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The Washington LEGAL CLINIC for the Homeless
A Voice for Housing and Justice

D.C. Council Committee on Housing- *Fairness in Renting Clarification Amendment Act* Hearing- May 18, 2023

Testimony of Brittany K. Ruffin, Director of Policy and Advocacy, The Washington Legal Clinic for the Homeless

Good morning, Councilmembers. I am Brittany K. Ruffin, Director of Policy and Advocacy 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.

First--We support the provision of the *Fairness in Renting Clarification Amendment Act* that extends the rent increase notification. More advanced notice provides better opportunity for preparation and choice of alternative options, supporting household stabilization. The focus of my testimony, however, centers on WLCH's strong opposition to the provision allowing landlords to add a processing fee in addition to the application fee at the time of application.

In the fall of 2015, in the basement of our office, a group of community members, service providers, advocates and District agency representatives met initially as a workgroup of the Interagency Council on Homelessness (ICH) to identify major barriers to housing and possible solutions. The group later separated from the ICH and became an independent community coalition. Beyond general housing unaffordability, we identified criminal history, rental and eviction history, credit history, voucher discrimination and ridiculously high fees as the biggest barriers applicants faced when attempting to obtain housing. Our first major legislative effort as a coalition was to advocate for the Fair Criminal Records Screening Act for Housing.

Next, we turned to considering how to minimize rental and credit barriers, implement clear expectations for applicants and landlords, and create a fair standard for screening people with vouchers. We held dozens of listening sessions and focus groups with low-income residents, many experiencing homelessness, to learn about their frustrations within the search for housing and their ideas for solutions to break down the barriers. Along with complaints about lack of application status updates, lack of information as to the reason for denial, and concerns about discriminatory behavior towards applicants with vouchers, the issue of excessive application fees was a constant refrain. People reported varying exorbitant application fees, some upwards of $150 per adult. Some were able to pull together money to apply, but many had no choice but to continue searching for housing (*even if* they had a

housing subsidy that would have paid for their eventual rent) simply because they could not afford the application fee. Those insightful conversations served as the framework for the important legislation that passed last year. We worked closely with Council members and staff to advance an impactful piece of legislation to lower barriers to housing that would get Council support.

During the legislative conversations, the $50 fee cap was a provision that was increased from our original $35 fee cap proposal after Councilmembers reported conversations with landlord groups that $50 would be more appropriate for smaller landlords that did not have the benefit of large contracts with tenant screening companies that kept screening pricing lower for them. For us, a $50 application fee cap was not ideal, but it was better than no cap and much better than the varying $100+ application fees that low-income DC residents and case managers reported.

At its foundation, an application fee is supposed to be for the purpose of processing the applicant's application—which is conducting any background screening associated with evaluating the applicant. The current language of this proposed amendment indicates that landlords can request an application fee or processing fee. If that language were meant to indicate a choice of only one of the fees at the time of application, it would not be overtly harmful, despite adding an unnecessary layer of confusion by treating the two fees as distinct. However, considering the language in the legislative summary attached to the amendment and confirmation by Councilmember Henderson's staff when asked for clarification prior to this hearing, the intent does appear to be to add the possibility of an additional and separate processing fee. Adding the ability for landlords to charge a separate $50 processing fee *in addition to* an application fee is redundant, unnecessary, and harmful.

An application fee is not supposed to be a source of income for landlords. Permitting a total of $100 in fees at the time of application serves to be just that while significantly minimizing access to housing for thousands of D.C. residents in the midst of D.C.'s deepening affordable housing crisis. It is also contrary to the original intent and spirit of the fee cap that was included within the original legislation last year.

Even after the passage of the legislation, community members and case managers are reporting that some landlords are already charging separate additional fees such as "administrative" fees or "holding" fees at the time of application in an attempt to circumvent the $50 application fee cap. We wholeheartedly support the Council's consideration of this issue and solutions to curb the emergence of any additional and unnecessary fees that further burden applicants; however, allowing another fee in addition to an application fee to do precisely what an application fee is meant to do is not the way to address the issue. We encourage the Council and this Committee to recognize the ways in which excessive application fees can be and *are* used as proxies for income and race to discriminate and restrict housing access.

Instead of adding and defining an additional "processing fee", we suggest adding clarifying language to broadly define "application fee" to be inclusive of what this amendment has defined as a "processing fee" and any other terms or fees that describe the same consideration of a housing applicant. All fees related to the application must fall within the existing $50 application fee cap.

We implore this Committee and Council to reject any additional fees at the time of application besides the application fee and any other provision that unnecessarily increases the burden for DC residents simply trying to find a place a live. The Eviction Record Sealing and Fairness in Renting Act was a truly collaborative effort. We look forward to future conversations to build upon the legislation and further housing access. However, the Council should not support any provisions that reverse the legislative progress already made by increasing barriers for D.C. residents.