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**Testimony of Ashlei Schulz
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**Before the Committee on
Transportation and the Environment, and Committee of the Whole
Council of the District of Columbia**

Public Hearing Regarding:

**Bill 25-0279
“Climatizing Our Overheated Living Space
Regulation Amendment Act of 2023”**

October 12, 2023

Legal Aid of the District of Columbia¹ submits the following testimony regarding Bill 25-0279, the Climatizing Our Overheated Living Spaces Amendment Act of 2023 (“COOL Spaces Amendment Act”). Legal Aid supports the bill section that advances the dates for inspection and certification of working air conditioning systems. Legal Aid appreciates the Council’s commitment to ensuring that tenants have access to cool living spaces when they require them. However, we are concerned with the bill section that states that

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 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.

central systems shall provide an inside temperature of at least fifteen degrees Fahrenheit (15° F.) less than the outside temperature from April 15 through October 31 of each year.² This provision could be interpreted to *require* that systems be set to cooling from April 15 through October 31, which may be impractical depending on the forecasted temperature and the tenants' preferences.

Advancing the Deadlines for Inspection and Certification of Working Cooling Systems Would Benefit Legal Aid's Client Community

Legal Aid's client community, members of which are generally living at or below 200% of the poverty level, stands to benefit from working air conditioning beginning in May instead of June. As temperatures in the District become hotter, it is important to enact legislation that gives tenants access to cooler air earlier in the Spring and Summer months. As such, Legal Aid supports the portion of the COOL Spaces Amendment Act that advances the dates for inspection and correction of any defects.³ Specifically, moving up the certification date from May 1st to April 1st gives the tenants in Legal Aid's client community assurance of a working air conditioning system one month sooner than before. Similarly, moving the date for when any defects must be corrected from June 1st to May 1st makes it more likely that tenants will have access to working air conditioning during the month of May, when outdoor temperatures tend to rise significantly.

Operation of HVAC Systems Should Be Targeted to the Comfort Level and Preference of Residents

Legal Aid is concerned that the phrase stating that owners "shall maintain [their property's air conditioning system] ...so that it provides an inside temperature at least fifteen degrees Fahrenheit cooler than outside by no later than April 15 of each year and through October 31 of each year..." could be interpreted to require that systems be set to cool from April 15 through October 31, regardless of the outside temperature fluctuations. To avoid that interpretation, we suggest that the phrase say any system should be maintained so that *it is capable of providing* an inside temperature of fifteen degrees cooler than the outside temperature.

² COOL Spaces Regulation Amendment Act, as introduced on April 27, 2023 (Bill B25-0279), at lines 42-46.

³ See *Id.*, lines 48-54

Many residential buildings rely on central boiler/chiller systems that must be set to either heat or air conditioning.⁴ These hydronic cooling-heating systems cannot be toggled from heat to air conditioning depending on the day, because the space is conditioned by blowing a fan over water that is either brought to a boil for heat, or chilled down for air conditioning. The water in the system (and the coils holding it) can either be hot or cold but cannot be changed from one day to the next depending on temporary fluctuations in outdoor temperatures. Whether the system should be set to heat or cool depends on several factors. The most important factor is the comfort level and preferences of the residents. The outside temperature will determine whether residents prefer heat or air conditioning. We are concerned that the current phrasing of Section 510.1 would be interpreted to mean that hydronic systems must be switched to cool from April 15 through October 31 of each year.

Temperatures fluctuate dramatically during the months of April and October in the District. For instance, DC's temperature low on April 25, 2023, was 44° Fahrenheit.⁵ The temperature high two days later was 75°.⁶ If owners believed their systems had to be set to cool by April 15, members of Legal Aid's client population would only have access to air conditioning when the temperature outside was in the low forties.

As stated, Legal Aid suggests that the Council make clear that owners are not required to switch dual systems to air conditioning from April 15 through October 31. Alternatively, Legal Aid suggests that subsection 510.1 (DCMR 14 42 § 510.1) be amended to read as follows:

“510.1 The owner of a rental habitation, who provides air conditioning as a service either through individual air conditioning units or a central air conditioning system, shall maintain such unit or system in safe and good working condition so that it *is capable of providing* an inside temperature at least fifteen degrees Fahrenheit (15° F.) less than the outside temperature by no later than April 15 of each year and through October 31 of each year.”.

⁴ See “Understanding Thermal Systems: Hydronic Heating and Cooling Systems” by Christopher P. Crall, February 1, 2015 [Insulation Outlook](https://insulation.org/io/articles/understanding-thermal-systems-hydronic-heating-and-cooling-systems/), National Insulation Association, <https://insulation.org/io/articles/understanding-thermal-systems-hydronic-heating-and-cooling-systems/>.

⁵ <https://www.wunderground.com/history/weekly/us/va/arlington/KDCA/date/2023-4-30>

⁶ *Id.*

The alternative language we suggest would make it more likely that owners can meet the true needs of tenants during times of varied weather.

Conclusion

In sum, Legal Aid supports the provisions of the COOL Spaces Regulation Amendment Act that advance the dates when cooling systems must be inspected and certified as operational. Legal Aid's principal concern about the phrasing of Section 510.1 is that it could be interpreted to require owners to switch their systems from heat to air conditioning from April 15 through October 31, regardless of that year's weather variations or tenant preferences. Accordingly, we suggest that the provision require systems to be capable – but not required – to provide inside temperatures at least fifteen degrees Fahrenheit (15° F.) less than the outside temperature by no later than April 15 of each year and through October 31 of each year.