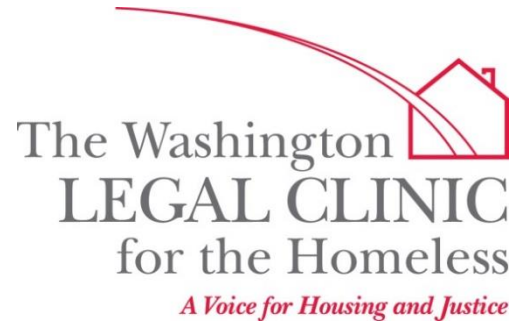


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D.C. Council Committee on Housing- LRSP Eligibility Amendment Act and Rent Stabilization Protection Amendment Act Hearing- June 29, 2023

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

Good morning, Councilmembers. Since 1987 the Legal Clinic has 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 have equal access to the resources that they need to thrive.

This testimony will detail our support for, both, the *Rent Stabilization Protection Amendment Act of 2023* and the *LRSP Eligibility Amendment Act*.

Rent Stabilization Protection Amendment Act of 2023

The Washington Legal Clinic for the Homeless is pleased to see the introduction of the *Rent Stabilization Protection Amendment Act of 2023*. This legislation moves D.C. a step forward in addressing its affordability crisis and increasing access to safe and affordable housing by closing a harmful loophole that exempts units subsidized by the government from rent stabilization laws. The legislation also attempts to address current DCHA failures by utilizing Council oversight authority to direct the D.C. Housing Authority (DCHA) to abide by existing U.S. Department of Housing and Urban Development's (HUD) rules and regulations concerning rent reasonableness assessments for every tenant-based voucher lease.

[Rent Reasonableness](#) requires that all public housing authorities (PHA) determine whether the rental cost requested by the landlord for an assisted unit is reasonable in comparison to comparable unassisted units. It ensures that a landlord cannot charge more for a voucher-based unit than it would for a comparable unassisted unit and that a public housing authority is not paying more for an assisted unit. HUD requires housing authorities to conduct this assessment on all assisted units. The PHA must consider in its assessment the unit size, amenities, location, and quality, among other factors. Rent reasonableness must be calculated and the determination must be documented within residents' files before the execution of the Housing Assistance Payment (HAP) contract. Landlords are also obligated to comply with this HUD regulation, clearly indicated within HAP contracts.

Unfortunately, rent reasonableness determinations have not been happening at DCHA. In March 2022, HUD issued its ["Housing Authority Assessment"](#) that detailed DCHA's failure to comply with HUD

regulation 24 *CFR* § 982.50 and DCHA's own Moving To Work (MTW) plan by not conducting local rent reasonableness assessments for voucher-assisted leases. This finding, among other deficiencies, came as no surprise to tenant associations, advocates, and DCHA residents who, for years, attempted to raise the issue and push the agency to comply with the federal rules and regulations regarding rent reasonableness analysis.

This legislation memorializes DCHA's obligation to comply with rent reasonableness regulations and removes the rent stabilization law exemption for government assisted units. Both provisions are crucial to fulfilling D.C.'s goal of increasing housing choices, opportunities, and affordability for D.C. residents. Rent Reasonableness assessments and closing the loophole that exempts government subsidized units from rent stabilization laws will increase the number of available vouchers, promote housing stability, increase equity, and eliminate artificial costs to the District of Columbia and its residents.

As a result of overpayment, fewer individuals and families gain access to safe and affordable housing, and D.C. moves further from its goal of increasing housing access for thousands of D.C. residents in need of housing assistance. Conversely, failing to make appropriate rent reasonableness determinations also disadvantages landlords and tenants when rent assessments may indicate that a higher rent is appropriate in a particular unit/building.

DCHA's overpayments and its failure to adequately monitor rents and apply rent reasonableness for voucher-based tenants incentivize landlords to focus on maximizing profits by unlawfully overcharging DCHA. Of course, the rent stabilization law exemption for government assisted units further encourages a landlord profit focus and has a diminishing effect on housing affordability, circumventing key rent stabilization housing protections for thousands of current and future D.C. residents. Additionally, allowing exorbitant rents without an assessment as to the unit or building condition encourages landlords to disregard their obligation to provide safe and habitable living conditions. Poor agency monitoring and policy perpetuate poor landlord behavior. It is unfortunate that D.C. Council has to enshrine DCHA's agency obligations within legislation to ensure DCHA's compliance with the law. However, we continue to support this Committee in utilizing its agency oversight authority to protect vulnerable and marginalized D.C. residents.

D.C.'s existing exemption of federally and D.C. government assisted units from rent stabilization inclusion only serves to frustrate existing efforts to maintain D.C. affordability via rent stabilization. *Section 42-3502.05* of the D.C. Code exempts "any rental unit in any federally or District-owned housing accommodation or in any housing accommodation with respect to which the mortgage or rent is federally or District-subsidized" with few exceptions. Seemingly, the policy is an incentive to encourage landlords to "participate" in government subsidy programs. However, the theory behind that incentive contradicts current D.C. law under the D.C. Human Rights Act and the Eviction Record Sealing and Fairness in Renting Amendment Act. Source of income discrimination is unlawful. All landlords must comply with D.C. law by ensuring that they are not conducting screening practices in a way that discriminates against potential tenants. A landlord incentive that increases the rental payment for a unit solely because of the use of government assistance frustrates the principle of "source of income" as a protected status and perpetuates a perception that renting to government subsidy recipients is an option instead of an obligation. Landlords should not need an incentive to follow the law. Additionally, the removal of the exemption through this legislation indicates an intention to ensure that D.C. is a better steward of federal and local funds that support housing resources in the future. The removal of the exemption under this legislation is long overdue.

Ultimately, failing to apply rent reasonableness measures in accordance with federal and local regulations and continuing to exempt government subsidized units from rent stabilization laws only exacerbates D.C.'s affordable housing crisis. Allowing overpayments and inflated rental values for voucher-based tenancies causes an overall increase in the rental market value which has the obvious consequence of decreasing rent stabilized units and making the rental housing market more expensive for D.C. residents, overall.

D.C. is in desperate need of deeply affordable housing options. D.C. also maintains the most dramatic [wealth gap](#) in the nation, with the top twenty percent (20%) of residents having an income twenty-nine (29) times higher than the lowest twenty percent (20%). [The racial-economic disparities](#) are even more grim. Brookings Institute data from 2019 indicated that Black D.C. residents had an annual median income of \$29,297, Latinx D.C. residents had a median income of \$41,151, and White D.C. residents had a median income of \$92,758. Unsurprisingly, Black residents are also the overwhelming majority of those experiencing homelessness in D.C. Enforcing rent reasonableness assessments and closing the loophole that allows the disregard of rent stabilization laws helps to bridge systemic inequities and minimize these statistical reflections of racist economic and housing policies by expanding housing opportunities and maintaining existing housing affordability.

LRSP Eligibility Amendment Act

A slight “silver lining” of the devastating global pandemic that claimed millions of lives and forced people to isolate inside of their homes was the urgent focus and attention to the fact that, unfortunately, having a safe (or any) place to live is not a reality for millions of people nationwide and thousands of people in D.C.

In the FY 2022 budget, D.C. Council took a monumental step towards ending homelessness for thousands of D.C. residents by making an historic investment in locally funded tenant-based vouchers. Over 3,400 vouchers were funded to be matched to 3,400 *households* of families—individuals and those with children--that would have the opportunity to end the trauma of homelessness. Even before the significant investment, the voucher administrative process coordinated by DCHA and DHS was burdened by delay and denials, resulting in an unnecessary multi-month process to house vulnerable residents. Aware of the existing administrative roadblocks to housing, delays in the voucher utilization process, and the crucial need for housing, D.C. Council was intent on ensuring that major barriers were removed and put forth requirements in the Budget Support Act to shorten the process.

In the Budget Support Act, D.C. Council required that DCHA promulgate emergency and final rulemaking to self-certify eligibility factors and amended D.C. Code to make sure that, in those rules, DCHA also does not exclude households due to immigration status, prior criminal convictions, or pending criminal matters. Unfortunately, DCHA's initial rules did not reflect the spirit or letter of the law put forth by D.C. Council. After a lot of resistance from DCHA and much advocacy by community members, service providers, and legal service providers, D.C. Council then had to take the step to put forth emergency and temporary legislation to ensure that thousands of D.C. residents were able to access the housing that had been funded for them. While there are still some processing concerns with voucher utilization, there is no question that many more residents have achieved access to housing because the aforementioned unnecessary and discriminatory barriers have been removed. We implore the D.C. Council to move forward with permanent legislation to guarantee D.C. residents fair access to receiving the locally funded housing resources that they so desperately need.

The Washington Legal Clinic for the Homeless appreciates that, through the much-needed *Rent Stabilization Protection Amendment Act of 2023* and the *LRSP Eligibility Amendment Act*, D.C. Council is listening to the concerns of DCHA residents, community members, advocates, and HUD. We look forward to collaborating with the Council on these and future measures to further expand access to affordable housing while increasing *and* safeguarding precious housing resources.