



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

**Testimony of Elena Bowers
Supervising Attorney, Housing Unit
Legal Aid DC**

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

**Performance Oversight Hearing Regarding the Department of Human Services
February 29, 2024**

Legal Aid DC¹ submits the following testimony regarding the Department of Human Services' (DHS) administration of the Emergency Rental Assistance Program (ERAP).

ERAP is one of the most effective tools the District has to keep individuals and families in stable housing and prevent evictions. In our landlord-tenant practice, Legal Aid sees firsthand that ERAP funds are frequently the difference between housing stability and homelessness. Demand for ERAP remains high from year to year – so high, in fact, that each year, need for ERAP far outstrips funding availability. Given the District's housing affordability crisis, this is not surprising.

The DC Office of Planning estimates that over 75,000 renter households are definitionally “cost burdened” in that they pay more than 30% of their income towards

¹ Legal Aid DC 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 92 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.

rent.² More than 39,000 rental households are “severely cost burdened” and pay more than 50% of their income towards rent.³ The largest share of these severely cost burdened households, or 39,500 individuals and families, earn less than 30% of the area median family income.⁴ These families are at a greater risk of eviction because there is so little financial cushion for unanticipated financial emergencies.

The affordable housing crisis is a racial justice issue, as communities of color are the most impacted. Approximately 90% of residents living east of the Anacostia River – the majority of Legal Aid’s clients – are Black.⁵ Poverty rates in these communities are twice as high as the city’s average.⁶ Across wards 7 and 8, where most of Legal Aid’s clients live, 78% of low-income residents spend more than 30% of their income on housing costs.⁷ While only one in four District renters live in these wards, they account for more than half of all eviction cases filed and half of all executed evictions.⁸ The majority of the 19,000 District households behind on rent in May 2023 were Black and brown.⁹ Simply put, the pursuit of housing justice is a pursuit of racial justice here in the District.⁸

For as long as our affordable housing crisis continues, there will be a significant demand for assistance for families who are living a single emergency away from crisis, and as a District, we should want ERAP to be available and accessible when families need it. And yet, we have seen that, for many families, this is not the case, as they encounter

² Homeward DC 2.0 District of Columbia, https://ich.dc.gov/sites/default/files/dc/sites/ich/page_content/attachments/Homeward-DC-Report_FY2021-2025%5B1%5D.pdf, Accessed on 2/27/2024.

³ Id.

⁴ Id.

⁵ Financial Health and Wealth Dashboard, Urban Institute, https://apps.urban.org/features/financial-health-wealth-dashboard/?puma_id=1100104, Accessed on 1/22/2024.

⁶ Id.

⁷ National Low Income Housing Coalition, District of Columbia, Accessed 1/22/2024.

⁸ Brian McCabe and Eva Rosen, “Eviction in Washington, D.C.: Racial and Geographic Disparities in Housing Instability,” Georgetown University page 16.

⁹ Urban Institute, Financial Health and Wealth Dashboard, https://apps.urban.org/features/financial-health-wealth-dashboard/?puma_id=1100104, accessed on 1/23/2024.

significant obstacles when they try to access funds. Historically, the greatest obstacle the families encountered was providers running out of funds. Now, DHS has created arbitrary applicant limits per quarter, making it harder to assess how much need there is for the program, and preventing families from accessing assistance even when there is still technically money available. However, with the creation of the new ERAP portal system we are seeing additional barriers to individual and families in accessing crucial ERAP funds.

DHS Must Reform the ERAP Portal and Application Process

In an effort to address concerns about ERAP running out of money each fiscal year, DHS recently rolled out a new portal system that opens once per quarter to a limited number of applications. In October 2023 and January 2024 this number was capped at the first 3500 applications. Unfortunately, the new system creates more issues than it solves. The portal technology is not sufficient to support the demand and the portal is not accessible for people who may be in the highest need of the assistance, including people who are elderly, disabled or have limited literacy or English proficiency. Setting an arbitrary cutoff at all is nonsensical and counter to ERAP's stated purpose. All the cutoff does is prevent families from applying for ERAP when they need it. Instead of looking for ways to limit who has access to the program, DHS should be figuring out what the true annual need for ERAP is and funding the program at that level.

The ERAP Portal Technology Is Insufficient

The portal has opened twice since its implementation. Both times, the system crashed preventing many individuals and families from being able to submit an application. The portal opened most recently on Tuesday, January 2, 2024, at noon, making it difficult for tenants who work weekdays to access it during the very short window it was open. The portal was scheduled to open at noon, but the site did not accept applications until after 1:00 pm, meaning that tenants who had planned to apply during a scheduled break at work could not access it at the announced time. By the end of the workday that day, the portal had already closed because the full quota of 3500 applications had been submitted.

We have spoken to some tenants who were able to start an application only to have the system crash as they were trying to complete it. Those individuals believed they had a pending ERAP application, but later learned their application was not saved and they were in fact closed out of applying for ERAP during the cycle. This can have devastating consequences for tenants relying on this assistance to keep them housed.

The ERAP Portal Is Inaccessible to Many Tenants

The ERAP Portal is structurally inaccessible to many tenants. This new system is only accessible to those who have reliable internet, have a computer or mobile device or can access one during the window of the Portal opening, and who can be in front of a computer or mobile device the moment the portal opens (and potentially for many hours later as they try to gain access to the portal), during the regular workday.

The Portal is not accessible to people who are Limited English Speakers, people who need assistance from a case manager, people who have learning disabilities, cognitive impairment, or visual impairments, people who cannot read, or people who do not have access to the documentation required during the limited availability, including the tenants ID, lease, ledger and proof of income.

We have heard that it is possible for people to submit applications by phone or in person, but we have never seen this publicized and do not know how to advise tenants to go about doing this. And if during the application submission process, someone experienced technical issues and reached out to the listed DHS phone number, they did not receive a call back until after the portal closed, when it was already too late.

Finally, under this new system, applications are processed on a first come, first served basis. As a result, DHS and providers are not triaging applications and prioritizing applicants most at risk of eviction. For example, sometimes assistance was provided to people who had not been sued for eviction and therefore were not at imminent risk of losing their homes, while people with open court cases were locked out of the portal. Other times, the assistance provided only covered a portion of the overall debt. This means that after ERAP made its payment, some tenants still had a rental balance and would not be able to retain their housing anyway. These were wasted funds that did not further ERAP's mission of preventing displacement. Additionally, there is also no way for individuals or providers to apply outside of the portal, even with a live writ of restitution, so people with imminent evictions are not able to access assistance. This is contrary to the goal of the ERAP program.

The Council Needs to Fully Fund ERAP and Invest in Long Term Affordable Housing Solutions for DC Residents

ERAP is an important tool for the district to help ensure families remain stably housed through unexpected financial challenges. ERAP is not a one size fits all solution to the affordability crisis in the district. ERAP works most effectively when paired with rental vouchers, affordability supports for tenants, investment in affordable housing, and preservation of existing affordable housing.

A family that spends 60% or more of their income on rent will always be one emergency away from housing instability. 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.

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.

Conclusion

DHS should immediately stop putting an arbitrary cap on the number of people who can apply via the portal. It also must address the issues with the Portal that cause technical problems for so many tenants who are trying to access ERAP funds. DHS must assess the efficacy and equity of the current ERAP program, which is functionally unavailable to swaths of the population most at risk of eviction.

Low-income District tenants are in crisis. Everyday expenses including rent are going up faster than their wages. We know the Council cares deeply about preventing evictions, stemming displacement, and keeping the District’s communities stable and intact and appreciate the Council working to ensure that the ERAP program works for district residents at risk of eviction.