hoe

Testimony Before the District of Columbia Council
Committee on Human Services
October 20, 2022

Public Hearing on:
B24-0893, THE "RAPID RE-HOUSING REFORM AMENDMENT ACT OF 2022" and
B24-0992, THE "MIGRANT SERVICES AND SUPPORTS ACT OF 2022"

Kathy Zeisel
Senior Supervising Attorney
Children's Law Center

Good afternoon, Chairperson Nadeau, and members of the Committee on Human Services. My name is Kathy Zeisel. I am a Senior Supervising Attorney at Children's Law Center and a resident of the District. I am testifying today on behalf of Children's Law Center, which fights so every DC child can grow up with a stable family, good health, and a quality education. With nearly 100 staff and hundreds of pro bono lawyers, Children's Law Center reaches 1 out of every 9 children in DC's poorest neighborhoods – more than 5,000 children and families each year. Today I am testifying in support of the Council's work to reform Rapid Rehousing through the proposed legislation, The Rapid Re-Housing Reform Amendment Act of 2022, and against parts of the proposed Migrant Support Services Act of 2022 insofar as it amends the Homeless Services Amendment Act (HSRA) and limits the access of DC residents to city services on the basis of their immigration status.

Rapid Rehousing Legislation is Needed to Ensure Changes Happen

The Council needs to act on Rapid Rehousing because the Department of Human Services (DHS) has never operated the program openly and consistently and, in spite of having five years to do so, has never published regulations. Families in Rapid Rehousing deserve to have due process, deserve to have consistency in their rent, and deserve to have a program structured to meet the basic stated aim of Rapid Rehousing, namely to provide a pathway to permanent housing. This legislation reflects the reality

that the math of Rapid Rehousing cannot work for the vast majority of families because we use Rapid Rehousing as a one size fits all solution in order to move families out of shelter. During the last oversight season, DHS reported that the rent burden for exiting families would be 350% of income, an impossible amount for any family to pay.[i]

DHS has said it is proposing some changes to the program, but it is now unclear when these changes will go into effect and whether they will have the force of law, or if they will simply be policies unavailable in writing to the public. The legislation is needed to make sure these changes actually happen, and happen in a timely way. The good news is that since DHS is proposing some of the same changes, this should lower the fiscal impact statement of this legislation significantly, specifically with regards to the rent burden of the legislation and because DHS is increasing the time permitted to remain in Rapid Rehousing.

Capping Rent at 30% if Income is Consistent with Other Housing Programs and Provides Predictability in Rapid Rehousing

We strongly support the provision capping the rent of participants at 30% of their income. This is both consistent with other rental housing programs[ii] and with the individual Rapid Rehousing program, and provides for predictability in this program where currently participants pay anywhere from 40-60% of their rent.[iii] There is no real guidance as to when participants should pay which rate, and both rates are far too high

for a program trying to help participants save money to afford housing after the program. It is our understanding that DHS intends to make this change as well.[iv] Given that, the fiscal impact of this proposed change by the Council should be minimal as compared to what it was when it was previously proposed prior to DHS announcing that it too intended to make the same program change.

Legislation is Needed for Criterion for Targeted Affordable Housing and to Guarantee Due Process for all Permanent Housing Applicants

DHS has had since 2017 to develop regulations for Targeted Affordable Housing, and in spite of many promises to do so, has not promulgated any permanent regulations or even any emergency regulations that apply to Family Rapid Rehousing.[v] The current method of assessing for permanent housing is bizarre and demeaning to participants. Participants are not permitted to know the criterion for all of the programs, they do not know they are even being screened or how one is screened for the programs, and they are not told that they have been found ineligible for the programs so they do not know they can appeal this determination even though they have a legal right to do so. This whole process occurs in the shadows where only DHS can monitor what is going on and there is no light shone on the process. Participants cannot appeal their individual cases if they disagree with an assessment and a decision they do not know has been made.

This legislation is needed to define Targeted Affordable Housing. Government programs cannot be administered without public legal guidance about who is eligible for them because to do otherwise leaves the program open to inequity and too much potential bias in administration. This legislation takes steps to give the broad outlines of the TAH program, but still maintains space for DHS to issue further regulations, as is appropriate. By doing so, along with finally guaranteeing participants the legally required due process protections, participants have some measure of certainty about who is eligible for the program rather than being subject to the whims of caseworkers, case management agencies, or DHS itself about who gets a TAH voucher in that particular moment.

The due process components of the legislation are also extremely important. In our experience, DHS has never issued a formal denial determining a participant is not eligible for a housing subsidy. Instead, families are screened and denied in a process they do not even know is happening and they are not told about. This process often means that families do not provide the case worker with information that is extremely relevant and could be very helpful because they do not know what the criterion are nor do they know they are being screened and denied. Case workers often do not know the full criterion either in our experience, they only they are supposed to administer a SPDAT and pass on those results, but not to ask about children in the household with special education or other medical needs that might impact the parent's ability to work.

This deprives the participant of the ability to challenge that determination and say that they believe they are eligible unless they happen to find an attorney that is able to assist them.

Voucher Allocation Remains an Area of Concern due to Lack of Information

Vouchers remain of concern in terms of how they are actually distributed in practice and whether they are being allocated and awarded on a larger scale. While that part of this hearing was delayed, we wanted to raise it to note it at this time. We have had to have attorneys involved to get voucher applications moving on numerous occasions. This occurred both where case managers had not started application; had started but not completed applications for eligible client; where applications were submitted, but were pending for an extended period; and, where they were approved, but not no voucher ever issued. We would like to know how many vouchers have been allocated and what the plan is to allocate for next year so that we do not end up in a situation where we have unused vouchers as we did in prior years. We would like to understand if there any delays in DHS identifying who should get vouchers or if there are delays in DCHA processing voucher applications which should be addressed.

Home Ownership

We do not have concerns about the home ownership component of the bill other than we hope that it can be made clear that a referral to home ownership at the request of a family should not be a substitute for screening for other permanent housing. Given that we know that at least 74% of families in Rapid Rehousing have income from TANF[vi] and additional families have SSI as their source of income, and that level of rent burden most families face upon exit[vii], it is doubtful that many will successfully qualify for home ownership and we do not want inquiries about the program to be used to defer families who may qualify for other subsidies.

Changes in Eligibility Timeframe are an Important Part of Legislation

We support the extended eligibility components of this legislation. First, we agree that extending eligibility if found eligible for a voucher until that voucher is awarded is important. It is our understanding that DHS intends to do this regardless of this legislation, so this should be a minimal fiscal impact for this legislation. Second, we also support the provision that extends eligibility until a family can maintain housing on their own. This is consistent with the long-stated aim of Rapid Rehousing, namely:

> Rapid Re-Housing programs for the purpose of providing housing relocation and stabilization services and time-limited rental assistance to help a homeless individual or family ***move as quickly as possible into permanent housing and achieve stability in that housing.*** (emph added) DC Code § 4–753.01.

Voluntary Case Management Protects Human Dignity and is Best Practices in Homeless Services

The legislation also contains the important move to voluntary case management. We strongly support a voluntary case management structure for Rapid Rehousing. We continue to believe that mandatory case management in rapid rehousing is inconsistent with national best practices and represents biased ideas about what people in the program need. The National Alliance to End Homeless, in discussing the Housing First model, states that studies show that services work better participants voluntarily engage in them.[viii] We should focus on strengthening existing case management rather than duplicating it, and on creating new resources where they are needed so that participants want to engage with any needed services rather than being coerced into them.[ix]

Terrible Housing Conditions in Rapid Rehousing go Unaddressed in Legislation

One area that goes unaddressed by the legislation is housing conditions faced by the families living in apartments paid for by Rapid Rehousing. Some of our worst conditions cases continue to be for these families. In one recent case, our client has two children who have asthma and had numerous hospital visits related to the asthma, which was triggered by being in their home. When we opened the case, her bathroom had a ceiling leak that had been badly repaired for the second time in two weeks and

there was visible mold in the ceiling. Lead paint was present in the unit, and because of the water exposure, we were concerned the paint was not well contained. We are currently in litigation about the conditions of this unit.

We consistently see cases where the housing conditions issues exist from the time they move in, and sometimes these include apartments approved for the wrong bedroom size. In another case, our client had issues with mice and a significant roach infestation from the day she moved into the unit as well as issues with a window that did not close and visible mold in the unit. Her landlord refuses to make repairs because it is too expensive when she documents the repairs and makes requests. We are in court on this case as well. In another case, our client contacted us because although her unit was inspected and approved as a two bedroom, she was later told that it was not a legal two bedroom and she could not continue to use the second bedroom as a sleeping area. This was only resolved because she approved for Permanent Supportive Housing (PSH) and was relocated.

We understand that DHS has changed their vendor for inspections to Greater Washington Urban League, but there remains no real systemic plan about how to deal with these issues. Even under this new vendor, we are not seeing substantive changes. A new client called this week reporting that her daughter has been to the emergency room seven times and admitted twice for asthma since she moved into her Rapid Rehousing unit, which has had a problem with a severe mouse, roach, and ant

infestation, including mice feces in the stove that cause the fire alarm to go off if they try to use it. She found out the unit failed inspection by the new vendor twice, but she was allowed to move in. We are concerned that this unit was cleared for inspection when problems of this nature existed at move in, and had predictable consequences. While this may not be the right legislative vehicle to fix this problem, there are some minor things that can be done to solve some of the challenges our clients with housing conditions issues face.

One significant problem many of our clients encounter is that even if they are approved for a transfer, they cannot move because the new property is not assured of at least 12 months of subsidy. Landlords refuse to accept the subsidy because they know they will be unable to pay the rent after the subsidy lapses and the lease term is still active.

We ask that the legislation add a provision that where a client is authorized for a move due to housing conditions, they be authorized for at least 12 months in the program and be provided documentation of such. We also ask that the legislation mandate that DHS report conditions issues to the new Department of Buildings. DHS should not provide new lease ups with landlords with a track record of poor housing conditions for rapid rehousing tenants until that track record improves. We should not be spending city money with landlords who are not providing safe and healthy housing to DC residents.

Rapid Rehousing Legislation is Necessary and Council Should Move Forward

We urge the Council to move forward with this legislation. DHS may come forward and make promises that the regulations are imminent or that they will voluntarily make changes in the program, but these promises have proven hollow in the past. We need the Council to step in at this point and make needed changes to the program to provide stability, due process, and direction to the program so that we are not simply cycling families through homelessness and the illusion of permanent housing and instead we are actually putting them on a path to truly permanent housing.

Migrant Support Services Act of 2022 should not Change HSRA Definitions

I want to turn now to the legislation creating the Office of Migrant Services. Children's Law Center, like many of our sister organizations, is deeply concerned about this legislation. While we support the idea of providing city services to the refugees and other migrants being bussed to DC, we are deeply opposed to creating an unequal and lesser tier of services for refugees and other migrants who intend to settle in DC simply because of their status as refugees and immigrants with appointments outside of DC. This is contrary to all prior DC policy and contrary to DC values. DC just passed legislation awarding non-citizens the vote, while at the same time we are denying them access to basic city services simply on the basis of their immigration status.

This legislation fundamentally undermines the principle of the Homeless Services Reform Act that a DC resident is anyone who intends to stay in DC. We are saying that families who send their children to school here and settle here are still prohibited from accessing shelter and instead must utilize subpar services based on their immigration status.

We do support legislation that provides specialized services to migrants and which fills the gap in services for migrants who do not intend to remain in DC, and so are not considered to be DC residents. We hope the Council will re-consider moving forward with excluding an entire group of DC residents from our city's services simply because of their immigration status.

Conclusion

Children's Law Center thanks the Council for the hard work of trying to reform Rapid Rehousing. It is not easy to try to reimagine how to deliver services to homeless families, but if we want to stop setting up families to fail by putting them in units they will never be able to afford in the time allotted to them in the program, then we need to reform Rapid Rehousing.

---

[i] DHS FY21-YTD22 Oversight Answers, p105. In FY21, the reported rent burden for families at exit was an average of 289% of income.

[ii] Tenants in LRSP, TAH, PSH, and HCVP all pay 30% of their income towards rent.

[iii] The Office of Inspector General Report found that participants should be moved to up from the 40% rent standard if their family budget and income warranted, but the report specifically stated, "Many of

the participants who moved to a higher payment tier did so despite budgets indicating they had not increased income or were running deficits in the prior month. DC Office of the Inspector General, OIG Project No. 22 -I-01JA, "Department of Human Services: Evaluation of the District of Columbia Family Re-Housing and Stabilization Program", January 2022, p15.

[iv] This intended change was reported to the FRSP Advisory Board on September 10, 2022.

[v] DHS released emergency regulations, but they did cover family Rapid Rehousing, nor did they address Targeted Affordable Housing.

[vi] By DHS' own data, 66% of families in FY22 and 74% of families in FY21 have TANF and FY21 5% and in FY22 4% had head of household with SSI/SSDI as their main source of income. FY 22 DHS Oversight Answers, Q70b-c, p87. Importantly, this does not capture families who have child SSI has a main source of income, overlooking families with disabled children who may not qualify for TANF.

[vii] In FY21 the rent burden for families at exit was an average of 289% of income and in FY22 it was an average of 350% of income. FY22 DHS Oversight Answers, p105.

[viii] Housing First, National Alliance to End Homelessness, March 20, 2022, available at: https://endhomelessness.org/resource/housing-first/, additional data available here: https://endhomelessness.org/resource/data-visualization-the-evidence-on-housing-first/.

[ix] Of note, this is another area in which DHS has indicated that they intend to move voluntarily to voluntary case management, but have not yet put this into practice.