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DC TAX REVISION COMMISSION PUBLIC TOWN HALL

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Joint Statement of Legal Counsel for the Elderly and Legal Aid DC P-11, P-12, P-13, P-14, P-15, P-16, P-17

Legal Aid DC and Legal Counsel for the Elderly (LCE) are two of the largest and oldest free legal services providers in DC. For 90 years, Legal Aid has provided a continuum of free legal services – both individual and systemic – to people living in poverty in the District. For nearly 50 years, LCE has improved the quality of life for older adults living in poverty. Both of our organizations frequently represent clients facing outsized property tax burdens, often putting them at risk of losing their housing. We jointly submit these comments regarding property tax revision proposals for consideration by the Tax Revision Commission.

We applaud the Commission for considering the racial impact these proposals could have on our client community. Many of our clients are Black and Brown homeowners attempting to preserve homes as their sole family assets while facing aggressive gentrification and displacement. The senior, disabled, and homestead tax deductions, Schedule H credit, cap assessment, and low-income senior tax deferral program are critical tools to enhance equity for our clients facing rising property tax pressures due to increasing property values in their neighborhoods. We see firsthand that these benefits can make the difference in whether longtime DC homeowners and heirs are able to preserve their family homes and pass wealth to the next generation – or are forced out of their homes and community by an unaffordable tax burden.

We are encouraged by the proposals before the Commission, which preserve and expand access to these benefits. We urge the Commission to carefully consider the way these benefits are currently administered so that (1) any recommended changes do not create added financial precarity for current recipients; (2) recommended changes do not increase the tax burden for lower-income and marginalized communities in DC; and (3) recommended changes expand access to the benefits. We jointly submit the following responses to proposals currently under consideration by the DC Tax Revision Commission.

Support for Proposal to Enhance Property Tax Deferral Program for Seniors (P-13)

We support this proposal. The property tax deferral program for seniors provides vital protection against property tax sale foreclosures but is currently only accessible to a small percentage of District residents. The program is a critical tool that can save lower-income seniors from foreclosure when the process is already underway. But strict income and age restrictions limit the program's efficacy. The proposed increase to the income ceiling and reduction in minimum age (to 50) would substantially expand the program's reach. In addition to increasing the income ceiling, we also suggest changing the income calculation from "household" income to the income of the owner(s). Lower-income seniors in the District frequently have younger family members living with them temporarily, which can render them ineligible for the tax deferral program.

Our clients find themselves with overly burdensome property tax debts for many reasons, including a dramatic mismatch between assessed property value and income, a lack of awareness about the tax benefits available, and the transfer of property to heirs who are unable to access property tax benefits until after the often-lengthy process of probating an estate to gain clean title to the property.¹

Access to a deferral can both prevent the property from going to property tax sale and can pull the property out of active tax sale foreclosure litigation. Additionally, by removing the immediate burden of biannual taxes, the deferral allows DC residents to focus resources on much-needed repairs to their homes and allows access to District programs providing repair assistance, such as the Single Family Residential Rehab Program. This proposal will support the preservation of Black and Brown homeownership and existing affordable housing stock in the District.

Although we support making this option more widely available, we also believe the District should ensure that applicants to the program are fully informed about the potentially harmful impact on their heirs, who must ultimately address the deferred tax bill.

¹ Title can become "tangled" when homes are passed between generations without a will or without the filing of a probate petition. Heirs dealing with tangled title often wait years before receiving a deed to the property.

Support for Proposal to Allow Retroactive Enrollment of Homeowners for the Homestead Deduction and Other Property Tax Expenditures (P-15)

We strongly support this proposal. The Homestead and Senior deductions protect lower-income residents from inequitable property tax burdens and tax sale foreclosure. Both of our organizations work to ensure that our clients are enrolled in these deductions when eligible. However, as legal service providers, we are unable to effectively reach all eligible residential property owners in the District to ensure maximum enrollment, and often only meet people after their property tax debt has become unaffordable because they have not applied for benefits for which they are eligible. Retroactive application of the benefits for three years is a big step towards addressing the problem of under-enrollment in these deductions and benefits and gaps in outreach.²

The Proposal Should be Expanded to Include heirs who are otherwise eligible pending probate.

A major problem in the District which is not addressed in proposals currently before the TRC is the lack of property tax benefits available to heirs who have not yet completed the probate process but would otherwise be eligible for these benefits. When a loved one dies and leaves property behind, heirs are frequently unaware that they need to inform the Office of Tax and Revenue or make any adjustments to property tax deductions. Furthermore, heirs currently cannot apply for the homestead, senior, or disabled tax deductions until their name is on the deed. But the probate process can be lengthy – often taking 2-3 years or more. The gap in benefits for heirs creates inequity for these individuals, impedes the intergenerational transfer of property, and contributes to a loss of Black and Brown wealth and homeownership within the District. The District should follow the lead of jurisdictions like Philadelphia and expand access to these benefits to maintain affordability for heirs until such time as they are on title.³

² For the homestead, senior, and disabled deductions, we recommend the same change to income eligibility described above. Changing the eligibility calculation from household income to owner income would ensure more District residents in need of these deductions have access to them.

³ See National Consumer Law Center, *Property tax foreclosures on heirs property: the devastating consequences and recommendations for prevention* (August 2023), https://www.nclc.org/wp-content/uploads/2023/08/202308_Property-Tax-Foreclosures-on-Heirs-Property.pdf (“Philadelphia allows heirs who inherit a property intestate to qualify for a conditional homestead exemption for three years”).

Response to Proposal to Expand and Consolidate Means-Tested Property Tax Relief Programs P-16

We support the expansion of the Schedule H credit. Legal Counsel for the Elderly runs Schedule H clinics for hundreds of DC seniors each year and solely assists seniors who do *not* file income taxes. Clients regularly do not see the full benefit to which they could be entitled through Schedule H due to the \$1250 cap on the credit. We support eliminating this cap, ensuring that property tax thresholds for each income band are applied incrementally, and expanding the income eligibility for non-seniors to equal that of seniors (\$78,600).

While we also support the emphasis on equitable application of the senior and disabled tax credit, limiting the credit to properties valued under \$700,000 would harm many of our lower-income clients living in properties with appreciating value. A limit to properties valued under \$1.5 million would protect DC residents facing increased property values and pressure to relocate due to gentrification, while also ensuring that the District's wealthiest residents pay equitable amounts.

Response to Proposal to Allow Homeowners to Claim Circuit Breaker on Their Property Tax (P-17)

Based on our experience screening thousands of clients to determine eligibility for the credit, we agree that Schedule H is an underutilized program with many barriers to access, and we firmly support the effort to decrease access burdens. We have two primary concerns with the implementation of this proposal: (1) tracking eligibility automatically through income tax records excludes anyone who does not need to file income taxes due to low and/or fixed income, and (2) a large number of financially vulnerable District residents currently rely on Schedule H as a lump sum cash payment rather than a deduction on property taxes.

As stated above, LCE's Schedule H clinics serve *only* DC residents who do not file income taxes. These clients often receive Social Security retirement or disability benefits, or simply do not have any form of stable income. Automating the credit only for people who file income taxes risks leaving out many vulnerable residents most in need of the credit.

Furthermore, shifting the credit to become a property tax deduction would considerably disrupt the way that current Schedule H recipients experience the credit. We urge the Commission to be attentive to how this transition might impact financially vulnerable residents who annually rely on this specific influx of money. The Commission should also ensure that recipients can continue to retroactively access up to three years of the credit.

Response to Proposal to Repeal 2% Property Tax Assessment Cap for Seniors (P-14)

We do not support the proposal repealing the 2% property tax assessment cap for low-income seniors and people with disabilities without evidence of how the repeal would *not* increase the tax burden for lower income seniors and disabled residents. Rapidly rising property values in the District make the cap an important tool to prevent tax sale foreclosure and push-out of long-time and vulnerable DC residents. We urge the Commission to refrain from changes to the cap assessment, which would increase the tax burden for households with a combined income of under \$150,000 and an assessed home value of \$1.5 million or less.

Response to the Proposal to Increase the Residential Tax Rate (P-11)

We are concerned with the proposal of a blanket, untargeted increase of the residential tax rate regardless of property value because it would have an adverse and disproportionate impact on low income homeowners and renters in DC, who are primarily Black and Brown. This change would clearly increase the tax burden for lower-income and marginalized communities in DC already at risk of property tax sale foreclosure.

Thank you for the opportunity to submit responses on proposals before the Commission. We look forward to working with you further to ensure tax equity for District residents.