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**Testimony of Samantha Koshgarian  
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**Before the Committee on Human Services  
Council of the District of Columbia**

**Budget Oversight Hearing Regarding the Department of Human Services**

**March 31, 2023**

Legal Aid of the District of Columbia<sup>1</sup> submits the following testimony regarding the budget for the Department of Human Services (DHS), and specifically the Emergency Rental Assistance Program (ERAP).

Legal Aid urges the Council to provide robust funding for ERAP in FY2024, as well as supplemental funding for FY 2023 so that DHS can reopen the ERAP application portal and ensure that families have access to this critical program. Legal Aid has been testifying for years that ERAP is underfunded and that its administration further limits program accessibility. Many of the same issues remain today. However, in a time of unprecedented need, rising rents, and a continued affordability crisis, ERAP remains one of the only things standing between many families and eviction.

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<sup>1</sup> The 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).

We submit this testimony in support of additional funding for the Emergency Rental Assistance Program, and to urge the Council to finally address longstanding issues in the administration of this critical program.

### **The Council Must Add Supplemental ERAP Funds to the FY 2023 Budget**

In the short term, ERAP needs supplemental funding. As this Committee is no doubt aware, despite historic and necessary funding of \$42 million for ERAP in FY 2023, on March 10, 2023, the ERAP application portal closed to new applicants with only two days of warning. This was because DHS was still processing applications from late 2022, and anticipated that the remaining funding would be exhausted by the requests already pending in their system. While DHS asserts that they will be awarding funds to currently pending applications such that funding will not actually run out until May or June of this year, functionally, this means that ERAP assistance is completely unavailable for the next six months, a full half of the fiscal year. This is unacceptable.

As we have long testified, a tenant who happens to fall behind on their rent in the summer should not arbitrarily be in a worse position than a tenant who falls behind in November. While more significant changes to ERAP are necessary to address this systemic issue moving forward, in the meantime, tenants who have need and are otherwise good candidates for ERAP should not be put at greater risk of homelessness for the next six months. We ask that the Council provide supplemental funding for FY 2023 to allow ERAP providers to begin accepting and processing new applications.

### **The Mayor's Proposed FY 2024 ERAP Budget Does not Come Close to Meeting the Need for Rental Assistance**

The \$8 million in ERAP funding proposed in the Mayor's FY 2024 budget is woefully inadequate. In FY 2023, assuming DHS's projections are correct, ERAP providers will have awarded \$42 million to tenants over the course of six months. Because DHS did not provide any data, it is unclear how much of that funding it used to provide ERAP awards to tenants in amounts they would be eligible for under the normal program rules, and what amount was due to the one-time waiver authority the council gave DHS to award sums over the regulatory caps for up to the number of months of the public health emergency. We supported that authority, and the flexibility provided to DHS saved homes for many tenants whose ability to pay rent was significantly affected by the unprecedented challenges of the Covid-19 pandemic. Even though that authority has expired, other recent and necessary changes to ERAP regulations, including increasing income eligibility and tying assistance caps to market rent levels, combined with significant rent increases even for rent-controlled units, mean that ERAP funds will deplete more quickly in the future than they used to even without taking waivers into consideration. Given that in prior years at similar funding levels ERAP consistently ran out

of money in June or July, it is reasonable to expect that funds will run out significantly faster in FY 2024 given new rules and increased rents. The Council should provide a significant increase to ERAP funding to ensure that the program will be able to assist eligible tenants for longer than a few months of FY24.

### **ERAP's Ability to Serve District Residents Continues to Suffer From Underfunding and Problems in the Program's Administration**

We have been testifying for years that ERAP is chronically underfunded and that the program's administration is broken. For many of those years, tenants were required to identify individual call-in dates for the various providers, call over and over again on a call-in date in the hope of getting through to someone, often spending hours on the phone on many different days, all in the hope of securing one of the scarce appointments that would allow them to actually apply for assistance before the program's funding ran out. The documentation required was often onerous even for tenants who did manage to secure appointments. This dysfunctional system is thankfully no longer in place. However, the current system has similar administration problems that must be addressed.

The new online application portal means that tenants do not have to spend hours on the phone for the off-chance of securing an appointment. However, as of March 2023, tenant advocates were informed that ERAP providers were only just getting to applications that had been submitted in November 2022.<sup>2</sup> While we are glad that tenants are no longer shut out of accessing ERAP because they are unable to schedule an appointment through over-burdened call-in days, functionally tenants are still not successfully accessing ERAP funds for months after they first apply. Furthermore, ERAP's funding level and structure continue to mean that ERAP is not only functionally but literally unavailable to those tenants who have the misfortune to fall behind or be sued in the later months of the fiscal year.

### **Adequately Funding ERAP Requires Having the Right Data to Assess Need, as well as Enough Funding for ERAP Providers to Adequately Administer the Program**

It has been clear for many years that ERAP has been routinely underfunded, as evidenced by the program running out of funding every year. What is not clear is what "fully funding" ERAP would take. As a practical matter, advocates and the government are hampered in their ability to determine ERAP need because DHS does not gather or provide the data that is necessary for such analysis. Historically, there was no way to

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<sup>2</sup> We appreciate that if Housing Counseling Services (HCS) knew an applicant had already been sued for eviction, their applications were generally claimed faster.

keep track of how many tenants attempted to call in to schedule an appointment, how many of those tenants would have been eligible, or how many would have been approved. Once funding ran out, organizations would stop staffing call-in dates, so the data was always incomplete or nonexistent.

Now, with the online portal, for the first time it is possible to verify what we previously believed to be the case – the volume of applicants is significantly higher than providers have capacity to process in a timely manner and need for ERAP far outpaces the program’s funding. The Council should look at the average number of applications and the average awards over the months when the online portal was the primary way to access the program to estimate the annual ERAP need. In addition, ERAP funding should be robust enough to ensure that providers have the resources they need to process applications more quickly. A program that takes multiple months after application for a provider to even claim an application for processing is a program that functionally is not available to the residents who apply.

### **ERAP Need Will be High as Long as the District Continues to Underinvest in Affordable Housing**

Need for ERAP is always going to depend on what other investments the District, and this council, are willing to make in truly affordable housing. A family that spends 60% or more of their income on rent will always be one emergency away from housing instability. What is more, for families that are highly rent burdened, what feel like everyday expenses for higher income families - things like increased food costs due to a medically-prescribed dietary change, routine car maintenance, last-minute childcare when a sick child cannot attend school - quickly become emergencies that affect the ability to pay rent. In the longer term, this Council must assess need for ERAP by first taking a critical and honest look at whether the policies it is proposing and enacting will do enough to alleviate the long-standing affordability crisis for low-income residents of the District.

For years we have heard concerns that ERAP may be an ineffective program, or that tenants may be “taking advantage” of ERAP, based on evidence that some households apply for and receive ERAP assistance multiple times in consecutive or near-consecutive years. However, what this demonstrates is not that ERAP does not serve its goals, or that tenants are somehow manipulating a very structured and limited form of assistance, but that despite being chronically underfunded, ERAP has long been the only solution available to tenants struggling with a chronic and worsening affordability crisis in the District. As long as rents in the district remain out of reach for so many residents, and as long as the District continues to underinvest in affordable housing, many residents will be unable to maintain their tenancies without frequent support. Residents who receive ERAP likely would prefer not to rely on a program that does not guarantee assistance, is at times unfunded, and requires them to first fall behind on rent before waiting months for a

response, all while hoping that the assistance comes before eviction does. But until the District provides families with better options, this Council should not fund ERAP at a level that is guaranteed to render this necessary safety net program unreliable or completely inaccessible during large portions of each fiscal year.

### **Conclusion**

Low-income District tenants are in crisis. Everyday expenses including their rent are going up faster than their wages, pandemic-related benefits have expired, and now ERAP is closed. We know the Council cares deeply about preventing evictions, stemming displacement, and keeping the District's communities stable and intact. But if the Council does not act quickly to supplement the FY 2023 ERAP budget and make a significant investment in ERAP for FY 2024, those goals will be unattainable and the next few years will be traumatic and painful for the District's lowest-income residents.