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**Testimony of Ariana Taylor
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**Before the Committee on Housing
Council of the District of Columbia**

Public Roundtable Regarding:

Making Social Housing Work in the District of Columbia

December 12, 2023

Legal Aid DC¹ submits the following testimony in support of social housing in the District of Columbia. We appreciate the opportunity to join the necessary conversation on how to improve affordable housing in the District. Our testimony primarily relates to This bill was initially introduced last year as Bill 24-0802, the Green New Deal for Housing Amendment Act of 2022, regarding which Legal Aid also testified in support. Mirroring its predecessor, this bill proposes an innovative solution to the District's affordable housing crisis for low-income tenants. The bill proposes converting District-owned land into social housing developments to help address problems with the District's current affordable housing programs.

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.

Legal Aid supports this legislation and the implementation of social housing in the District. We also urge the Council to further improve the bill by ensuring protections for tenants in social housing. For example, we recommend that the law specify that the protections in the Rental Housing Act apply, place caps on rent increases in market-rate units, provide for emergency transfers, and create rights for remaining household members after a leaseholder passes away or vacates a unit.

Low-Income Tenants Struggle to Maintain Affordable Housing in the District

The District's sustained housing affordability crisis disproportionately impacts low-income households, many of which are on fixed incomes and are comprised of minimum wage workers. The average rent in the District continues to rise year over year, from \$1,700 in 2015 to \$2,401 today.² As rents surge, low-income District residents are left with little to no additional money to cover their families' basic needs such as food, health, school supplies, and childcare expenses. Unfortunately, the number of low-income renters in the District that are cost burdened continues to increase each year. Seventy-three percent of extremely low-income renters in the District are classified as "severely cost burdened" by the Department of Housing and Urban Development (HUD), which means that they spend more than half of their income on rent and utilities. Eighty-three percent are "cost burdened," which means they spend more than thirty percent of their income toward rent and utilities.³

For some residents, rising rents have life-shattering consequences, as they are at constant risk of eviction from their homes and displacement from the District. The housing affordability crisis is, at its core, an issue of racial equity as these consequences are felt primarily by the District's Black residents. Black residents in the District are more than five times as likely to live in poverty than white, non-Hispanic residents, and rent increases have forced many to leave the District entirely.⁴ For example, an analysis of census data found that in 2000, 32 of the District's 62 residential neighborhoods were

² RentCafe, Washington, DC Rental Market Trends, available at <https://www.rentcafe.com/average-rent-market-trends/us/dc/washington/>.

³ *Id.*

⁴ Erica Williams and Tazra Mitchell, *Large Black-White Disparities in Poverty and Income Persisted in 2021*, DC Fiscal Policy Institute (Sept. 15, 2022), available at <https://www.dcfpi.org/all/large-black-white-disparities-in-poverty-and-income-persisted-in-2021/>

majority Black but by 2020, only 22 residential areas remained majority Black.⁵ The same analysis found that the District's population of Black residents declined by nearly 58,000 while the white population grew by almost 86,000.⁶

Legal Aid's lawyers and professionals have a front-row view to the roiling housing crisis because we represent tenants facing eviction. Through our practice, we often witness our clients' search for affordable housing. For low-income tenants who do not have a subsidy, especially tenants on fixed incomes, it is nearly impossible to find, or remain in, an affordable rental home in DC.

Much of the support for these tenants is crumbling. The District of Columbia Housing Authority's (DCHA) waiting list for public housing and the housing choice voucher program remains closed since 2013.⁷ At the time of its closing, there were 39,442 residents on the housing choice voucher program waiting list alone.⁸ Simply put, the existing voucher program is insufficient to meet residents' need for subsidized housing. DCHA remains plagued by mismanagement and has demonstrated an inability to effectively manage its current housing programs, demonstrating the need to implement new affordable housing programs.⁹

While the District has made valiant attempts to prioritize affordable housing, its current policies, and programs are insufficient to meet the need for safe, consistent, and affordable housing. For example, the District has locally funded subsidy programs, such as the Local Rent Supplement Program (LRSP). However, LRSP subsidies are limited,

⁵ Overly et al., *Washington Was an Icon of Black Political Power. Then Came Gentrification*, Politico, (April 15, 2022) available at <https://www.politico.com/news/magazine/2022/04/15/washington-dc-gentrification-black-political-power-00024515>; Eliana Golding, *DC's Tools to Create and Preserve Affordable Housing*, DC Fiscal Policy Institute (Dec. 22, 2022) available at <https://www.dcfpi.org/all/dcs-tools-to-create-and-preserve-affordable-housing/>

⁶ *Id.*

⁷ U.S. Department of Housing and Urban Development Coordinated by the Northeast Public Housing Network, District of Columbia Housing Authority (DC001) Assessment, p. 42, available at https://oag.dc.gov/sites/default/files/2022-10/DCReview_Final%209302022%20%281%29.pdf.

⁸ *Id.*

⁹ See generally, *id.*

insufficient to meet the demand, and only help a small subset of District residents.¹⁰ Other programs, such as the Rapid Rehousing Program are time-limited programs that expect low-income families to afford rent on their own within a limited period of time, a near impossibility given the lack of affordable housing in the District.¹¹ These subsidy programs also leave tenants at the mercy of the private rental market, with little to no protection from increasing rents and far too often deplorable conditions. We also regularly speak to low-income tenants with vouchers who are denied housing because of unlawful source of income discrimination or rents that are too high for the subsidy program rules.

The District's largest source of funding to produce new affordable housing is the Housing Production Trust Fund (HPTF). But that funding has decreased from the groundbreaking investments we saw over the last three years. For FY2024, Mayor Bowser initially proposed spending \$100 million on the fund, a drastic decline from the more than \$354 million it was approved for this year.¹² However, the Council ultimately only approved approximately \$32 million for the fund in FY2024.¹³ While 50% of HPTF loans and grants are required to be allocated for projects that are affordable to extremely low-income households, the Department of Housing and Community Development (DHCD) reports that only 19% of FY20 funds and 16%.¹⁴

¹⁰ See 14 D.C.M.R. § 9503.2.

¹¹ See Testimony of Matthew Boucher, Budget Oversight Hearing Regarding the Department of Human Services (March 31, 2022), available at <https://www.legalaiddc.org/wp-content/uploads/2022/03/Testimony-before-the-Committee-on-Human-Services-regarding-the-DHS-Matthew-Boucher.pdf>.

¹² Morgan Baskin, *Bowser Proposes Slashing Emergency Rental Assistance, Housing Production Funds Amid Grim Economic Forecast*, DCIST, (Mar. 24, 2023) available at <https://dcist.com/story/23/03/24/bowser-budget-rental-assistance-housing-production/>.

¹³ Housing Production Trust Fund Subsidy, DC Government, Office of the Chief Financial Officer, available at https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/hp_hptfs_chapter_2024j.pdf

¹⁴ See Testimony of Beth Mellen, Budget Oversight Hearing Regarding the Housing Production Trust Fund and the Department of Housing & Community Development (March 30, 2022), available at <https://www.legalaiddc.org/wp-content/uploads/2022/03/Testimony-before-the-Committee-on-Housing-and-Executive-Administration-regarding-the-HPTF-DHCD-Beth-Mellen.pdf>.

Despite making investments in affordable housing, the District is falling short of its goal to create more affordable housing units for low-income residents.¹⁵ The Green New Deal for Housing Amendment Act of 2023 proposes that at least 10% of the HPTF go towards a newly established Office of Social Housing Development. This presents an exciting opportunity for the District to utilize the HFTP in a new way to create more affordable housing for both extremely low and low-income households, while creating more market-rate units to address the overall housing shortage in the District and its surrounding region.

Social Housing Developments Present a Viable Solution to the Housing Affordability Crisis for Low-Income Residents

As noted in our written testimony in support of the original version of the Green New Deal for Housing Amendment Act, Social Housing Developments are successful models for publicly owned affordable housing that have operated for decades in European cities. Closer to the District, we have seen social housing models implemented in Montgomery County, Maryland, with the implementation of the Moderately Priced Dwelling Unit program; Seattle, Washington, with Initiative 135 creating the Seattle Social Housing Developer; and Atlanta, Georgia, with Ordinance 23-O-1385, creating the Atlanta Urban Development Corporation, a subsidiary of the city's Housing Authority¹⁶. Currently, there are over a dozen social housing campaigns across the country.¹⁷

We are excited that social housing is now being seriously considered as one potential solution to the dire housing crisis in the United States.¹⁸

¹⁵ *Id.*

¹⁶ Montgomery County, Maryland, Bill 34-17, available at <https://montgomeryplanning.org/wp-content/uploads/2018/10/Bill-34-17.pdf>; Seattle, Washington, Initiative 135, available at <https://info.kingcounty.gov/kcelections/Vote/contests/ballotmeasures.aspx?lang=en-US&cid=100690&groupname=City>; Atlanta, Georgia, Ordinance 23-O-1385, available at https://atlantacityga.igm2.com/Citizens/Detail_LegiFile.aspx?Frame=&MeetingID=3799&MediaPosition=&ID=33212&CssClass=

¹⁷ H. Jacob Carlson, Gianpaolo Baiocchi, *Social Housing: How a New Generation of Activists Is Reinventing Social Housing*, Shelterforce (June 30, 2023) available at <https://shelterforce.org/2023/06/30/social-housing-how-a-new-generation-of-activists-are-reinventing-housing/>.

¹⁸ For example, HPTF requires that units remain affordable for 40 years. D.C. Code § 42-2802. 02(a). The “Low-Income Housing Tax Credit” (LIHTC) properties, the largest

The social housing developments proposed by the Green New Deal Amendment Act offer many benefits that current affordable housing in the District lacks. First, the proposed two-third of units for extremely low and low-income households would remain affordable in perpetuity.¹⁹ Additionally, rent cross-subsidization means that the developments can meet their operational and development costs through the rents generated from the market rate units. Social Housing Developments also allow for tenants with varying incomes to reside in the development. This prevents situations where tenants are at risk of losing their housing because of job loss or because their income increased, and they no longer meet income qualifications for affordable housing programs. Further, the proposed social housing developments will offer tenants transparency and involvement in their governance and operation through Tenant Leadership Boards. Because of these provisions, the bill offers a promising new model forward for publicly owned housing in the District.

The Green New Deal Amendment Act Should be Strengthened by Adding Tenant Protections

As discussed in our written testimony for The Green New Deal Act Amendment of 2022, we believe that the social housing must include comprehensive and robust tenant protections to make social housing developments safe and equitable for District residents. While positive changes have been made between the different versions of the Green New Deal Amendment Act, there are still key tenant protections missing that the Committee should consider.

First, the bill should clarify that the robust tenant protections detailed in the Rental Housing Act of 1985 and its promulgating regulations apply to Social Housing

source of federally funded housing, must remain compliant for 30 years. National Housing Law Project, LIHTC Preservation and Compliance (June 22, 2022) available at <https://www.nhlp.org/resources/lihtc-preservation-compliance/#:~:text=Although%20LIHTC%20properties%20must%20commit,to%20comp ly%20with%20LIHTC%20regulations.>

¹⁹ For example, HPTF requires that units remain affordable for 40 years. D.C. Code § 42-2802. 02(a). The “Low-Income Housing Tax Credit” (LIHTC) properties, the largest source of federally funded housing, must remain compliant for 30 years. National Housing Law Project, LIHTC Preservation and Compliance (June 22, 2022) available at <https://www.nhlp.org/resources/lihtc-preservation-compliance/#:~:text=Although%20LIHTC%20properties%20must%20commit,to%20comp ly%20with%20LIHTC%20regulations.>

Developments. This clarification is important because social housing residents should have at least the same tenant protections as other District tenants.

Second, the bill should clarify the impact of changes to a tenant's income and ensure that regardless of those changes, the tenant can remain in the property. As drafted, the bill states that tenants whose income *decreases* between annual reporting periods may receive an adjustment so that their rent does not exceed 30% of their income. But there should also be protections for tenants whose income *increases* between reporting periods to ensure that these tenants can stay in the property while continuing to pay no more than 30% of their now-increased income. In addition, the bill, with its focus on no more than 30% of income, contemplates that tenants have some source of income. But the bill falls short by not including protections for residents who have lost their source of income. We recommend that the Council add protections to ensure that these residents can remain at the property (with subsidies to cover the cost of their housing).

Third, the bill should include protections for tenants who may need to transfer to another unit because of emergency circumstances. For example, the bill should provide that tenants will not be at risk of losing their tenancy and will be placed in temporary housing within the social housing development as a result of flooding, infestations or housing code violations that constitute emergencies. In addition, while the bill states that rent revenue may be used to finance emergency maintenance or repairs, designated amounts should be included to ensure there is adequate funding. Further, the bill should ensure that there are protections and a process for households where there is domestic violence.

Last, this bill presents an opportunity to create statutory tenant protections for remaining household members after the tenant dies or has vacated the rental unit. During the pandemic, we spoke to several household members whose parent or family member was the head of household on the lease and died after being diagnosed with COVID-19. This left families in a precarious situation and at the mercy of their landlords, who decided whether or not they wanted to sign leases with the surviving household members. Even apart from the pandemic, this is an issue that multigenerational households face, when the parent or grandparent passes away or vacates the rental unit. This bill can address this problem but stating that any remaining household members can become a tenant on the same terms as the tenant who died or vacated.

Conclusion

Thank you for the opportunity to provide this testimony and impact Social Housing in the District. We support the goal of providing more affordable housing in the District and believe that social housing developments are a meaningful tool to achieve that goal. We also support the Green New Deal Amendment Act of 2023 and hope to have the

opportunity to work with the Committee to incorporate more tenant protections into the bill prior to Committee markup.