

The Honorable Muriel Bowser
Mayor of the District of Columbia
Office of the Mayor
1350 Pennsylvania Avenue, NW
Washington, DC 20004

February 26, 2019

Dear Mayor Bowser:

We, the undersigned tenant advocates, write to express our support for preserving public housing, and our opposition to “repositioning” this valuable asset to the private sector, as proposed in DC Housing Authority (“DCHA”) Resolution 19-01.

We are deeply familiar with the historical and current state of public and subsidized housing in the District and have extensive experience working with, and advocating for, low-income residents who struggle to secure safe and affordable housing. All of us strongly believe that the District should allocate local funds, versus relying on privatization of public housing, for DCHA to make necessary repairs, on an ongoing basis, to preserve public housing. We also support attaching strong, enforceable measures to ensure that the District’s public housing is not allowed to fall into disrepair again. The agency must adhere to important principles such as the right of displaced public housing residents to return to their homes after repairs are made and, where demolition and rebuilding is required, a commitment to build while keeping residents on-site, together with concrete steps designed to minimize tenant displacement and ensure meaningful protection of public housing residents’ rights.

Public housing is one of our community’s most valuable affordable housing assets. At its root, public housing is intended “to provide decent and safe rental housing for eligible low-income families, the elderly, and persons with disabilities.”^[1] Approximately 1.2 million households live in public housing units nationally; in the District, 20,000 residents live in approximately 7,000 public housing apartments and townhomes.^[2] In addition to the residents who currently live in DC public housing, there are approximately 26,500 applicants on the public housing waitlist, which underscores the great, unmet need for affordable housing, of which public housing is an integral part.^[3] What’s more, DC public housing primarily houses low-income families with children, persons with disabilities, and seniors, the most at risk of our City’s residents.^[4]

The District Needs to Invest Local Dollars to Repair Public Housing

Until recently, the fact that public housing is some of the most neglected housing in the District has been well known, but rarely acknowledged officially. It is refreshing to have DCHA publicly

acknowledge that public housing is in serious disrepair, and that repairs must be done as quickly as possible. That said, the approach to making these repairs and the impact on, and treatment of, residents that ensues—i.e., traditional public housing owned and managed by DCHA versus privately run housing (RAD, Housing Choice Vouchers, etc.)—matter as much as the repairs themselves.

[DCHA's recently introduced Resolution 19-01](#) states that there are more than 2,500 units of traditional public housing units currently in the portfolio in “extremely urgent” need, given their current state of disrepair. Resolution 19-01 also tasks DCHA with coming to the Board of Commissioners with at least two plans for how to resolve this crisis: one that involves “repositioning” public housing through conversion away from traditional public housing, and one that involves seeking an infusion of local funds.

We recognize that the historic and ongoing defunding of public housing by the federal government places pressure on localities to consider options that would relinquish federal and local control of public housing, but we believe that would be a mistake in DC. “Repositioning” public housing raises significant concerns for many in our community given the unfortunate history of displacement and destruction of Black communities during past public housing redevelopment efforts like Hope VI and earlier iterations of the New Communities Initiative. Further, we fear that privatizing public housing will replicate the loss of units and fragmentation of communities that resulted from those earlier redevelopment efforts.

Instead, we ask you to allocate immediately \$343 million of District funds to address the repairs for public housing properties deemed “extremely urgent” by DCHA to avoid further harm to the health and safety of these properties’ residents.^[5] We additionally seek a commitment to fund repairs to public housing properties deemed to be in “critical condition,” which DCHA contends will require \$1.3 billion over a 10-year period, conditioned on DCHA agreeing to certain enforceable accountability measures and providing further support for its maintenance and repair costs, including lead remediation.^[6] This additional commitment would cover funding for less urgent but equally needed repairs, including restoration and non-gut rehabilitation projects, to appropriately identified properties. We urge you to inquire about any gaps in DCHA’s operating cost estimates, broken out by year, as well as support for the projected 20-year long-term viability per property following completion of repairs to help inform total needed allocation over a multi-year period.

Local Funding for Repairs Must Include DCHA Accountability Measures^[7]

In recognition of the need to ensure that this infusion of local dollars is used responsibly for public housing residents to live in well-maintained, healthy and habitable housing, we urge you to, as a condition to receiving the funding, require that DCHA:

- ❑ Establish a realistic, aggressive, and publicly available schedule for long overdue repairs, renovation and/or rebuilding per property, and quarterly reporting requirements regarding repairs, remaining work orders, and spending of the local dollars;
- ❑ Prohibit DCHA from moving forward with “repositioning” public housing, including through restrictions on the sale and conversion of public housing units;
- ❑ Create a temporary relocation plan for each affected public housing property that minimizes displacement, at least meets minimum Uniform Relocation Act (“URA”) standards, and provides quarterly updates on residents’ relocation status;
- ❑ Commit to applying the rights established in DCHA [Resolution 16-06](#) for NCI properties to all public housing residents, including, but not limited to:
 - ❑ A clear right to return for residents, to apply to each property and include a date of resident eligibility for such right that applies “to any person legally residing at the property at any point on or after [the established] date” and that maintains each resident’s eligibility as set forth in [Resolution 16-06](#);[\[8\]](#)
 - ❑ Issuance of relocation notifications to residents that meet URA standards;[\[9\]](#) and
 - ❑ Prohibition of re-entry criteria more stringent than those required to be admitted to public housing under current DCHA policy, including a bar to more stringent minimum work or service, criminal, credit, or drug screening requirements;[\[10\]](#)
- ❑ Adhere to “Build First” and “One for One Replacement” (at the same affordability levels and bedroom sizes) principles, as established under the NCI;[\[11\]](#) and
- ❑ Agree to a moratorium for evictions on the basis of rent arrears in the public housing properties identified for repairs and require waivers for rent arrears for those residents.

Privatization Tools Will Likely Lead to Negative Impacts for Public Housing Residents

At bottom, there is no reason to believe that “repositioning” or privatizing the public housing stock is preferable as a primary or exclusive vehicle for obtaining needed funding for public housing repairs. The low success rates of various similar “repositioning” tools and the negative impact those conversion mechanisms have had on public housing residents are cause for significant concern. The most notable of the “repositioning” tools, and, unfortunately the one upon which DCHA’s Resolution appears to be modeled—the Rental Assistance Demonstration (“RAD”) program—has a history of limited oversight of the program and deleterious effects on public housing residents.[\[12\]](#)

Throughout the first six years of RAD, housing advocates across the country have reported numerous examples in which public housing authorities and the U.S. Department of Housing and Urban Development (“HUD”) failed to protect some of the most essential rights afforded to public housing residents. Each of these examples demonstrates the potential pitfalls that may ensue if DCHA moves forward with a plan to convert and/or privatize its public housing stock. These include, but are not limited to:

1. A lack of transparency before, during, and after RAD conversion, including reduced access to documentation that results in barriers to effective tenant and advocate engagement;
2. Insufficient education of residents regarding RAD conversion and tenants’ rights;
3. Failure to provide, create, or comply with adequate written relocation plans and provision of uninhabitable or inadequately-sized temporary housing for residents;
4. Interference with tenants’ efforts and rights to organize;
5. Unlawful re-screening of residents’ income, criminal history, and credit history;
6. Loss of affordable housing due to exceptions to one-for-one requirement and insufficient oversight by housing authorities resulting from their lacking ownership or controlling interests;
7. Improper leases and house rules that exclude required lease termination notification and mandated grievance procedures language, as well as issuance of improper notices to vacate;
8. Fair housing violations, e.g., familial status discrimination, failures to provide reasonable accommodations to individuals with disabilities, and failures to provide translation services to Limited English Proficient tenants;
9. Transfers to temporary housing that place tenants far from their communities, workplaces, schools, and other support structures and thereby destabilize families.[\[13\]](#)

As applied to the District, without proper oversight, RAD—or a similar program centered around privatization—could adversely impact numerous seniors, people with disabilities, and families with children, who are some of the most at-risk members of our community. Approximately 48% of the properties that DCHA has slated for repairs, whether through demolition, gutting and rehabilitation, or non-gutting and rehabilitation, are home to families with children.[\[14\]](#) In these properties, children comprise at least 20% of the population, and in some cases, between 35-50% of the property.[\[15\]](#)

Replacing Current Units with Vouchers Will Exacerbate the Affordable Housing Crisis

A program based on substituting public housing with vouchers, like the “Voluntary Conversion” program proposed in Resolution 19-01, would fare no better and generate equally problematic results for public housing residents. Housing Choice Voucher holders already face significant

difficulties using their vouchers, particularly in neighborhoods of choice. As the undersigned see on a daily basis, and as multiple advocates have reported to DCHA, voucher holders routinely have their subsidies terminated because they are unable to secure adequate housing before their vouchers expire. Further, despite protections in the DC Human Rights Act, voucher holders are often unlawfully refused housing by landlords on the basis of their source of income.

While vouchers are a useful and often necessary tool to help families obtain safe and stable housing, we are concerned that we will lose progress on ending homelessness if we are adding thousands of former public housing residents to the ranks of voucher holders scrambling for housing. That may compound, rather than alleviate, the housing crisis in the District, particularly for people who use wheelchairs or families who require larger units, since units that can accommodate both are already in limited supply.[16] Public housing thus continues to be a critical resource for low-income residents. Further, despite recent increases to the voucher caps within various housing submarkets (neighborhoods), voucher payment limits are not on par with market rent rates, particularly in the more resource intensive neighborhoods like Wards 1, 2, and 3.

By DCHA's own admission, most voucher holders continue to reside in racially concentrated, under-resourced, and densely populated neighborhoods, namely in Wards 7 and 8,[17] the same wards that are home to most of the few affordable family-sized units in the City.[18] The potential racial disparate impact of substituting public housing with vouchers cannot be overstated and is of grave concern to housing advocates. The District and its housing authority can, and must, adopt a City-wide strategy to ensure that the response to the crisis in public housing conditions is addressed with an explicitly anti-segregative purpose. If outsourced to the private sector, there is no guarantee private developers will achieve this important end.

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We urge you to support the goal of preserving public housing, our City's most precious affordable housing resource, by providing both the funding needed to meet capital needs effectively and comprehensively, and by simultaneously adopting a rigorous system of accountability. Only through vigorous, sustained oversight, governed by clear, meaningful conditions to measure performance, can the District adequately discharge its obligation to ensure that residents have safe and affordable housing options.

Should you wish to discuss the above approach in further detail, we are available to meet. Please contact George Jones at gjones@breadforthecity.org or 202-386-7602.

Thank you for your attention to this important matter.

Respectfully,

AARP Legal Counsel for the Elderly

Bread for the City

Legal Aid Society of the District of Columbia

Valerie Schneider, Howard University School of Law Fair Housing Clinic

Washington Lawyers' Committee for Civil Rights and Urban Affairs

Washington Legal Clinic for the Homeless

cc: Phil Mendelson, Chairman, Council of the District of Columbia
Brienne K. Nadeau, Ward 1 Councilmember, Council of the District of Columbia
Jack Evans, Ward 2 Councilmember, Council of the District of Columbia
Mary M. Cheh, Ward 3 Councilmember, Council of the District of Columbia
Brandon T. Todd, Ward 4 Councilmember, Council of the District of Columbia
Kenyan R. McDuffie, Ward 5 Councilmember and Chair Pro Tempore, Council of the District of Columbia
Charles Allen, Ward 6 Councilmember, Council of the District of Columbia
Vincent C. Gray, Ward 7 Councilmember, Council of the District of Columbia
Trayon White, Sr., Ward 8 Councilmember, Council of the District of Columbia
Anita Bonds, At-Large Councilmember, Council of the District of Columbia
David Grosso, At-Large Councilmember, Council of the District of Columbia
Elissa Silverman, At-Large Councilmember, Council of the District of Columbia
Robert C. White, Jr., At-Large Councilmember, Council of the District of Columbia

[1] “HUD’s Public Housing Program,” available at: https://www.hud.gov/topics/rental_assistance/phprog.

[2] See Resolution 19-01, “To Adopt a Framework for the Stabilization and Repositioning [of] DCHA’s Portfolio of Properties” available at <http://www.dchousing.org/docs/ks0tqjcr214.pdf> (citing a total of 6,945 units in need of repairs). DCHA cites a total of 8,000 public housing units on its website, however, which DCHA has explained accounts for some additional units located at mixed-financed sites. “Public Housing,” DCHA website, available at: <http://www.dchousing.org/topic.aspx?topid=3>; see also “[DCHA] Responses to Questions Received from the Local Affordable Housing Advocacy Community Concerning DCHA’s Portfolio Stabilization” at 4-5.

[3] District of Columbia Housing Authority 2018 Oversight and Performance Hearing, District of Columbia Council, Committee on Housing & Neighborhood Revitalization, Responses to Pre-Hearing Questions, February 2018, at Response No. 87, available at: <http://dccouncil.us/wp-content/uploads/2018/10/dcha.pdf>.

[4] District of Columbia Housing Authority 2018 Oversight and Performance Hearing, District of Columbia Council, Committee on Housing & Neighborhood Revitalization, Responses to Pre-Hearing Questions, February 2018. See Attachment #9, DC Housing Authority Public Housing Property List, available at: <http://dccouncil.us/wp-content/uploads/2018/10/dcha.pdf>; see also “Public Housing,” DCHA website, available at: <http://www.dchousing.org/topic.aspx?topid=3>.

[5] DCHA has indicated that the following properties contain the over 2,500 units that are in need of urgent repair and under consideration for repositioning: Benning Terrace; Fort Dupont; Garfield Family; Garfield Terrace Senior; Greenleaf Senior; Greenleaf Gardens Family; Judiciary House; Kelly Miller Dwellings; Langston Addition; Langston Terrace; LeDroit Apartments; Richardson Dwellings; Stoddert Terrace; and Woodland Terrace. See “[DCHA] Responses to Questions Received from the Local Affordable Housing Advocacy Community Concerning DCHA’s Portfolio Stabilization” at 1-2. The undersigned cannot confirm if this assessment is correct or if it is sufficiently comprehensive. DCHA further recognizes that some units at the preceding 14 properties and other public housing properties contain a presence of lead and are home to children under six, triggering a need for remediation within 90 days. *Id.* at 2-3.

[6] As a threshold matter, DCHA should produce more detailed support for its claim that the agency requires over \$1.3 billion to cover capital needs over a 10-year period—costs which it projects will increase on an annual basis. See Resolution 19-01, “To Adopt a Framework for the Stabilization and Repositioning [of] DCHA’s Portfolio of Properties” available at <http://www.dchousing.org/docs/ks0tqjcr214.pdf>; see also Capital Needs Assessment Summary Report, Office of Capital Programs/ DCHA Properties, October 2018 (“2018 Capital Needs Assessment”), at 4-5.

For example, the agency’s \$1.3 billion capital costs estimate includes properties that are targeted for demolition (labeled as “Tear Down” properties), some of which are part of the New Communities Initiative (“NCI”) or undergoing Planned Unit Developments, either through NCI or otherwise. Properties targeted for demolition account for over \$542,000,000 of the total amount DCHA seeks to fund repairs. 2018 Capital Needs Assessment, at 4-5. Clearly separating private funds that are being leveraged through properties subject to planned redevelopments, *e.g.*, Barry Farm, Lincoln Heights/Richardson Dwellings, Park Morton, Kenilworth Courts, and Sursum Corda, from money that is solely for repairs, and breaking out costs for lead risk assessments and visual inspections, is a necessary step to determine what amount is appropriate for the City to allocate to DCHA over a multi-year period. DCHA has indicated it is still completing lead risk assessments and visual inspections of its public housing, which will inform its maintenance and repair costs. “[DCHA] Responses to Questions Received from the Local Affordable Housing Advocacy Community Concerning DCHA’s Portfolio Stabilization” at 5-6. Relatedly, various “mark-ups” appear to require further explanation to understand the types of costs these encompass. See 2018 Capital Needs Assessment at 9, 13, 34, 37, 45, 54, 61, 65, 68, 79, 86, 89, 100, 102, 109, 120, 127, 130, 141, 148, 150, 153, 156, 163, 167.

[7] We are not presently taking a position on any pending legislation concerning the structure of the Housing Authority. It is vital, however, that no matter how it is structured, the District’s public housing agency maintain its singular focus on the housing needs of DC’s low-income residents.

[8] See Resolution 16-06, “To Adopt Relocation and Re-entry Policies for New Communities Initiative Properties,” at Nos. 1-2, 4, available at http://www.dchousing.org/docs/res16_06.pdf.

[9] *Id.* at No. 3.

[10] *Id.* at Nos. 5-7.

[11] New Communities Initiative, “Guiding Principles,” available at: <https://dcnewcommunities.org/>.

[12] National Housing Law Project Letter to U.S. Department of Housing and Urban Development Secretary Benjamin Carson regarding Concerns with the Rental Assistance Demonstration (RAD) Program (October 11, 2017), available at: <http://files.constantcontact.com/f10f35b7601/0e916d9d-c81f-4ec8-9dbf-d10e2f3880be.pdf>.

[13] *Id.*; see also U.S. HUD Office of Inspector General Report, “The Spokane, WA, Housing Authority Did Not Follow Permanent Relocation Requirements for Its RAD Conversion of the Parsons Apartments,” April 2018, available at: <https://www.hudoig.gov/reports-publications/audit-reports/spokane-wa-housing-authority-did-not-follow-permanent-relocation> (determining that the Spokane Housing Authority failed to follow permanent relocation requirements and allowed for unlawful re-screening of residents to remain or return to their public housing units because the RAD plan utilized low-income housing tax credits); Broadwater, Luke, “Tenants evicted improperly from

Baltimore’s privatized public housing, complaint alleges,” The Baltimore Sun, February 8, 2018, available at: <https://www.baltimoresun.com/news/maryland/baltimore-city/bs-md-ci-public-housing-evictions-20180208-story.html> (detailing evictions of former public housing residents residing in newly privatized units where private management failed to give tenants access to the mandated grievance process and issued notices to vacate that did not comply with federal law); Evans, K. Burnell, “Developer agrees to pay \$340k, boost services in HUD settlement over discrimination complaints in Hopewell,” Richmond Times Dispatch, October 3, 2017, available at: https://www.richmond.com/news/local/central-virginia/tri-cities/developer-agrees-to-pay-k-boost-services-in-hud-settlement/article_cce95eb4-df79-5256-82eb-dae992541bc0.html (describing how Hopewell, Virginia tenants with children and disabilities were forced to relocate to poorer neighborhoods, suffer through overcrowding, and denied a right to return that resulted in a HUD investigation and settlement).

Relatedly, the Government Accountability Office (“GAO”) released a March 2018 report finding that HUD lacked oversight and highlighting the inflated reports of long-term viability due to private funding leveraged through RAD. GAO also found that 1/3 of all RAD conversions do not involve any repairs at the time of conversion. Available at: <https://www.gao.gov/products/GAO-18-123>. The website, City Lab, has also compiled stories of problems with RAD and the privatization of public housing units, available at: <https://www.citylab.com/equity/2017/04/the-hopes-and-fears-around-ben-carsons-favorite-public-housing-program/523926/>.

[14] See “Public Housing,” District of Columbia Housing Authority website, available at: <http://www.dchousing.org/topic.aspx?topicid=3> (providing list of properties and demographics breakdowns per property at property link). We have counted Barry Farm as a public housing property with a significant percentage of families with children based on prior DCHA demographics reporting of the property.

[15] See *id.* (showing 36% of the residents at Woodland Terrace and Richardson Dwellings are children while 50% of tenants at Elvans Road are minors).

[16] Peter Tatian, Josh Leopold, et al., *Affordable Housing Needs Assessment for the District of Columbia, Phase II*, An Urban Institute Research Report (May 2015) at 2 and Appendix A, Table A21 or page 132 (describing how only 21% of housing units in DC are three bedrooms, 8% are four bedrooms, and 4% are five or more bedrooms).

[17] District of Columbia Housing Authority 2018 Oversight and Performance Hearing, District of Columbia Council, Committee on Housing & Neighborhood Revitalization, Responses to Pre-Hearing Questions, February 2018, at Response Nos. 78, 79, 82, available at: <http://dccouncil.us/wp-content/uploads/2018/10/dcha.pdf>.

[18] Peter Tatian, Josh Leopold, et al., *Affordable Housing Needs Assessment for the District of Columbia, Phase II*, An Urban Institute Research Report (May 2015) at 18-19 (noting how the majority of affordable four- and five-bedroom units are located in Wards 7 and 8).
