a Black household has purchased a home, the family faces greater barriers to building home equity than their white counterpart.<sup>11</sup> First, Black homeowners throughout the country are forced to pay more to own a home than white owners. Black families pay higher interest rates and mortgage insurance premiums and are less likely to refinance to better interest rates.<sup>12</sup> Second, homes in Black neighborhoods are valued at 23% less than white neighborhoods.<sup>13</sup> Third, despite their homes being valued at less, Black households actually pay 10-13% more in property taxes than their white

<sup>11</sup> See Michelle Aronowitz, Edward L. Golding, Jung Hyun Choi, *The Unequal Costs of Black Homeownership*, MIT Golub Center for Finance and Policy, (October 1, 2020), available at <https://gcfp.mit.edu/wp-content/uploads/2020/10/Mortgage-Cost-for-Black-Homeowners-10.1.pdf>.

<sup>12</sup> Black Homeownership Strike Force, *Final Report: Recommendations for increasing Black homeownership in the District*, (October 22, 2022), page 14, available at [https://dmped.dc.gov/sites/default/files/dc/sites/dmped/page\\_content/attachments/BH\\_SF\\_Report\\_FINAL\\_FINAL.pdf](https://dmped.dc.gov/sites/default/files/dc/sites/dmped/page_content/attachments/BH_SF_Report_FINAL_FINAL.pdf).

<sup>13</sup> Habitat for Humanity International, *Evidence Brief: How does homeownership contribute to wealth building?*, (December 2020), page 6, available at <https://www.habitat.org/our-work/impact/research-series-how-does-homeownership-contribute-to-wealth-building>.

households.<sup>14</sup> More and more families who are low-income are pushed out of DC into Maryland and Virginia because they cannot afford to keep up with the rising property taxes that result from gentrification.<sup>15</sup>

### Preserving Homeownership Also Prevents Foreclosure

Of course, home equity is not merely the primary source of wealth in this country, homeownership also provides long-term housing stability. Legal Aid DC therefore asks DHCD to prioritize homeownership preservation in its use and allocation of the Black Homeownership funds.

In addition to the wealth gap and widening homeownership gap, homeowners of color face a grossly disproportionate risk of losing their homes to foreclosure.<sup>16</sup> The Census Bureau's Housing Pulse Survey from March 2023 indicates that about 7,420 households in the District are behind on their mortgage payments.<sup>17</sup> This is not the full picture, as it does not capture households that may be struggling with other types of payments including property taxes or condominium or homeowners association fees. But even looking at that subset of data – out of all District households reporting being behind on their payments, almost 92% identify as Black.<sup>18</sup>

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<sup>14</sup> *Id.*

<sup>15</sup> Diego Mendoza, *How Rising Property Taxes Are Disproportionately Impacting Low-income, Gentrified Neighborhoods*, WUSA9 (Aug. 13, 2021), available at <https://www.wusa9.com/article/news/local/dc/rising-property-taxes-disproportionately-impact-low-income-gentrified-neighborhoods/65-3851f7b5-f2aa-415f-8880-d19e44122618>.

<sup>16</sup> Rachel Bogardus Drew and Matt Thompson, *Foreclosure Risks Remained High during Pandemic for Households of Color*, Enterprise Blog post (February 8, 2023), available at <https://www.enterprisecommunity.org/blog/foreclosure-risks-remained-high-during-pandemic-households-color>. (“Government interventions during the pandemic did little to shrink systemic inequities in housing stability for households of color, who continue to face foreclosure risks at more than twice the rate of white homeowners.”)

<sup>17</sup> U.S. Census Bureau, Week 55 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/2023/demo/hhp/hhp55.html>.

<sup>18</sup> *Id.*

Foreclosure has devastating effects on families and communities. For most of Legal Aid’s homeowner clients, their monthly mortgage payments are less than private market rent. Our clients mortgage payments often range from \$750 to \$1,300, far less than rent for an equivalent property. So, for some of our clients, foreclosure does not just mean losing the home that they own, it also means losing their only affordable housing option. Families who are foreclosed upon can go from living the dream of homeownership to being unhoused – living on the streets, couch-surfing, or in shelter. Foreclosure not only destabilizes families and neighborhoods, it also strips the equity that the family has accrued, removes the ability to pass wealth onto future generations, further widening the racial wealth and homeownership gap.

Preserving homeownership also helps reduce the disastrous direct and indirect economic effects of foreclosure on the local economy.<sup>19</sup> The 3,750 foreclosures of single family homes in Chicago between 1997 and 1998 reduced nearby property values by *at least* 598 million dollars, or \$157,000 per foreclosure, and perhaps as *much as* 1.39 billion dollars, or approximately \$371,000 per foreclosure.<sup>20</sup> It is also no secret that foreclosed properties attract investors, further depleting the affordable housing stock.<sup>21</sup> Based on our experience in court defending homeowners against foreclosures, virtually all third-party purchasers at foreclosure auctions are investors, not buyers looking for homes to live in themselves. Unsurprisingly, investor purchases are concentrated in communities east of the Anacostia River.<sup>22</sup>

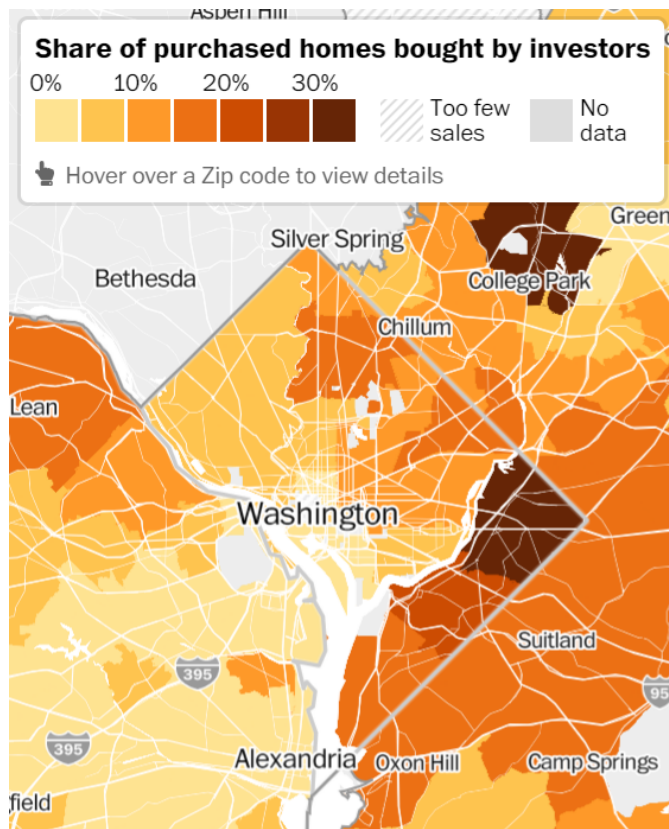
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<sup>19</sup> See, e.g., Dan Immergluck & Geoff Smith, *The External Costs of Foreclosure: The Impact of Single-Family Mortgage Foreclosures on Property Values*, 17 Housing Policy Debate 57, 57-58 (2006), available at <http://placerhousingmatters.org/wp-content/uploads/2016/09/External-Costs-of-Foreclosure.pdf>.

<sup>20</sup> *Id.*

<sup>21</sup> See Tim Reid, “*Flip This*”: foreclosed homes attract investors, Reuters.com, (May 31, 2012), available at <https://www.reuters.com/article/us-usa-housing-foreclosures-flip/flip-this-foreclosed-homes-attract-investors-idUSBRE84U06220120531>.

<sup>22</sup> Kevin Schaul and Jonathan O’Connell, *Investors bought a record share of homes in 2021*. See *where.*, Washington Post, February 16, 2022, Drop down: Washington, DC available at <https://www.washingtonpost.com/business/interactive/2022/housing-market-investors/?itid=hp-top-table-main>.



Source: Washington Post, Investors bought a record share of homes in 2021. See where.<sup>23</sup>

### Expand HPAP to Cover Loans to Avoid Foreclosure

The \$8 million enhancement for the Strike Force recommendations should help to both preserve and increase Black homeownership. With rising home prices, even with HPAP, buying a home in the District is still out of reach for many in our client community, making preservation particularly important. An HPAP loan for up to \$202,000 is not particularly helpful if that lower-income household cannot qualify for a large enough first mortgage to pay the purchase price.<sup>24</sup>

<sup>23</sup> *Id.*

<sup>24</sup> D.C. Department of Housing and Community Development, FY23 Home Purchase Assistance Program Homebuyer Assistance Table, [https://dhcd.dc.gov/sites/default/files/dc/sites/dhcd/publication/attachments/FY23 HPAP Homebuyer Assistance Table as of October 1, 2022 v3.pdf](https://dhcd.dc.gov/sites/default/files/dc/sites/dhcd/publication/attachments/FY23_HPAP_Homebuyer_Assistance_Table_as_of_October_1,_2022_v3.pdf).

Legal Aid DC asks DHCD to consider expanding the HPAP program to include interest-free loans to help save homes from foreclosure. Low-income homeowners struggle to qualify for loans with fixed low interest rates; and Black homeowners are generally given higher interest rate mortgages.<sup>25</sup> One way to counteract discriminatory lending, reverse redlining, credit score-based lending is by offering interest-free loans to help existing homeowners who do not qualify for a loan modification or refinance. Legal Aid DC currently has several clients with second mortgages, specifically home equity lines of credit, with high interest rates that are jeopardizing their homeownership. If a low-income homeowner could get a zero-interest rate loan to pay off or pay down that second mortgage, then more Black homeowners would be able to keep their homes and be out of danger of foreclosure. Offering interest-free loans for home preservation would also make the \$8 million in funds go further, as the cost to pay off a second mortgage is likely less than the up to \$202,000 maximum amount for down payment assistance.

### **Legal Aid DC Supports the \$1.5 Million Enhancement to Help Heirs Get on the Deeds to Properties That They Inherit**

Legal Aid supports the \$1.5 million for Heirs Property Program and Communications Plan in the proposed budget for DHCD. Heirs Property Program enables eligible heirs to get legal help with the difficult process of getting on the deed to their generational homes. Assisting heirs to establish legal ownership of their family homes would help to preserve rare sources of affordable housing, stem the tide of displacement of longtime Black and Latinx residents, support housing and economic stability, and build generational wealth.

Indeed, the first recommendation in the Black Homeownership Strike Force Final Report is “to assist in the inter-generational transmission of homeownership for Black homeowners” by providing estate planning and legal services support to homeowners and heirs.<sup>26</sup> Furthermore, a team of judges, lawyers, and court professionals undertook

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<sup>25</sup> Black Homeownership Strike Force, Final Report: Recommendations for increasing Black homeownership in the District,” (October 22, 2022), page 14, *available at* [https://dmped.dc.gov/sites/default/files/dc/sites/dmped/page\\_content/attachments/BH\\_SF\\_Report\\_FINAL\\_FINAL.pdf](https://dmped.dc.gov/sites/default/files/dc/sites/dmped/page_content/attachments/BH_SF_Report_FINAL_FINAL.pdf)

<sup>26</sup> See Black Homeownership Strike Force, Final Report: Recommendations for increasing Black homeownership in the District,” (October 22, 2022), page 22, *available at* [https://dmped.dc.gov/sites/default/files/dc/sites/dmped/page\\_content/attachments/BH\\_SF\\_Report\\_FINAL\\_FINAL.pdf](https://dmped.dc.gov/sites/default/files/dc/sites/dmped/page_content/attachments/BH_SF_Report_FINAL_FINAL.pdf)



to examine the D.C. probate court system in 2022 and convened the D.C. Estate Administration Working Group. In their report, the Working Group highlighted probate estate administration as a major and continuing justice gap.<sup>27</sup> The Working Group emphasized that resolving probate issues is “often necessary to preserve home ownership from one generation to the next or to address a foreclosure issue.”<sup>28</sup> One recommendation that came out of the working group on how to bridge the justice gap was to increase the provision of free legal services in estate administration.<sup>29</sup>

### Getting Heirs on Deeds Should Be a Policy Priority

It is a common misconception that probate is only for the wealthy. Probate is not just for people with significant assets. People with low incomes, whose only asset is their home, must also go through probate in order to get their heirs named on the deed. For an heir to transfer ownership of the home from the deceased family member to themselves, an estate must be opened, and the probate legal process completed. When an heir does not get on the deed of the property that they inherit, it is a problem that impacts housing stability, financial security, and racial equity in the District of Columbia.

As lawyers who represent homeowners, we see low-income District residents who have lived in their homes for decades struggle to avoid foreclosure after a family member passes away. Housing payments become delinquent, even when the heirs have sufficient income to make regular housing payments going forward. If the home is still owned by the deceased family member, then the heir-occupant is often considered ineligible for numerous important financial supports or options for avoiding foreclosure. As a result, many heirs are at risk of losing their generational family homes to foreclosure. Heirs Property Program would address the need for both legal representation and financial assistance to cover costs associated with the probate process.

Once an heir is on the deed, they are the legal owner and can access critical options that were previously unavailable to them. First, most fundamentally, heirs on title can sell the house. This important ability means the equity that their parents or spouse worked so

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<sup>27</sup> D.C. Access to Justice Commission and Council for Court Excellence, Strengthening Probate Administration in the District of Columbia, Recommendations of the D.C. Estate Administration Working Group (February 2022), at 6, *available at* <https://dcaccesstojustice.org/wp-content/uploads/2022/02/Strengthening-Probate-Administration-in-DC-Feb-2022.pdf>

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

hard to build is preserved and maintained rather than lost through foreclosure. Second, heirs who want to stay in their family home but who may struggle with paying the current housing costs can access foreclosure prevention programs (e.g., forbearance, partial claim, or loan modification programs from mortgage companies) or property tax benefits (e.g., the D.C. Office of Tax and Revenue's homestead deduction, senior deduction, Schedule H tax credit), can only do so if they are on the deed. Third, heirs on title can refinance by getting a new loan against the property to resolve property tax or other arrears. Lastly, if there is a lawsuit for foreclosure of the property, heirs on title can participate as a party in the case and defend against foreclosure.

### Probate Resources for Low-income Heirs Are Scarce

Probate is often a long and stressful legal process, one that is difficult for people to navigate on their own, especially when they are grieving the loss of a loved one. The costs associated with probate place further financial strain on those who are already economically vulnerable. Through our work helping low-income homeowners and heir-occupants, we have seen a substantial need not only for financial assistance relating to probate court fees and costs but also for legal assistance and representation. Specifically, heirs who are living in their family homes need an attorney to open a probate estate in D.C. Superior Court and to administer the estate so that title to the home can be transferred to the heir.

Unfortunately, finding free or affordable legal representation for probate can be extremely difficult. Heirs Property Program offers much-needed hope to low-income heirs who otherwise fear losing their family homes to foreclosure simply because they cannot navigate the probate process on their own.

### **Legal Aid DC Asks the Committee to Locally Fund the DC Homeowner Assistance Fund After Federal Funds are Depleted and to Protect Homeowners that Apply to the Program from Foreclosure**

In addition to enhancing the Heirs Property Program, Black homeownership preservation can be achieved by supporting existing homeowners who are struggling with housing payments. 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 money to help homeowners catch up on mortgage payments, condominium fees, property taxes, utilities, and other housing-related payments. Because HAF is structured as a grant that the owner need not repay, it is a unique opportunity to accomplish multiple housing policy objectives.

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 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. 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.

While HAF is far from perfect and the timelines for approval and payment continue to be very troubling, the program is a critical lifeline for homeowners. HAF is designed specifically to preserve Black and Latinx homeownership by having broader eligibility criteria for people who identify as Black or Latinx. Indeed, a recommendation in the Final Report of the Black Homeownership Strike Force is to “support Black homeowners who are severely burdened by housing costs to remain in their homes” by building on the federally funded Homeowner Assistance Fund.<sup>30</sup> We agree with this recommendation. The first step would be for this Committee to ensure that once the federal funds are depleted, it replenishes the fund with local dollars. District homeowners have never had access to a program like HAF before, and it would be tragic if they lost this vital lifeline.

Lastly, we ask the Committee to protect all homeowners who are waiting for HAF approval and payment from foreclosure. Currently, the temporary legal protection from foreclosure only applies to homeowners who 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 pursuing foreclosure if a homeowner submitted a HAF application after September 30, 2022. The Council can stop this and ensure that no family is foreclosed on simply because they are waiting for DHCD to process their HAF application or for the program to make payment.

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<sup>30</sup> See Black Homeowners Strike Force Final Report, Recommendations for increasing Black homeownership in the District, (October 22, 2022), page 22, *available at* [https://dmped.dc.gov/sites/default/files/dc/sites/dmped/page\\_content/attachments/BH\\_SF\\_Report\\_FINAL\\_FINAL.pdf](https://dmped.dc.gov/sites/default/files/dc/sites/dmped/page_content/attachments/BH_SF_Report_FINAL_FINAL.pdf)

## **Conclusion**

Both homeownership opportunities and preservation are both important policy goals. But when funds are limited, preserving Black homeownership should be prioritized between the two because it not only helps to close the racial wealth gap, but it also staves off the devastating effects of eviction and foreclosure. In addition, the Committee should plan to locally fund the DC Homeowner Assistance Fund when the federal funds run out.

In the meantime, we urge the DC Council to introduce legislation that would protect all homeowners who are waiting for HAF approval or payment from foreclosure regardless of when they applied.

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.