

**Testimony of Mel Zahnd  
Supervising Attorney, Housing Law Unit  
Legal Aid DC**

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

**Public Hearing Regarding:**

**B25-418  
“Voluntary Agreement Abolition Amendment Act of 2023”**

**B25-417  
“Rental Housing Commission Fair Opportunity for Appeal Amendment Act of  
2023”**

**March 18, 2024**

Legal Aid DC<sup>1</sup> submits the following testimony in support of the Voluntary Agreement Abolition Amendment Act of 2023 and the Rental Housing Commission Fair Opportunity for Appeal Amendment Act of 2023.

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<sup>1</sup> 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](http://www.LegalAidDC.org).

## **I. Voluntary Agreement Abolition Amendment Act of 2023**

Legal Aid DC supports the permanent abolition of Voluntary Agreements designed to circumvent the District's rent control laws. In the past, landlords have used these Voluntary Agreements to increase rents beyond what rent control would ordinarily allow.

Landlords often seek Voluntary Agreements after they have threatened tenants with extraordinary rent increases above and beyond what rent control normally allows through hardship petitions and other similar exceptions to rent control law. When landlords realize that the current tenants in the building might have legal arguments to defeat these petitions, they often make the current tenants in the building an offer they cannot refuse: the current tenants will agree to the higher rent increases, but the higher rent increases will only be charged to future tenants who do not live in the building yet. Worse yet, once tenants agree to this scheme, the landlord has every incentive to push the current tenants out so that it can charge those higher rents to future tenants. Sometimes this looks like the landlord actively filing for eviction against the tenants, other times the landlord will simply let the building fall into disrepair and force tenants out through neglect.

Voluntary Agreements shift the cost of rent increases onto future tenants, who are not in a position to fight them. However, these costs on future tenants are nonetheless real. Voluntary Agreements sometimes make entire buildings unaffordable that were previously affordable to moderate- and low-income tenants. An analysis by Legal Aid and the Coalition for Nonprofit Housing & Economic Development of voluntary agreements filed since 2006 has found that these agreements alone have resulted in average increases of \$964 per month per unit for 5,135 total units. The 206 approved voluntary agreements resulted in monthly rent increases totaling nearly \$5 million per month. Voluntary agreements that shifted costs to future tenants (90 agreements) or required all current tenants to vacate (10 agreements) had average increases of \$1,198 per month, compared to \$869 for agreements that did not. Some of these agreements approved rent increases as high as \$3,000 per month per unit.

The use of Voluntary Agreements has and will continue to permanently reduce the affordable housing stock in the District, undermining the purpose of our rent control laws. To protect rent control laws, Voluntary Agreements must be permanently abolished.

## **II. Rental Housing Commission Fair Opportunity for Appeal Amendment Act of 2023**

We also support passage of the Rental Housing Commission (RHC) Fair Opportunity for Appeal Amendment Act of 2023. In particular, it is important that this bill would 1) increase the time to appeal decisions by the Rent Administrator and the Office of Administrative Hearings (OAH) and 2) require the Rent Administrator and OAH to timely submit a complete record to RHC upon an appeal.

### **A. Increasing the Time to Appeal**

This bill increases the time to appeal a Rent Administrator or OAH decision from 10 days to 30 days. When decisions are mailed, five days are added to the deadline to account for the time for mailing. However, the deadline is calculated from the date the notice of the decision was mailed. This means that practically, depending on the speed of mailing, tenants may have even less than 10 days to make a decision on appealing. A 30-day deadline is more appropriate for this kind of decision-making and brings it in line with the time for appeal in other areas of DC law. For example, the DC Court of Appeals allows appeals within 30 days of a judgment in both civil and criminal cases.<sup>2</sup> This change will increase access to justice as well as reduce confusion around conflicting appellate deadlines.

In many cases, the party considering an appeal is not an individual tenant but a tenant association. Tenant association members must engage in significant coordination in order to decide whether to appeal. Association bylaws often require members to vote (sometimes in an in-person meeting) on legal strategy decisions. They must give sufficient notice of the vote under their bylaws and ensure that they can establish a quorum at any meeting. The current 10 day appellate deadline is so short and the procedural hurdles so great that some tenant associations may not be able to appeal at all, even when they have a valid basis to do so.

Even when the party is an individual tenant, rather than a tenant association, 10 days is not sufficient time for many individuals to make a decision about whether they should appeal. Some tenants may need time to seek advice from a lawyer on whether an appeal is appropriate for them. Even tenants who already have a lawyer will need time to discuss their options with an attorney and think through next steps. Importantly, tenants will only get the full benefit of this additional time to appeal if the Rent Administrator or OAH sends clear and accurate notice of their appeal rights, which historically has not been the case.

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<sup>2</sup> D.C. Court of Appeals Rule 4(a)-(b).

**B. Requiring Submission of a Complete Record Upon Appeal**

The requirement that the Rent Administrator or OAH submit the complete record to RHC within 30 days of receiving an appeal will facilitate a fairer and more efficient appeals process. RHC needs the complete record to make a fair decision on the appeal, and it needs that record timely. Currently, cases before the RHC can take years. Ensuring that the record is timely transmitted to the RHC is one necessary step to make sure these cases are decided on a reasonable timeline.

**Conclusion**

Legal Aid DC urges the Council to pass both the Voluntary Agreement Abolition Amendment Act of 2023 and the Rental Housing Commission Fair Opportunity for Appeal Amendment Act of 2023. These bills will ensure a more effective and fairer administration of the District's rent control laws.