



D.C. Council Committee on Housing and Executive Administration Oversight Hearing-DCHA  
-January 27, 2022

*Testimony of Brittany K. Ruffin, Senior Counsel, The Washington Legal Clinic for the  
Homeless*

Good afternoon, Councilmembers. I am Brittany K. Ruffin, Senior Counsel at the Washington Legal Clinic for the Homeless. Since 1987, the WLCH has envisioned and worked towards a just and inclusive community for all residents of the District of Columbia—where housing is a human right and where every individual and family has equal access to the resources they need to thrive. Unfortunately, it is difficult for the vast majority of DC’s vulnerable residents to focus on thriving when basic survival has become such a challenge.

As plans have arisen over the last few years to significantly transform DC’s public housing stock, advocates and tenants have stressed the need for DCHA to stand firm on its mission—housing for DC’s lowest income residents. With disjointed development plans and a revolving door of scandal and staff, DCHA has done little to inspire confidence over the past few years. Unfortunately, current tenants and future residents in need of deeply affordable housing are the ones who suffer from the agency’s constant state of development confusion and internal disarray. DCHA is the largest landowner in D.C. It is also the largest source of DC’s large-family and accessible units. Public housing in DC is the only true deeply affordable housing in the city—the only housing that remains solely for the demographic of residents that cannot live in DC otherwise.

There are thousands of people currently living in public housing. Seniors and residents with disabilities represent fifty-five (55%) percent of all heads of household in DC’s public housing, and one-third of households in public housing are headed by an elderly person. More than one-third of households are families with children. Currently, ninety-five (95%) percent of the residents in DCHA properties are within the 0-30 percent AMI range—extremely low income. Ninety-one (91%) percent of DC’s public housing residents are also Black.

On a broader level, the overwhelming majority of DC’s rent-burdened residents, 77 percent, fall within the 0-30%AMI range. The DC Fiscal Policy Institute issued a report indicating that 27,000 new units of affordable housing are needed to house DC’s residents living within the 0-30 percent AMI level.

Unsurprisingly, Black and brown residents account for nine out of ten of those extremely low-income households.

Affordable housing is too crucial a need in DC for this committee & Council not to treat its oversight responsibility of DCHA with the seriousness and urgency that is required. What DCHA and its BOC lack in consistency and commitment to the agency's stated mission, this committee must ensure through its oversight capabilities. This Council, through its oversight, must assert DCHA's mission as supreme: preserving and creating housing for the residents earning the least in the District.

WLCH has a unique position of advocating for current and future residents of public housing. Approximately nineteen percent of D.C.'s population is living in poverty, much higher than the national average. With thousands of families on the waitlist for public housing and the Housing Choice Voucher Program in DC, the need for DCHA to make sure that any and all future development deals prioritize DC's lowest income residents (DCHA's primary demographic) is crucial.

Despite the deeply affordable housing needs in DC and the fact that a decrease in public housing units would further exacerbate Black displacement and racial inequity in the city, there has been a tendency to focus on public housing redevelopment that doesn't prioritize the actual housing needs of those who need it the most, now & in future. Due to clear conflicts of interest in agency missions, DCHA cannot simply operate as an arm of DMPED. DCHA cannot allow its properties to become subject to the will of developers whose sole purpose in this city is to garner exorbitant profits.

We urge an overall examination of mayoral influence on DCHA, particularly within the structure of the DCHA Board of Commissioners, and suggest legislative action to restructure. The Council must not allow this or *any* mayor's administration to exert undue power and control over DCHA's operational or redevelopment decisions. This committee must also cease participation in legislative efforts by the agency or mayoral administrations to undermine oversight capabilities. The Council must exercise its power to ensure that DCHA is upholding its stated mission to its current and future residents. Chairwoman, earlier, you asserted an understanding of the limitations of council in restructuring the BOC, but we strongly disagree with that legal interpretation as it is applied to DCHA and would love to meet with you and other committee members to discuss that further.

During the last budget season, Council crafted BSA language that required DCHA to specifically update its LRSP eligibility regulations to minimize barriers and expedite access to housing. DCHA missed the original November 1<sup>st</sup> deadline to do so and failed to issue emergency regulations as directed by this Council. Legislative requirements are pointless if they are not enforced. We urge the Council to make sure that legislative instructions are followed. We submitted public comments to the agency and this committee on behalf of 30 organizations; hopefully, this Committee seriously considers them. [see comments attached]

Important agency staff positions have turned over several times, though tenants and their advocates are not notified of crucial point of contact updates. Maintaining an accurate and updated agency staffing chart and contact list on the website would be the most efficient way to increase access to this necessary information. Council should implore DCHA to implement this simple, but monumentally important, change to increase transparency and ease communication access for the residents & community members it serves. We also support improving tech access to better streamline

the voucher process and get people housed faster and more efficiently, increasing transparency and accountability.

Additionally, we continue to urge the Council to strongly support and pass the protections originally introduced in the *Public Housing Preservation and Tenant Protection Amendment Act of 2020* and memorialize the right to return, a principle that DCHA administrations have publicly supported without any action to formalize. That legislation would memorialize DCHA's stated commitment to its residents, ensuring that public housing residents can rightfully access the housing that is intended for them upon any property redevelopment or transformation.

This Committee (and Council) must utilize its oversight abilities to do everything within its power to protect the District's lowest-income residents and their access to housing in DC. This Committee cannot watch idly as DCHA's dysfunction threatens DC's precious public housing resources. Council must maintain an overarching commitment to the people struggling the most to live in DC, asserting the critical needs of D.C. residents as the *only* priority.

**Attachment—Submitted DCHA Public Comments, as referenced**

January 14, 2021

District of Columbia Housing Authority

Office of the General Counsel

1133 North Capitol Street, N.E., Suite 210

Washington, DC 20002-7599

VIA EMAIL ONLY to [PublicationComments@dchousing.org](mailto:PublicationComments@dchousing.org)

Re: Comments on Proposed Regulations Title 14 DCMR Chapter 95 “Rent Subsidy Programs: Local Rent Supplement Program”

Please find below comments from the undersigned organizations on the agency’s proposed amended regulations to Chapter 95. Overall, we do not believe that these regulations comply with the letter or the spirit of the law and must be significantly altered before they are finalized. When the regulations are amended, we recommend that they be republished as emergency and proposed, as the legislation requires.

**Background**

Last summer, the DC Council funded a historic increase in tenant vouchers to end homelessness for thousands of DC households through Permanent Supportive Housing, Targeted Affordable Housing, and other tenant vouchers.<sup>1</sup> The Council was, however, well aware of delays and barriers in the voucher process and wanted to make sure that the vouchers were utilized as quickly as possible this fiscal year. To that end, via the Fiscal Year 2022 Budget Support Act of 2021, the Council instituted several new requirements for the tenant-based voucher program to reduce barriers and decrease processing time.

See <https://www.legalclinic.org/historic-housing-investments-present-opportunity-to-make-real-progress-in-ending-homelessness/>.

First, it required that the DC Housing Authority (DCHA) “promulgate emergency and final rules for tenant-based voucher assistance. Rules issued... *shall establish a process to allow applicants to self-certify eligibility factors when an applicant cannot easily obtain verification documentation.*” Emergency rules were required to be issued by November 1, 2021, and the Council has approval authority over final rules.

Second, the Council amended DC Code §6-228(a):

Except as provided in this section, tenant-based assistance provided through the Rent Supplement Program shall be subject to the Authority’s existing rules, regulations, policies, and procedures for the Housing Choice Voucher Program; *provided, that the Authority shall waive or modify such rules, regulations, policies, and procedures so as not to exclude households on the basis of immigration status, prior criminal convictions, or pending criminal matters.*

### Self-certification of eligibility factors

To evaluate the proposed regulations, it is important to compare them to the current system for eligibility verification. Under 14 DCMR §5402 (Methods of Verification), DCHA already allows self-certification, but it is the lowest priority type of verification of 5 categories. The proposed regulations change that by stating that “DCHA may allow an applicant to use self-certification as the highest form of verification of the eligibility factors.” §9505.6. **To be consistent with the Council’s intent, we recommend that DCHA change the “may” to “shall” in this section.** The use of self-certification is not intended to be discretionary.

Self-certification can, though, be limited to situations in which an applicant “cannot easily obtain verification documentation.” §9507.7 may be attempting to get at that limitation, but instead creates a far more vague standard and process by requiring the applicant to “provide DCHA with a written statement addressing the reasons why the applicant was unable, at the time the applicant submitted an application for Tenant-Based Housing Assistance, to provide the required verification documents...” **We recommend instead that the self-certification form itself include a statement that the applicant cannot easily get requested verification documents.** The Council intent was to create a lower barrier eligibility process, so DCHA should avoid unintentionally adding additional barriers or processes to the self-certification process itself. In addition, the way this section is framed suggests that DCHA intends to approve or deny requests to use self-certification, based on a standard that is not laid out in these regulations. Such decisions run the risk of being arbitrary and capricious without a clear standard. The Council already laid out a clear standard in the legislation: “cannot easily obtain verification documentation.”

Section 9505.9 requires that applicants using self-certification have to provide the “required verification” within 90 days or by lease-up, whichever occurs first. This section is not consistent with the statutory language requiring the agency to allow self-certification, is a higher standard than currently exists in the regulations, and is untenable for many applicants. First, the legislative intent of the Budget Support Act language is clearly to require the agency to accept self-certification *in place of* verification documents, not to temporarily allow a respite from searching for documents that may never be obtained. Second, despite the intent of the law being to *lower* barriers to vouchers, the procedure contemplated in the proposed regulations actually *increases* documentation requirements as compared to the existing provisions in §5402, which do not require later submission of documents after self-certification.

Finally, §9505.9 establishes a requirement and timeline that are untenable for many applicants who need to avail themselves of self-certification procedures. For example, a permanent supportive housing provider reports that, due to different names being listed on their identifying documents, a client had to file for a legal name change in order to obtain DC identification. The process took 11 months. In another case, an out-of-state birth certificate took one year and five months to obtain. Another housing provider had at least two clients who had different names listed on their birth certificate and social security card, delaying the process of providing identification by months. Another client reached their “maximum” requests for a birth certificate in Pennsylvania and the vital records office refused to provide any additional copies. Under the system contemplated by the proposed regulations, particularly §9505.9, all of these homeless clients would be denied voucher eligibility and remain unhoused. **We recommend removing §9505.9 entirely.**

### Barriers based on immigration status and criminal matters

The proposed regulations completely fail to “waive or modify... rules, regulations, policies, and procedures so as not to exclude households on the basis of immigration status, prior criminal convictions, or pending criminal matters.” The only mention of these considerations is found in §9505.11, which doubles down on the agency’s desire to deny eligibility to or terminate any applicant who has a member of household who “is proven to have committed” specific offenses. (Note that this appears to be a lower standard than “convicted.”) **We recommend that §9505.11 be removed.**

For tenant vouchers not referred by DHS, the rules for eligibility (as well as termination) have too many provisions to list that should be modified in order to effectuate the intent of the recent statutory change—to avoid exclusion on the basis of immigration status or criminal conviction or charge. For vouchers referred by DHS, governed by §9508, there are fewer barriers, but the barriers still exist. For example, §9508.2(b) requires provision of social security numbers or certification that there is no social security number. Requiring an undocumented immigrant to certify in writing to a government agency that they have not been issued a social security number may result in excluding such households. Similarly, §§9508.4- 9508.6, while providing reduced barriers as compared to the federal rules, still erect barriers that could exclude households on the basis of prior or pending criminal matters.

**We recommend a more thorough review of the agency’s regulations and procedures to determine which must change in order to avoid exclusion of these populations.** We recommend meeting with immigrants and people who have interacted with the criminal justice system and organizations that provide services to these populations to better understand which policies and procedures create barriers to inclusion.

In the interim, because applicants are currently going through the eligibility process, **we recommend that you publish emergency regulations that state that the agency shall accept self-certification of eligibility factors when the applicant cannot easily obtain verification documents and will waive or modify any eligibility rules that could screen out households based on immigration status or interaction with the criminal justice system.**

We appreciate your attention to these comments and regulations. Please contact Amber Harding at [amber@legalclinic.org](mailto:amber@legalclinic.org) if you have any questions or to schedule a meeting to discuss further.

Sincerely,

Patricia Mullahy Fugere

Amber W. Harding

Brittany K. Ruffin

**Washington Legal Clinic for the Homeless**

on behalf of

**Marta Beresin**, Visiting Professor of Law, Acting Director, Health Justice Alliance Law Clinic, Georgetown University Law Center

**Bread for the City**

**BreakFree Education**

**Children’s Law Center**

**The DC Center for the LGBTQ Community**

**DC Fiscal Policy Institute**

**DC Jail and Prison Advocacy Project**

**DC Kincare Alliance**

**Disability Rights DC**

**Empower DC**

**The Equal Rights Center**

**Everyone Home DC**

**Friendship Place**

**Homeless Children’s Playtime Project**

**Jubilee Housing**

**Legal Counsel for the Elderly**

**Legal Aid Society of the District of Columbia**

**Miriam’s Kitchen**

**Mother’s Outreach Network**

**National Center for Lesbian Rights**

**Neighborhood Legal Services Program of the District of Columbia**

**Pathways to Housing**

**The Platform of Hope**

**The Public Defender Service for the District of Columbia**

**See Forever Foundation and the Maya Angelou Schools**

**Washington Lawyers’ Committee for Civil Rights and Urban Affairs**

**Who Speaks for Me?**

**Woodhull Freedom Foundation**