



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

---

**Testimony of  
Johanna Schmidt,  
Senior Staff Attorney  
&  
Matthew Sokol,  
Staff Attorney  
Consumer Law Unit  
Legal Aid DC**

**Before the Committee of the Whole  
Council of the District of Columbia**

**Public Hearing Regarding:**

**Bill 25-1003  
“Vacant to Vibrant Amendment Act of 2024”**

**November 26, 2024**

Legal Aid DC<sup>1</sup> submits the following testimony regarding Bill 25-1003, the Vacant to Vibrant Amendment Act of 2024. Legal Aid shares the Council’s goal to ensure that truly vacant properties do not become an inadvertent safety risk or hazard to their communities. We recognize the benefit of creating avenues for vacant properties to be rehabilitated and reutilized to add much-needed housing back into the District. We also applaud the Committee’s efforts to seek to provide information earlier to heirs about what needs to be done with property upon an individual’s passing to attempt to stem the tide of more of these buildings occurring in the District as homeowners pass.

---

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

However, Legal Aid is concerned about the collateral consequences of this Act that may inadvertently harm our client population. Legal Aid’s Consumer Law Unit works with low-income District homeowners to help them avoid foreclosure and build generational wealth.<sup>2</sup> In our experience, low-income District homeowners constantly pinch pennies and, at times, make tough decisions about when to pay their mortgages, utilities, property taxes, or the other expenses that arise as a part of homeownership. Many of our clients routinely have at least one utility shut off or disconnected because they cannot afford to pay for it, and many live in homes that would benefit from significant upkeep or repair that they cannot afford to perform.

While we appreciate the goal of the Act is to enable the District to move quickly to resolve this issue of vacant buildings, we are concerned that the quick timelines may cause our clients’ homes to get caught up in these processes, forcing low-income

---

<sup>2</sup> In this testimony, a “low-income” household is one with an income equal to, or less than, 80% of the area median income (“AMI”) and greater than 50% AMI, or an annual income for a family of four between \$77,350 to \$97,800. See D.C. Code § 42–2801 (using this definition of “low-income”); U.S. Dep’t of Housing & Urban Dev., FY 2024 Income Limits Documentation System, [https://www.huduser.gov/portal/datasets/il/il2024/2024summary.odn?STATES=11.0&IN PUTNAME=METRO47900M47900\\*1100199999%2BDistrict+of+Columbia&statelist=&st name=District+of+Columbia&wherefrom=&statefp=11&year=2024&ne\\_flag=&selection ty pe=county&incpath=&data=2024&SubmitButton=View+County+Calculations%20%20\(la st%20visited%20Nov.%2014,%202024\)](https://www.huduser.gov/portal/datasets/il/il2024/2024summary.odn?STATES=11.0&IN PUTNAME=METRO47900M47900*1100199999%2BDistrict+of+Columbia&statelist=&st name=District+of+Columbia&wherefrom=&statefp=11&year=2024&ne_flag=&selection ty pe=county&incpath=&data=2024&SubmitButton=View+County+Calculations%20%20(la st%20visited%20Nov.%2014,%202024)).

Legal Aid serves homeowners facing foreclosure who receive income up to 300% of the federal poverty line. A family of four would be eligible for Legal Aid’s services if they earned an annual income of \$93,600 or less, placing them below 80% AMI, and falling within this definition of low-income. See Healthcare.Gov, Federal Poverty Level (FPL), <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/> (last visited Nov. 14, 2024).

The vast majority of individuals who are “low-income” in the District are likely to be people of color. See Schnur & Williams, *DC Made Progress on Poverty Thanks to Public Investment in Residents*, DC Fiscal Policy Institute (Sept. 15, 2023), <https://www.dcfpi.org/all/dc-made-progress-on-poverty-thanks-to-public-investment-in-residents/> - :text=The District made progress on poverty through higher,DC’s residents and communities in 2021 and 2022 (noting that median income for Black households & for Latino households was lower than median income for non-Hispanic white households).

homeowners out of their properties simply because they have limited financial resources at their fingertips.

We thus encourage the Committee to consider amendments and alterations to the Act that would ensure that low-income District homeowners do not experience unintended consequences of the expedited timelines and heightened punishments proposed. Particularly, we encourage the Committee to create procedural safeguards around the measures proposed in this legislation to ensure District residents living with limited financial resources have a meaningful opportunity to prevent wrongful designation of their properties as vacant.

**Legal Aid DC Asks the Committee to Alter the Act to More Easily Enable Individuals Who Fell on Tough Times to Access the Single-Family Home Rehabilitation Program**

Legal Aid DC applauds the Committee's decision to work with low-income homeowners to ensure that their homes are maintained. However, Legal Aid encourages the Committee to reconsider some of the requirements for a homeowner to access the single-family home rehabilitation program, so that as many homeowners as possible, including those who may need the assistance most, can take advantage of this program.

Currently, the Act requires an individual to be current on mortgage payments for the last year, current on all District and federal taxes, and have current homeowners' insurance.<sup>3</sup> These requirements, while well-intended to ensure that a homeowner receiving these benefits will continue to reside in their home, go a step too far and shut out many who would benefit the most from repairs. Legal Aid encourages the Committee to modify these requirements and lower the barrier of access to this program for our neighbors with limited resources. For example, Legal Aid would suggest that an individual only need to be current for the last three months of their mortgage (enough for a homeowner to have completed a trial repayment plan to bring their mortgage current again under new, more affordable terms), and that individuals on payment plans for property taxes be eligible for this program. These changes would ensure that people who are getting back on their feet and may financially need this assistance the most can take advantage of this program.

---

<sup>3</sup> See Vacant to Vibrant Amendment Act of 2024, Bill No. 25-1003, p. 5-6.

## **Vacant and Blighted Building Determinations and Processes Should Have Procedural Safeguards to Ensure that Low-Income Individuals are not Unintentionally Penalized Through These Systems**

Legal Aid has seen all too frequently individuals whose homes have been misclassified as vacant or blighted. When a property is classified as vacant or blighted, the homeowner's property taxes skyrocket. The individual then either faces an insurmountable property tax bill to pay – increasing the risk of property tax foreclosure – or a ballooning monthly mortgage payment as an individual's escrow payment increases to accommodate the new property tax payment – increasing the risk that they will not be able to pay their mortgage. The misclassification of a home then puts the vulnerable more at risk of losing that home through effectively no fault of their own.

This reality leads Legal Aid to urge the Committee to reconsider and modify several provisions in the Act to: (1) provide for procedural safeguards to enable someone to correct and contest a classification of their home as vacant or blighted; (2) ensure factors that are considered when deeming a property "vacant" or "blighted" are mindful of the realities of poverty; and (3) provide for liberal awards of "hardship exemptions" to vacant building taxation and registration when a person is living in the home.

### Procedural Safeguards

Legal Aid urges the Committee to consider procedural safeguards to ensure residents have the opportunity to learn about and correct an erroneous determination that their home is vacant or blighted *before* they face the consequences of that determination. Specifically, Legal Aid encourages the Committee to adopt the following additions to this Act:

- Codifying sending notices of infraction that would lead to a re-classification of a property as vacant or blighted at least 30 days prior to that determination being implemented to enable a homeowner to try to rectify a concern and/or lodge a request for reconsideration before they see the negative consequences of that determination. This notice could include information for legal services providers for individuals to contact if they needed assistance with any reconsideration process;
- Ensuring that any homeowner is afforded at least 30 days to respond to or appeal any determination that their home is vacant or blighted; and

- Requiring a response from the Department of Buildings on any application to reconsider a vacant or blighted property determination, to ensure every applicant is given meaningful due process.

These recommendations allow District homeowners the ability to challenge notices of infraction and indicate that they live in a property that has been classified as vacant ahead of suffering any negative consequence of that determination, and to have their challenges to these determinations considered and evaluated.

They also help ensure that a homeowner who receives a notice has a meaningful opportunity to respond to that notice and understand what they need to do. Administrative proceedings, such as those to contest a vacant or blighted building classification, can be overwhelming to a person attempting to fix an issue on their own, and it can take time for someone to understand what to do and how to do it. Giving people time to navigate the legal system is important to ensuring that they can vindicate their rights and avoid negative outcomes.

A preemptive system to sort out these issues and classifications remains important, even though there are ways that someone may be able to correct a misclassification of their home as vacant or blighted. While Legal Aid appreciates that a homeowner may be able to undo an incorrect determination, many homeowners may not understand that they have a way to do that and let go of their homes when the cost of an incorrect determination comes to a head by either making an unaffordable property tax bill or unaffordable monthly mortgage payment. Creating a system for challenging a determination before it takes effect alleviates those issues and ensures our low-income neighbors have the opportunity to remain in their homes. It also may prevent unnecessary foreclosure cases from being filed at D.C. Superior Court when an individual can no longer afford to make a mortgage payment that factors a vacant property tax.

#### Classification Factors

Legal Aid also urges the Committee to reconsider the factors that determine a property gets deemed vacant or blighted. Of particular issue, Legal Aid notes that considering a property vacant because of the following factors risks unduly causing properties owned by low-income individuals to be classified as vacant, simply because they may not have the resources to cure these issues:

- “past due utility notices, disconnected utilities, or utilities not in use”

- “presence of overgrown vegetation, dead or diseased trees, or noxious weeds”<sup>4</sup>

Each of these items in the vacant property determination factors in some way reflects that a homeowner has money to tend to their home. Unfortunately, then, if a homeowner has limited income, they may not be able to afford everything entailed in these factors, putting their home at risk of being classified as vacant simply because of their limited financial resources.

For example, many of the homeowners who Legal Aid represents have at least a past-due notice from a utility, if not a disconnected utility. Many try to use their utilities as little as possible to keep those bills as low as possible. Utilities are expensive, and even with programs like LIHEAP, many low-income homeowners can struggle to make utility payments and keep their utilities on. This is especially true for water bills, where there is no current government assistance to enable someone to maintain water connection in their home. Additionally, removing a dead or diseased tree can cost thousands of dollars – money that many low-income homeowners may not readily have on-hand or be able to come up with in a quick timeframe.

Legal Aid also is concerned that explicitly codifying “neighbor complaints” as a factor to consider in these determinations risks biases guiding the hand of determinations of vacancy, rather than properties actually being vacant. For example, Legal Aid has had clients who live in their homes, but because of a neighbor’s complaining, the home keeps being classified as vacant, causing the client to have to spend more time and resources trying to combat that vacancy classification.

Legal Aid understands that there are factors needed to determine if a property is vacant or blighted, and we think that determination should involve a holistic evaluation, rather than solely based on a single factor. We would encourage the Committee to consider amending the bill to ensure the law explicitly states that. Additionally, we would be happy to work with the Committee more to examine factors that could be used to determine if a home is vacant or blighted that would hopefully minimize unintentional collateral consequences and misclassifications of properties.

---

<sup>4</sup> *Id.* at p. 23.

### Hardship Exemptions

Finally, to the extent that an individual still living in their home is unable to prove that they live in their home sufficiently to undo a vacant or blighted classification, Legal Aid urges the Committee to alter this legislation to ensure that someone is able to obtain hardship exemptions to the registration and fine process, rather than capping an individual's ability to do that to only three years, as the Act currently contemplates.<sup>5</sup>

### **Legal Aid Encourages the Committee to Ensure as Many Eligible Homeowners as Possible can Obtain Real Property Tax Repayment Plans, and That Those Plans are Affordable**

Legal Aid applauds the Committee for creating a mechanism to allow homeowners who have fallen behind on their property taxes to obtain a payment plan to bring themselves current and stave off property tax sales and foreclosures. Legal Aid also encourages the Committee to ensure that as many homeowners as possible can receive these payment plans, that the payment plans can be extended over longer periods of time to ensure their affordability, and that homeowners are able to reinstate their payment plans, in the event they fall behind.

### Eligible Homeowners

Legal Aid appreciates that the Committee intends to only provide repayment plans to those who live in their homes. However, many homeowners, including low-income homeowners, are unaware of the homestead tax deductions available for District residents and have not applied for it. Even after an individual applies for the homestead tax deduction, it can take the District some time to review and consider an application and make a determination. To ensure that homeowners who do not yet receive the homestead tax deduction are eligible for these repayment plans, Legal Aid encourages the Committee to amend the Act to permit individuals who have applied for (but have not yet received) a homestead tax deduction to be eligible for a repayment plan upon proof of a submitted homestead application.

### Structure of Payment Plans

The Committee should consider expanding the timeframe for a payment plan for property taxes to 18-month or 24-month terms, rather than only 12 months. For many low-income individuals, even adding another \$20 to their very tight budgets can be

---

<sup>5</sup> See *id.* at p. 29-30 (talking about hardship exemptions & also generally limiting an individual's relief from heightened property taxes for a vacant or blighted building to a three-year period).

incredibly difficult to accommodate. While Legal Aid appreciates that homeowners need to pay their property taxes, extending payment plan lengths helps to provide affordable repayment plan options for our low-income neighbors in the District.

Similarly, Legal Aid encourages the Committee to offer other means through which individuals can make payments on their property tax repayment plans. Right now, the Act only permits payment through ACH debit, but some low-income individuals may not have bank accounts.<sup>6</sup> Those unbanked individuals should still be eligible to obtain property tax repayment plans and provide payment through other means. Moreover, individuals currently can pay their property taxes through debit or credit card with the DC Office of Tax and Revenue. It is unclear why a repayment plan should be treated differently than all the current methods available to individuals.

Finally, Legal Aid is also concerned about imposing a fee against individuals who have insufficient funds for an ACH debit. Unless the District is incurring a fee by having an ACH request rejected for insufficient funds, any fee passed along is functionally a poverty tax. Legal Aid would encourage the Committee to reconsider this decision and eliminate that fee altogether.

#### Reinstatements

Finally, Legal Aid encourages the Committee to reconsider what is required to reinstate a payment plan for someone who misses payment. Legal Aid appreciates the opportunity for a homeowner to reinstate their payment plan if they fall behind. However, requiring individuals to not only pay what they owe, but also pay a lump sum of twice the monthly payment amount, may preclude someone who fell behind from being able to reinstate entirely. This is a significant problem because oftentimes individuals who fall behind on a payment plan may not do so intentionally but because they thought they made a payment that ultimately was rejected, or simply because the stress of their own lives caused them to accidentally and unintentionally forget to submit a payment. Legal Aid welcomes the chance to work with the Committee to ensure that District homeowners put on real property tax repayment plans are set up for success and are given avenues of reinstating their plans that work with their budgets and resources.

### **Legal Aid Encourages the Committee to Ensure and Implement Procedural Protections Around Tax Sales for Vacant and Blighted Properties**

Legal Aid urges the Committee to reconsider the Act's tax sale procedure for vacant and blighted properties to include procedural protections for individuals living in properties

---

<sup>6</sup> See Fed. Deposit Ins. Corp., 2023 FDIC National Survey of Unbanked and Underbanked Households <https://www.fdic.gov/household-survey> (Nov. 12, 2024) (finding that 4.2% of US households were unbanked in 2023).



that have been classified as “vacant” or “blighted.” In these spaces, an individual facing property tax sale and foreclosure should be afforded an opportunity to be heard and defend themselves fully against a sale or foreclosure, raising any appropriate defense.

Individuals should be able to raise procedural defects with that process through foreclosure litigation. However, the Act as written seems to preclude that as a possibility, despite creating a detailed procedure for property tax foreclosures. This would be an unprecedented change to property tax sale foreclosure law that could result in unnecessary foreclosures, and would be contrary to what most other jurisdictions do in the country. Legal Aid urges the Committee to alter the Act to enable a homeowner to raise those procedural defenses and ensure that individuals attempting to foreclose following a property tax sale must comply with the procedures laid out in the Act. Without a homeowner’s ability to raise those procedural issues, those requirements risk becoming meaningless.

Similarly, Legal Aid urges the Committee to reconsider enabling summary proceedings upon an answer being filed. Although the Committee seeks to allow these proceedings to move quickly, Legal Aid urges the Committee to ensure that individuals have a meaningful opportunity to be heard through the foreclosure process, rather than a summary proceeding. Unrepresented individuals will likely struggle to explain with particularity all of the issues with their tax sale or raise all of their available defenses. An individual should not be foreclosed on simply because they do not understand all of their rights or how best to explain their situation to stave off foreclosure.

**Legal Aid Applauds the Committee’s Decision to Provide Information About Property Transfers and Encourages the Committee to Consider Providing More Information in More Avenues to Heirs**

Legal Aid applauds the Committee for working to develop information that can be provided to heirs about how to transfer property to avoid tangled title issues. Legal Aid would encourage the Committee to consider providing this information at other venues, like the public libraries and death certificates, to ensure its accessibility and would also encourage the Committee to consider expanding the provided information in this information sheet to include other legal obligations for properties in the District, such as property taxes and homeowners insurance. By increasing the number of other locations where this information is available, the District can reach more heirs who need this information. And, by increasing the types of information shared in an information sheet, unnecessary defaults and foreclosures can be avoided as heirs become informed of their obligations and can work to handle those payments appropriately.

### **Conclusion**

We encourage the Committee to make these changes to the Vacant to Vibrant Act to protect our low-income neighbors and enshrine procedural safeguards into the Act. We thank the Committee for the opportunity to submit this testimony.