

**Committee on Human Services Hearing
Homeless Services Reform Amendment Act of 2013
Testimony of Amber W. Harding
June 3, 2013**

My testimony will focus on the changes that affect the rights of tenants participating in DC's supportive housing programs. The amendments conflict with the philosophy and programming of supportive housing, violate federal civil rights laws, and will have a substantial fiscal cost to DC.

Amendments Conflict with Philosophy and Programming of Supportive Housing

Under the amendments, transitional and permanent supportive housing (including Housing First) residents could be discharged from a supportive housing placement with no pre-termination hearing because they are incarcerated or institutionalized for 60 days or more. The majority of affected households are in the Housing First program. Participants are prioritized for admission based on their score on a "vulnerability" survey. A person earns points for serious physical and mental health conditions, history of incarceration, number of hospitalizations or institutionalizations, or having an addiction disorder, among other things. The purpose of the program is to house people who are homeless and at highest risk for dying on the street or in shelter and to save DC money by improving the housing stability of this population. Housing is not conditioned on services. A participant is only supposed to lose his housing for reasons any other tenant would.

I have had dozens of clients in the Housing First program. Some waited until they were in housing to have surgery or enter an inpatient drug program, because they finally had the support and flexibility to do so. One client couldn't get needed surgery when she lived in shelter because she needed a controlled environment for recovery. Once in housing, she got her surgery. She was hospitalized for 6-8 weeks and then completed an inpatient physical therapy program. Under this proposal, she would have been terminated from housing because she was out of the unit for more than 60 days. Another client who has periodically entered inpatient drug treatment told us that if her housing were at risk she would not go into rehab again.

It is perverse to pick people for a program precisely because of their history with jails, prisons, and health institutions, and then kick them out for relapsing, for needing surgery, or for having a breakdown. To avoid indefinitely paying a landlord for a vacant unit, DHS could draft something that allows them to terminate payments to the unit after a reasonable period of absence and rehouse the participant upon release. Instead they propose to cut off participants from all support at their time of greatest need—with no chance to even explain the situation before they are terminated.

No other DC housing program has such a short time period. DMH's supportive housing program allows 180 days absence before termination. DCHA's voucher programs allows 120 days, with an exception for hospitalization and a requirement for a final determination of confinement.¹ Both programs allow pre-termination hearings. 60 days is too quick to allow criminal and civil commitment processes to make a final determination of confinement. A tenant could lose his housing and all of his belongings before a court ever determines whether he was innocent of the criminal charge or did not require civil commitment.

Two more key aspects of the Housing First program will be undermined if these amendments pass. First, permanent supportive housing is by definition and name, permanent. Allowing providers to terminate participants at the end of a pre-determined time limit regardless of program compliance or financial situation is inappropriate. Second, the amendments change the definition of "provider's premises" to include, well, *not* the provider's premises. DHS wants to terminate the subsidies of those who reside in private apartments and houses for bad behavior, even though many participants were picked precisely because of their likelihood to engage in such "bad behavior." Further, participants in Housing First are not supposed to lose their housing or subsidy for that behavior, unless their landlord evicts them pursuant to the Rental Housing Act (at which point the program is supposed to rehouse them). The emergency termination process in particular should be reserved for only those dire situations in which the community is in danger because the termination is based solely on an allegation with no pre-termination hearing.

Terminations for Institutionalization Facially Violate the Fair Housing Act

Institutionalization is clearly a disability-related term, particularly since it is listed separately from "incarceration." A law that allows terminations of participants for institutionalization facially violates the Fair Housing Act and Title II of the Americans with Disabilities Act (ADA).² In addition, nursing homes, hospitals and mental health institutions may not release patients into homelessness or insecure housing settings, particularly if they are medically or mentally vulnerable or fragile. If a person is temporarily institutionalized in such a setting and loses her housing, the institution may refuse to release her, thereby actually increasing the length of time the individual must reside in an institution, despite being otherwise able to live in a community setting. The ADA, via the *Olmstead* case, prohibits states from taking actions or passing laws that increase the institutionalization of people with disabilities.

These Changes Will Cost DC Money

The Housing First program saves DC money every day that it would otherwise spend on shelters, health care costs, jails, or other city services if these vulnerable residents were homeless. Any termination of a Housing First tenant will have a significant fiscal cost:

- Where institutionalized length increases, costs will rise.
- Where foster care placements increase (as could happen if the housing was terminated while the mother was absent despite a relative watching the kids), costs will rise.
- Where shelter usage increases, particularly for families, costs will rise.
- Where fear of termination leads to putting off major surgeries, drug rehabilitation or mental health crisis care, costs will rise.

¹ See 14 DCMR § 5318.2(c).

² See *Community Housing Trust v. Department of Consumer and Regulatory Affairs*, 257 F.Supp.2d 208 (2003) (holding that a different permitting process for community based residential facilities violated the Fair Housing Act, even though such facilities could conceivably serve people without disabilities).

Conclusion

The proposed changes to DC's supportive housing programs are poorly drafted, will hurt participants, are in conflict with the philosophy of the programs, violate civil rights laws, and will cost the city substantially, both fiscally and morally. We ask you to strike these provisions and work with the community to come up with a more reasonable way to solve any legitimate, non-punitive, concerns the Mayor may have.