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**Testimony of Mel Zahnd
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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 and the Housing Production Trust Fund**

April 22, 2024

Legal Aid DC¹ submits the following testimony regarding the Housing Production Trust Fund (HPTF). My testimony focuses on restoring funding to the HPTF and on requiring the HPTF to set aside 30% of its funds for projects that preserve aging housing stock that need rehabilitation.

Shortage of Affordable Housing for Extremely Low-Income Tenants

DC does not have enough affordable housing for its extremely low-income residents, whose incomes fall at or below 30% of the annual median income.² These residents are being pushed out of DC by rising rent costs as well as deteriorating and unsafe conditions in much of DC's holder housing stock.³

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 See, e.g., Eliana Golding, DC Fiscal Policy Institute, "A Holistic and Reparative Agenda for Ending Displacement in DC," (Nov. 15, 2023), <https://www.dcfpi.org/all/agenda-for-ending-displacement/>

³ See *id.*

Given current rent prices, the math does not work for the vast majority of extremely low-income residents. A monthly rent cost above \$1141 is not affordable for an extremely low-income family of four.⁴ However, average rent in DC is more than double that at \$2422.⁵ It becomes clear just how bleak the options are for extremely low-income families when we recognize that the average apartment size in DC is a mere 746 square feet, hardly enough space for most families with children or with more than one generation living together.⁶ Affordable rents are out of reach for most extreme low-income residents.

DC continues to lose affordable rental homes. These high rents mean that DC currently has a shortage of over 33,000 affordable rental homes for extremely low-income renters.⁷ Unfortunately, this problem is growing. In the last ten years, DC and its nearby counties lost over 85,000 homes with monthly rents below \$1500.⁸ DC's current response is insufficient to stanch the hemorrhage of affordable housing.

This ongoing loss of affordable housing drains the pockets of DC's extremely low-income residents, particularly depleting its residents of color of the money they need to survive. Three quarters of DC's extremely low-income residents are severely cost-burdened.⁹ "A 2019 report from the Deputy Mayor for Planning and Economic Development showed that Black residents are three times more likely than white residents to move due to an inability to pay their housing costs."¹⁰ Since 2000, the population of white residents in DC

⁴ Nat'l Low Income Hous. Coalition, "District of Columbia: Out of Reach," <https://nlihc.org/oor/state/dc>.

⁵ "Washington, DC Rental Market Trends," RentCafe, <https://www.rentcafe.com/average-rent-market-trends/us/dc/washington/>.

⁶ See *id.*

⁷ Nat'l Low Income Hous. Coalition, "District of Columbia: Housing Needs by State," <https://nlihc.org/housing-needs-by-state/district-columbia>.

⁸ DHCD, "Metropolitan Washington Regional Fair Hous. Plan," <https://dhcd.dc.gov/page/metropolitan-washington-regional-fair-housing-plan#:~:text=DC%20and%20nearby%20counties%20lost,see%20below%20to%20learn%20more>).

⁹ Nat'l Low Income Hous. Coalition, "District of Columbia: Housing Needs by State."

¹⁰ Golding.

has increased, while the number of Black residents has declined.¹¹ Without significant investment in maintaining affordable housing, DC will continue to unfairly burden and displace its low-income residents and residents of color.

Restore Funding to the HPTF at the Level of \$100 Million and Designate Funding for Preservation Projects

Unfortunately, the proposed budget does not reflect the necessity to invest in maintaining affordable housing for extremely low-income residents. One of the essential tools for stabilizing affordable housing in DC is the HPTF. Council should restore funding to HPTF at the level of \$100 million and also require that one third of that funding be used for preservation projects, particularly preferencing projects that are affordable for extremely low-income tenants.

Legal Aid frequently represents tenant associations who are exercising their rights under the Tenant Opportunity to Purchase Act (TOPA). TOPA is a powerful tool for keeping low-income residents in their homes. While many tenant associations use TOPA to form cooperatives and buy their homes, others use the law to assign their rights to responsible developers who promise to make repairs and keep rents affordable.

Whether tenants are using TOPA to buy their homes themselves or to find responsible developers, there will need to be financing available to both acquire the property and to make necessary repairs and renovations. One of the greatest obstacles that Legal Aid has seen to TOPA's effectiveness is the lack of long-term funding availability to preserve affordable buildings, most of which are aging.

Inflated, speculative prices, along with years of deferred maintenance can make it difficult for responsible buyers to get the financing they need to purchase affordable buildings.¹² Because of the deteriorating housing conditions in many older buildings, if tenants cannot find a responsible developer to repair or renovate their homes, then they may be forced to leave altogether.¹³ Without options to keep their buildings affordable and in decent condition, tenants are sometimes forced to accept "buyouts," money to

¹¹ *Id.*

¹² See Coalition for Nonprofit Hous. and Econ. Development, "Sustaining Affordability: The Role of the Tenant Opportunity to Purchase Act (TOPA) in Washington, DC," (Nov. 15, 2023), 66, <https://cnhed.org/news/cnhed-releases-comprehensive-analysis-of-dcs-tenant-opportunity-to-purchase-act-topa/>.

¹³ Golding.

leave behind their homes.¹⁴ These buyouts displace long-time tenants and disrupt communities.¹⁵

Legal Aid has seen these problems recur for a number of tenant associations it has represented. For example, in one older property, the tenants chose to exercise their TOPA rights and assign those rights to a nonprofit developer who promised significant renovations and continued affordable rents. For a number of reasons, the sale of the property to this nonprofit developer was delayed. However, one of the issues was the lack of financing available for the project. The nonprofit developer was ultimately able to put together the necessary financing to buy the building, but, in the meantime, the prior owner of the building failed to make major necessary repairs to keep the property safe, and a number of tenants were forced to move out of the building and DC altogether.

Currently, the only designated funding to preserve aging housing stock is the Affordable Housing Preservation Fund (AHPF).¹⁶ The AHPF provides only short-term financing for initial purchase and for emergency repairs.¹⁷ At the end of these short-term loans, developers need “take out” financing (i.e. long term financing to renovate and maintain these affordable buildings). But this funding is nearly impossible to come by unless developers can also access the HPTF.

There is an easy fix to this problem, though. To ensure that there is enough money set aside to adequately fund the necessary renovation and rehabilitation for DC’s aging housing stock, HPTF should be required to allocate at least thirty percent of its funds each year for these preservation projects, and this money must be available when developers need it. This required set-aside will give responsible buyers the funding and certainty they need to keep DC’s housing affordable and in good repair.

Use of the HPTF for construction of new housing alone will not address the severe shortage of affordable rentals for extremely low-income tenants. Nor can new construction alone prevent displacement.¹⁸ As DC’s rental housing ages, it will continue to require significant rehabilitation, and these costs will be passed along to the tenants who can least afford it, unless DC chooses to invest in housing preservation. To ensure that

¹⁴ See Coalition for Nonprofit Hous. and Econ. Development at 66.

¹⁵ See *id.*

¹⁶ Golding.

¹⁷ *Id.*

¹⁸ *Id.*

extremely low-income tenants can continue to live in their homes with safe and comfortable conditions, DC must set aside a third of the HPTF for preservation projects.

Conclusion

Thank you for this opportunity to testify about the HPTF. Legal Aid requests that Council restore funding of the HPTF to \$100 million, along with designation of thirty percent of the fund for preservation projects. We look forward to working with the HPTF and this Committee on the path forward.