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

**Budget Oversight Hearing Regarding the
Department of Housing and Community Development**

April 22, 2024

Legal Aid DC¹ submits this testimony to urge the D.C. Council to enact legislation to better administer the District's Homeowner Assistance Fund and, to the extent that funding is needed to implement that legislation, allocate those funds immediately through B25-0785 - Fiscal Year 2025 Local Budget Act of 2024 and include any necessary legislative language in the B25-0784 Fiscal Year 2025 Budget Support Act of 2024.².

We also urge the Council to allocate funds for a local homeownership preservation program so that funding is available for homeowners in danger of foreclosure once the federal funds for DC's Homeowner Assistance Fund (HAF) have been exhausted.

Legal Aid DC Asks the Committee to Enact Emergency Legislation to Administer the District's Homeowner Assistance Fund (HAF) Program

DC's HAF program is rife with problems and unacceptable delays that jeopardize the program's success. Enacting local legislation is necessary to govern the program and

¹ Legal Aid DC is the oldest and largest general civil legal services program in the District of Columbia. 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 legal system. From the experiences of our clients, we identify opportunities for court and law reform, public policy advocacy, and systemic litigation. For more information, visit www.LegalAidDC.org.

² Legal Aid DC has provided the Committee on Housing and Committee of the Whole with legislative language we believe could be incorporated in the Budget Support Act.

ensure its efficacy. Legal Aid urges the DC Council to enact legislation immediately for the program to address the significant problems homeowners have experienced since the District's HAF program opened on June 22, 2022.³

To address these problems, Legal Aid encourages the DC Council to enact legislation that:

- Establishes deadlines related to the review of applications, appeals, and payment disbursement;
- Requires that homeowners are provided timely and meaningful updates about their HAF applications;
- Requires eligibility determination notices be sent to applicants that include clear and accurate information of appeal rights; and
- Protects all homeowners from foreclosure and collection lawsuits regardless of when they applied for HAF while their application is pending.

If funding is necessary to accomplish the goals of this legislation, Legal Aid urges the DC Council to fund this legislation through the Fiscal Year 2025 Local Budget Act of 2024.

Background on the HAF Program

The Homeowner Assistance Fund uses \$50 million in federal funds to provide grants to District homeowners who are suffering financially from the pandemic to save their homes and avoid displacement. HAF helps homeowners catch up on mortgage payments, condominium fees, property taxes, utilities, and other housing-related payments.

³ Legal Aid previously testified about these issues related to the HAF program during the Department of Housing and Community Development's (DHCD) performance oversight hearing in February 2024. Legal Aid has also testified at length about the need to address delays in payment disbursement during DHCD's performance oversight hearing in February 2023 and January 2022. Unfortunately, the concerns we raised then remain ongoing. See Testimony of Deborah Cuevas Hill, Legal Aid DC, Performance Oversight Hearing Regarding the Department of Housing and Community Development (February 15, 2024), <https://www.legalaiddc.org/media/3867/download?inline>; Testimony of Jennifer Klein Joseph, Legal Aid DC, Performance Oversight Hearing Regarding the Department of Housing and Community Development (February 13, 2023), <https://www.legalaiddc.org/media/3394/download?inline>; Testimony of Shirley Horng, Legal Aid of the District of Columbia, Performance Oversight Hearing Regarding the Department of Housing and Community Development (January 19, 2022), <https://www.legalaiddc.org/media/297/download>.

The HAF program is a unique opportunity to stem the tide of displacement, to preserve low and moderate-income homeownership, and to build intergenerational wealth, which would in turn help to narrow the District’s racial wealth gap. Legislating the HAF program and making it work for homeowners is critical to preserving Black and Latinx homeownership in the District, given that Black and Latinx homeowners face disproportionately high risks of losing their homes.⁴

The HAF Program’s Substantial Delays in Application Review and Payment Disbursement Processes Must be Addressed Through Legislation

Legal Aid urges the DC Council to legislate timelines for HAF application review, including any internal appeals process, and payment disbursement, to ensure homeowners see timely relief from the HAF program. Currently, homeowners in the HAF program experience a protracted process with delays at every turn. These delays impact homeowners and lenders and undermine effective use of the funds allocated to the HAF program. Legislation can mandate timelines, minimizing these delays to the benefit of all parties involved.

Legal Aid understands that in DHCD’s oversight testimony provided in February 2024, the agency reported more efficient timelines for applicants to receive both approvals and disbursement of payments. Legal Aid clients, however, have not experienced these improved timelines. Our clients’ experiences suggest that the substantial delays that plague the forward-facing payment process may not be accounted for in DHCD’s data.⁵ Accordingly, we still believe that legislating timelines for responses to HAF applications and for payments remains a top priority to ensuring the program’s ability to run smoothly and effectively.

⁴ Rachel Bogardus Drew & Matt Thompson, *Foreclosure Risks Remained High During Pandemic for Household of Color*, Enterprise Blog (Feb. 8, 2023), <https://www.enterprisecommunity.org/blog/foreclosure-risks-remained-high-during-pandemic-households-color>. (“Government interventions during the pandemic did little to shrink systemic inequities in housing stability for households of color, who continue to face foreclosure risks at more than twice the rate of white homeowners.”)

⁵ Notably, DHCD’s data on the reduction in timelines is silent on how the timing from application approval to payment is measured, making it difficult to understand.

Homeowners are Experiencing Delays in the HAF Program Processing

As Legal Aid previously testified, the experiences of Legal Aid clients⁶ suggest that it takes around 7 months for a homeowner to be approved for HAF, and another 6 months for HAF to effectuate payment on their behalf.⁷ Thus, based on Legal Aid client experiences, it takes over **one year** for an individual to see relief from the program.

Unfortunately, even in situations where a Legal Aid client has seen relief, the majority who applied for forward-facing mortgage payments have not seen three consecutive payments sent to their mortgage company and continue to wait for HAF to issue final payments. The delay of these forward-facing payments has been incredibly difficult for homeowners. As designed, the forward-facing payments are meant to be sent the three months immediately after the arrearage is paid. Unfortunately, most of our clients have not received consecutive payments. Instead, our clients have experienced interrupted forward-facing payments, often with gaps of many months in between payments. These interrupted payments result in shortages and new defaults, creating distress and confusion.

The substantial delays in reviewing applications and processing payments have serious negative impacts on communities. Chief among them are the stress and anxiety experienced by homeowners who fear losing their homes as mortgage companies and condominium associations continue to threaten or pursue foreclosure and debt collection. Homeowners with HAF applications that have been pending for many months regularly receive collection calls and notices, even when a HAF application has been approved.

⁶ As of January 26, 2024, Legal Aid had assisted over 60 homeowners with HAF applications. The level of assistance Legal Aid provided varied. For some clients, we were involved in all aspects of the application process, and in others the clients submitted the application independently and Legal Aid provided follow-up assistance or advice. We did not include all clients in our data set. We did not include homeowners who only applied for utility assistance or homeowners for whom we did not have sufficient information regarding their application timeline.

⁷ These numbers are based on data Legal Aid compiled for 57 clients who applied for HAF, focusing on the length time it took for DCHD to review their applications and then for the 41 who are approved for the program, further determining how long it took DHCD to disburse the first payment. For 17 of the 57 homeowners who have applied, DHCD has taken at least 11 months to approve their applications. For 6 of the 41 homeowners approved for mortgage assistance, DHCD has taken at least 11 months to disburse the first payment. Legal Aid has three clients who applied prior to September 30, 2022, and their applications are still pending approval.

Additionally, foreclosing entities are growing frustrated with the continuous program delays both in getting a determination of eligibility and disbursement of payments for approved applications. These frustrations are most acutely felt by those homeowners who applied for HAF on October 1, 2022, or later, who are not protected from foreclosure, and are at the mercy of asking lenders and associations to cooperate with a lengthy review and payment process.

Finally, every additional month it takes the HAF program to assess a homeowner's application and disburse payments cause mortgage balances to grow as legal fees, collection costs, and additional arrears pile up. This means that substantial amounts of the limited pool of funding will be spent on collection costs and legal fees that could have been avoided, as opposed to helping more homeowners.⁸

Legislation is Needed to Remedy These Delays

Review timelines need to be substantially shortened to minimize the likelihood of foreclosure and continued collection activity while applications are pending approval or payment. Legislation is needed to provide deadlines for:

- Initial review of applications;
- Determination regarding DC HAF eligibility;
- Determination of an appeal of a denial of a DC HAF application;
- Requesting a reinstatement balance on a homeowner's account, and a forward assistance balance (as appropriate); and
- Payment of the reinstatement balance and any forward assistance.

Legislation is Needed to Ensure Clear and Timely Updates to Homeowner Applicants of the Status of Their HAF Applications

We believe that clear and timely updates about the status of a homeowner's HAF application are critical to ensuring that the homeowner understands the application

⁸ Additionally, growing arrears make other alternatives to foreclosure (like loan modifications) less viable for homeowners, particularly in the current high interest rate climate, meaning that a homeowner may be less able to consider or rely on another alternative to foreclosure in the event that they are unable to obtain relief from HAF.

process, what is expected of them, and what they can expect from DHCD through the HAF program.

Unfortunately, clear and timely updates are difficult for HAF applicants to obtain, which necessitates legislating these requirements. At the initial stages of the program, this was not the case, and homeowners would receive email communications from the agency informing them of approvals or denials, and notifications of when a payment (either for arrears or forward-facing) was made, to what entity it was made, and the amount of payment. However, over the past several months, Legal Aid clients have seen a decrease in communications from DHCD about their applications, and communications have been inconsistent. For example, some individuals are receiving information about payments being made from the HAF program, while others are not, even though those payments are being sent. Even when emails are sent, they are often sent weeks or months after the payment has been made.

Without timely notice of when payments were made on their behalf, homeowners are in the dark about when their obligation to resume making payments begins, leading to confusion, stress, and new payment defaults.

In light of these concerning developments, we urge the DC Council to legislate that homeowners receive all of the following updates from the agency regarding their HAF applications:

- Contemporaneous updates to the HAF portal and via email regarding the status of the application and payment, including the date, total amount and number of payments made and name of the vendor receiving payment;
- Updates about the reasons for delays in review and payment; and
- Clear notification to homeowners when additional information is required to supplement their application, including the deadline (with a specific date) for the homeowner to respond to the request for additional information and the consequence if the homeowner fails to respond to the request.

The Council Must Legislate a Meaningful Appeal Process for Denied Applications to the HAF Program

Legal Aid appreciates that DHCD recognizes that every applicant who is denied HAF assistance must have the opportunity to appeal. However, the present appeals process is confusing and seemingly inconsistent. Currently, a homeowner who is denied assistance from HAF receives an email stating that their application for assistance was generally denied. Unfortunately, that email does explain the basis for the denial and does not

articulate the homeowner's appeal rights. As a result, a homeowner cannot understand from the notice why they were denied, let alone what to do about it.

Without legislation, these issues will likely continue to thwart homeowners from being able to obtain relief from HAF. Legal Aid encourages the DC Council to enact legislation that brings clarity to the appeal process, to enable DC homeowners to get the relief they need. We would encourage that appeals process to contain the following key components:

- Providing applicants with clear notice explaining the basis for any denial;
- Providing clear information about their appeal rights including how to appeal the denial, the deadline to do so, and the correct forum to do so;
- Providing applicants with an opportunity to explain why they believe their application was incorrectly denied; and
- Providing an opportunity to appeal for applicants who are denied at the "initial screening" stage of the HAF application.

Legislation Should Protect All Homeowners Who Have Applied for the HAF Program From Foreclosure and Collection Lawsuits

Finally, we believe that legislation is required that protects all homeowners who have applied for the program from foreclosure and collection lawsuits, regardless of when they applied. Currently, homeowners who applied for HAF on or before September 30, 2022 are protected from foreclosure while their HAF applications remain pending consideration. These protections have been tremendously important and helpful to that portion of homeowners, especially with the HAF program's delays and other issues.

In comparison, homeowners who applied for HAF on October 1, 2022 or later who do *not* share the foreclosure protections are constantly in a precarious situation with foreclosing entities. As noted above, foreclosing entities are growing increasingly impatient with the HAF program and its protracted process. When a homeowner is not protected by the moratorium, the foreclosing entity and its counsel are more likely to be aggressive in their approach in handling a case, and less amenable to working with the HAF process. Lenders, condominium associations, and tax sale purchasers are incurring attorneys' fees and collection costs by prosecuting cases where homeowners have pending HAF applications. Those costs (which are absorbed by the HAF program if a homeowner is approved) could be avoided if legislation were passed that protected homeowners regardless of when they applied for HAF.

District homeowners who have applied for HAF should not face different prospects with their lenders and any related foreclosing counsel simply because of the date by which they were able to submit their HAF applications. Instead, Legal Aid urges the DC Council to enlarge the foreclosure protections to apply for all homeowners who have applied for the HAF program and to cover collection lawsuits.

Legal Aid Urges the Council to Provide Any Funding for This Legislation, Should It Be Required

Legal Aid appreciates that some of these new proposed legislative additions to the HAF program would create additional work for DHCD and its staff. To the extent that funding is necessary to help support DHCD in enacting parts of this proposed legislation, Legal Aid urges the DC Council to immediately fund this legislation. Any upfront costs necessary to effectuate such legislation are worthwhile investments because they would increase the program efficacy in the long term and ensure that more of the remaining federal funds go directly to assisting homeowners.

Legal Aid Asks the Council to Locally Fund the DC Homeowner Assistance Fund After Federal Funds are Depleted

Finally, Legal Aid asks the Council to locally fund the HAF program after the federal funds are depleted. While HAF is far from perfect and the timelines for approval and payment continue to be very troubling, the program is a critical lifeline for homeowners. Those who have received HAF funds have been able to keep their homes, maintain stability for their families, and build equity.

Because HAF is a critical tool for homeowner preservation, Legal Aid requests that the Council replenish the fund with local dollars once the current federal funds are expended. Recently, Legal Aid learned that only \$8 million of the \$50 million HAF funds from the federal government remains unspent or unallocated. The HAF federal funds will be gone before too long, leaving homeowners without any other tools at their disposal. The Council can step in to fill that void and continue to keep these funds alive to stabilize homeowner preservation in the District. District homeowners have never had access to a program like HAF before, and it would be tragic if they lost this vital lifeline.

Conclusion

We urge the Council to adopt legislation that would set reasonable timelines for application review and payment disbursement, protect all homeowners from foreclosure and collection lawsuits while their HAF applications are pending, and address the lack of clear and timely communications from the agency, including notice of appeal rights.

Legislation in these areas would enable effective and timely administration of the HAF program preventing avoidable foreclosures and displacement, goals that would help mitigate the racial wealth and homeownership gaps in the District.

We thank the Committee for the opportunity to submit this testimony.