

We, the undersigned advocates, submit the following comments in response to the DC Housing Authority's ("DCHA") Transformation Plan ("Plan").¹ Ensuring that DC is able to continue to provide low barrier housing to people living with low income is a matter of racial justice, disability justice and making sure that our seniors can truly age in place. True justice also requires that in addition to being affordable, this housing be safe, healthy and dignified.

Our comments are rooted in our collective experience with public housing in the District, including the extensive experience many of us have working with and advocating for the residents living in the fourteen properties that DCHA seeks to rehabilitate or demolish through this repositioning. Our comments are similarly rooted in our knowledge of the barriers and discrimination that DCHA voucher holders face when trying to rent in the District, as well as the barriers former public housing residents face when trying to return to the mixed-finance properties currently in DCHA's portfolio. Finally, we all encounter, organize with, or represent many individuals desperately in need of low barrier, deeply affordable housing. We root these comments in our belief that public housing plays a critical and irreplaceable role in DC's housing ecosystem.

As such, we are concerned about the financial and practical feasibility of DCHA's plan to relocate 2,600 families² through the voucher program while simultaneously redeveloping entire communities through largely unregulated private partnerships without a dedicated public funding source.

Simply stated, DCHA's Plan is a vision based on a best-case scenario and fails to detail how current and future public housing residents will be protected while also preserving DC's largest stock of subsidized housing. We acknowledge that, due to years of divestment at the federal level and general neglect, these properties are in extreme disrepair, and that any plan must be, to some degree, about bricks and mortar. But the Plan must primarily and centrally be about the people who live in those buildings, now and in the future. The Plan is virtually silent on the rights of residents (to return and once they are in newly developed properties), the impacts of displacement, the very real challenges of renting with a voucher, or the years of harm endured by residents living in slum conditions. Additionally, the Plan seems to depend on access to highly competitive financing sources, results in a net loss of subsidized housing for large families and does not guarantee the redeveloped housing will be deeply affordable in perpetuity.

We look forward to working with DCHA and the DCHA Board of Commissioners to adopt the following recommendations as an official agency resolution before moving forward with any repositioning efforts.

¹ We offer these comments based on the costs DCHA has presented in its Capital Needs Assessment even though we continue to have concerns about the accuracy and reliability of some of those figures. In an independent analysis, an affordable housing development consultant found significant errors resulting in overestimations of development costs and raised questions around the necessary level of repairs at some of the targeted housing complexes.

² The 2,600 families displaced by the Plan are in addition to the already and soon-to-be displaced families from DCHA's current redevelopment projects at Kenilworth, Barry Farm, Park Morton, Lincoln Heights, Arthur Capper/Carrollburg and Sursum Corda thereby raising the number of families who are impacted by the Plan to upwards of 4,000.

1. Protect the health and safety of the current and future tenants

People are living in terrible conditions at these properties right now, and the Plan must include details on how DCHA will ensure the health and safety of people currently living in the 14 properties while larger repairs are pending, some with a timeline of over five years. Any plan must address thoroughly the following questions:

- What repairs to the 14 properties will DCHA make in the next 1-4 months?
- In general, what kinds of repairs will DCHA make while waiting for redevelopment? Under what circumstances will repairs not be made?
- How will interim repairs be funded?
- What are the criteria for deciding whether tenants should be moved from a unit before redevelopment has begun?
- How will DCHA decide whom to transfer and whom to provide vouchers?
- For those who will be transferred, what properties will they be transferred to?
- What are DCHA's plans to repair units at other properties in order to receive tenants into habitable units, including bringing vacant units back online?
- How will the health of residents be protected if they remain on site during repairs?

Further, any plan should include mechanisms for ensuring that these problems do not recur. DCHA needs to improve its systems for tracking and responding to repair and maintenance needs so that this crisis does not reoccur. For instance, DCHA's pending capital budget continues to under-fund ongoing repairs and maintenance. The majority of the capital budget should go toward repairs, and not ongoing expenditures like the DCHA police.

These questions must be answered in conjunction with DCHA's obligation to maintain current and future tenant health and safety. DCHA's current and future repositioning plans must include a clear strategy for how it will provide basic maintenance and repairs to essential utilities such as plumbing, heating, ventilation, as well as preventing structural damage that permit vermin infestations and mold causing water leaks.

Moreover, when conducting repairs, DCHA must not relocate tenants to other properties that have their own health and safety challenges. If tenants need to transfer units due to conditions too severe to be considered repairable, the transfer should only be to a habitable property. DCHA needs to take steps to improve its systems for tracking and responding to repair and maintenance needs so that this crisis does not reoccur. Displacement should be limited. (See below for more on the impact of displacement.)

Demolition could have a particularly large impact on tenants who have disabilities and/or who are elderly. For tenants in senior buildings whose repairs may be more time-limited, and not involve demolition, it is critical to work closely with advocates to make the repair process as seamless as possible. Inherent in working with tenants with disabilities is the need to accommodate their disabling conditions, provide ample notice of repairs, sufficient explanation of the process the tenants will be undergoing, and be flexible enough to work through tenant concerns. And, of course, repairs that occur while the tenants remain on-site will need to be done in a way that protects the health of the tenants, particularly those who have respiratory disorders such as asthma.

A process that honors tenant safety and security must be planned, where tenant advocates receive advance notice of meetings with tenants, to provide tenants as many protections as possible. As DCHA saw with the Arthur Capper Senior Apartments fire, meaningful rehousing efforts take months of dedicated time from DCHA relocation specialists, community social workers, and local tenant advocates.

2. Ensure resident engagement and resident-centered decision-making

Public housing residents are experts on the existing problems in their communities, solutions needed to best solve them, and their own needs. A successful, and *timely*, redevelopment will be best carried out by creating and revising relocation and redevelopment plans with residents, relying on resident expertise, and ensuring that redevelopment is an opportunity for residents to gain jobs, and build their skills, knowledge, and leadership. Residents should be centered in all decision-making, not merely informed of decisions that have been made.

DCHA's Plan does little to address how residents will be updated, not to mention engaged and consulted, during this massive redevelopment of public housing. The Plan's "Ongoing Resident and Community Engagement" section seeks to "guarantee[] resident participant rights" as outlined by minimal HUD requirements.³ The details of the Plan seek to "ensure that residents are fully informed and prepared for the relocation process" and that "their rights are protected." These baseline activities should be a given, not the goal. Notably, the Plan does not mention how DCHA will engage with resident associations.

Resident-led development means supporting the residents, as an organization, to actively engage and make decisions in the redevelopment process. Resident engagement is expected to lead to a redevelopment that is responsive to residents' needs and goals and enhances resident well-being in social, health, and economic areas. This may include minimizing displacement, more jobs going to community members, and shared-equity/ homeownership opportunities. DCHA redevelopments that have not engaged residents, and the broader community, as active participants from the beginning have been delayed by confusion, community opposition, and lawsuits.

There is a strong model for true resident engagement in DC that can be found when tenants exercise their rights through the Tenant Opportunity to Purchase Act. Throughout this process, residents, acting through a recognized tenant association, are able to assess and express their needs, provide recommendations, and engage in decision-making within the constraints of a time and budget-limited process. Residents, for their part, are organized in a democratic resident council (or tenant association) that is transparent and communicates regularly with all residents.

Recommendations:

³ Resident engagement requirements vary depending on the program (RAD, Section 18 Demolition/ Disposition). In the case of Section 18, requirements are limited to consultation with affected residents and resident associations and accessible communication.

DCHA and its development consultants should:

- Provide tenants, via any existing Resident Organization, of a right to purchase their housing at submission of a Section 18 demolition / disposition application.
- Create opportunities for resident councils to be recognized as a development partner or partner with developers.
- Section 18 applications should not be submitted and residents should not be issued relocation vouchers until there is a concrete redevelopment plan that residents have been involved in creating and have agreed to. This plan should include selected development partners and a specific financing proposal.
- Actively engage the resident council with the information and resources necessary to make decisions throughout the redevelopment process. This includes soliciting resident input before any decisions about demolition /disposition are made to gauge resident interest in working through the development process.
- Ensure that residents are, at a minimum, providing input, and, more frequently, making key decisions at all stages of the redevelopment process. Communities will choose different levels and areas of engagement, including selecting a development partner, voting on redevelopment principles and plans, choosing community and unit layouts and amenities, selecting resident services, and receiving regular information and reports.
- Ensure that residents' individual choices are balanced with group choices so that there is space in the plans for residents whose needs or interests differ from that of the group.
- Residents must be engaged and tracked through the redevelopment process. This includes regular communication with all residents and maintaining files with both resident and close family and friend's contact information.

3. Maintain and ensure enforceable rights for public housing residents

Tenants who live in public housing have a host of substantive rights under federal law. These rights include the right to grieve any adverse decision by the housing authority, rights around what those grievance procedures must look like, the right to comment on any changes to their lease, the right to transfer between properties, the right to an elected and recognized resident council, and even more basic rights, such as the right that tenants' rents will never be more than 30 percent of their income, with an allowance for tenant-paid utilities. Additionally, because traditional public housing is owned and operated by a government actor (i.e. the housing authority), there are established legal mechanisms by which tenants in those properties can enforce any violation of their rights against the housing authority. However, many of the legal claims available to public housing residents are not available to tenants in redeveloped properties that are owned and/or operated by private, non-government entities.

DCHA should ensure that tenants at redeveloped properties maintain the same substantive rights they currently have as public housing residents at properties that are owned and managed by DCHA. But, ensuring that tenants at redeveloped properties maintain all their rights is not enough. DCHA must also ensure that these tenants have a way to enforce any violation of those rights against the private entities that will own and/or manage the redeveloped properties.

Recommendations:

- DCHA should convene a working group through the Community Transformation Advisory Committee that focuses on the issue of maintaining the rights of tenants -- returning tenants and new tenants -- at redeveloped properties. This working group should 1) create a list of all the rights public housing residents have that tenants at redeveloped properties may not have; and 2) draft the language that DCHA will include in the affordability covenant, the Regulatory and Operating Agreement, and resident leases at redeveloped properties to ensure that these rights are preserved and enforceable by tenants, as described below.
- DCHA should ensure that each of the following documents specifies that all tenants at redeveloped have the same rights as public housing tenants by including those rights in the following documents:
 - The affordability covenant that is recorded for each redeveloped property.
 - The Regulatory and Operating Agreement between DCHA and the private entity that owns and/or operates each redeveloped property.
 - The tenants' lease agreements at each of the redeveloped properties. This could be accomplished by DCHA drafting a standard lease that is nearly identical to the current public housing lease that it requires private owners and/or managers at redeveloped properties to use.
- DCHA should ensure that tenants are third party beneficiaries to the Regulatory and Operating Agreement between DCHA and the private entities that control the redeveloped properties. The Agreement should specifically state that tenants at the property are third-party beneficiaries to the Agreement for purposes of enforcing against the owner any violation of the rights tenants are entitled to.
- DCHA should work with existing Resident Councils to help them become a recognized Tenant Associations post development, and ensure that either DCHA or the new private owner and/or manager is responsible for paying any fees necessary to incorporate as tenant associations.

4. Resident right to return to redeveloped properties

Public housing residents should not be harmed by DCHA's redevelopment plans. This means that every displaced resident must have the absolute right to return to redeveloped properties. In the past, DCHA has promised tenants the right to return to properties that have already been redeveloped. However, the undersigned advocates have seen any number of instances of tenants being refused entry by the new, private owners and managers of those properties. This is because

private owners and managers are attempting to rent to only the most “desirable” public housing residents. This is antithetical to public housing’s purpose in the District of Columbia, which is to serve as low-barrier deeply affordable housing accessible to *all* low- and no-income residents. DCHA cannot make the same mistakes again, especially when it is planning such a large-scale transformation that could displace forever thousands of low-income DC residents most in need of affordable housing.

Recommendations:

- DCHA’s Board of Commissioners should adopt a resolution that guarantees every public housing resident the right to return to redeveloped properties. This resolution should have all the protections included in Resolution 16-06, with some differences that will more robustly protect tenants’ rights. For example, private owners and/or managers of redeveloped properties should:
 - Not be allowed to deny a returning tenant on the basis of a debt owed to a PHA;
 - Not be allowed to deny a returning tenant on the basis of credit score;
 - Not be allowed to deny a returning tenant for having a criminal record, unless it is a criminal record that requires a mandatory denial under federal law (i.e. a conviction that results in a person needing to become a lifetime registered sex offender or a conviction for manufacturing methamphetamine on a federally subsidized property); and
 - Not be allowed to do any drug screening.
- DCHA should ensure that new applicants to redeveloped properties are screened just as any applicant for a public housing unit would be screened. This means that the new private owners and/or managers should use no more stringent screening criteria than the housing authority currently uses for new applicants.
- DCHA should ensure that the right of tenants to return, as well as the permissible screening criteria set forth above, are embedded in the Regulatory and Operating Agreement between DCHA and any private owner and/or manager of a redeveloped property. Additionally, as stated above in the prior section on maintaining tenants’ rights, the Agreement should specify that tenants are third party beneficiaries, and are therefore permitted to enforce any violation of their right to return against the private owners and managers. These rights should cover returning public housing residents who are applying to redeveloped properties, including the right to grieve any adverse application decision.

5. Ensure no loss of deeply affordable units when buildings are redeveloped

The District’s deeply affordable housing stock is dwindling, forcing thousands of low-income residents to make difficult tradeoffs between rent and other necessities; given the existing need, DCHA must ensure that there is no net loss of deeply affordable units when buildings are redeveloped. We define “affordable” as spending no more than 30 percent of a household’s

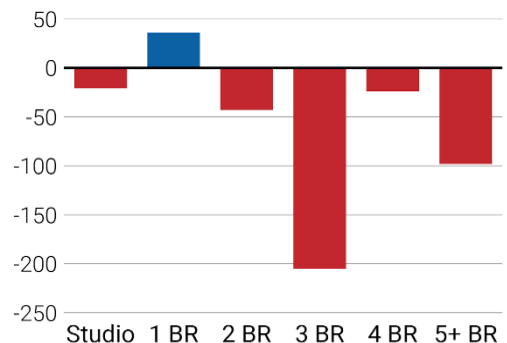
income on housing expenses – the federal standard of affordability.⁴ “Deeply affordable units” refers to units that are affordable to households making 0-30 percent of the area median income (AMI)⁵ or 31-50 percent AMI. As such, we consider units redeveloped through RAD and project-based vouchers (PBV) or project-based rental assistance (PBRA) to be “deeply affordable”, but not units that strictly use Low-Income Housing Tax Credits (LIHTC) funds.

DC’s Shortage of Deeply Affordable Housing Units:

Currently, over 60 percent of families making under 30 percent of AMI spend over half their income on rent on the private market. Over 25 percent of households with incomes under 50 percent of AMI also spend more than half their income on rent. Above this income level, few families are in this dire situation. A primary reason for this severe housing burden is the dwindling number of deeply affordable units in the private market. Throughout the District, the share of units renting for less than \$600 per month fell by 19 percentage points from 1990 to 2017 (when adjusting for inflation); for units renting for less than \$1,000 per month, the drop is even more drastic at 38 percentage point.⁶ During the same time period, rental units costing \$1600+ increased over six-fold. Further, *less than a third* of new rental units produced by DC’s housing programs including vouchers, construction subsidies, inclusionary zoning, etc. have been affordable to families making under 30 percent AMI.⁷ While families making 50-80 percent AMI are served by non-subsidy housing tools, many households at the lowest income spectrum depend on the District’s public housing stock for affordable housing. In 2016, households living in public housing had a median income of \$16,050 a year; a net loss of deeply affordable units could force these families to the private rental market and further reducing the number of deeply affordable housing units would create additional hardships for families in this income bracket.

Proposed Plan Would Reduce Number of Larger Deeply Affordable Units

Number of units that are affordable for households making 0-50% AMI that would be lost after redevelopment (by bedroom size)



Note: “Deeply affordable units” refers to units that are affordable to households making 0-50% AMI; this includes units redeveloped through RAD and PBV or PBRA but not units that strictly use LIHTC funds. Greenleaf Gardens and Greenleaf Additions are not included in this analysis because DCHA’s plan only includes phase one information on their redevelopment.
Source: Data Provided by the DC Housing Authority

DC’s History of Losing Deeply Affordable Units During Redevelopment:

Advocates’ and residents’ concerns about the loss of deeply affordable units are founded in recent history. For example, a key component of the New Communities Initiative (NCI) was the promise that all subsidized units would be replaced

⁴ U.S. Department of Housing and Urban Development, Defining Housing Affordability, <https://www.huduser.gov/portal/pdredge/pdr-edge-featd-article-081417.html>.

⁵ Deputy Mayor for Planning and Economic Development, Inclusionary Zoning, 2019 Maximum Income, Rent, and Purchase Price Schedule, <https://dhcd.dc.gov/sites/default/files/dc/sites/dhcd/publication/attachments/2019-6-27%20IZ-ADU%20Price%20Schedule%20-%20final%20.pdf>.

⁶ Documenting the Long-Run Decline in Low-Cost Rental Units in the US by State, https://www.jchs.harvard.edu/sites/default/files/harvard_jchs_loss_of_low_cost_rental_housing_la_junesse_2019_0.pdf.

⁷ DC Fiscal Policy Institute, Building the Foundation: A Blueprint for Creating Affordable Housing for DC’s Lowest-Income Residents, https://www.dcfpi.org/all/building-the-foundation-a-blueprint-for-creating-affordable-housing-for-dcs-lowest-income-residents/#_edn1.

at the same income levels. However, the NCI plan to redevelop 50 acres of land including Sursum Corda and Temple Courts – collectively known as the ‘Northwest One’ project area – failed to ensure one-for-one housing replacement and as a result, Northwest One has suffered a net loss of affordable housing in the last decade. We recognize that the redevelopment plans for Sursum Corda and Temple Courts will add much-needed deeply affordable units, but construction has yet to begin over a decade after Temple Courts’ demolition and the number of replacement units at 2M and the SeVerna on K is woefully low. While Barry Farms’ redevelopment plans are ongoing, there are concerns that the current plan will result in 100 fewer units on the footprint of the original property and that the “replacement” units provided at Matthews Memorial and Sheridan Station I and III will not be affordable in perpetuity. Given the history of HOPE VI projects and NCI, DCHA should create a detailed plan for replacing all units ‘one for one’ on the footprint of the existing properties, in a reasonable timeframe, and with contingency plans for potential roadblocks.

Risks Associated with the Current Plan:

Our analysis based on the data provided by DCHA suggests that if the current redevelopment plan is implemented, the District will lose 355 units of affordable housing. Specifically, there are currently 2,067 public housing units at the 14 properties slated for redevelopment, but the plan only accounts for rebuilding/rehabbing 1,712 as RAD or project-based voucher (PBV) units that are affordable to families making up to 50 percent AMI. Of these 355 units, larger-sized units such as 5+ bedroom units and 3-bedroom units, will decrease at the highest rates. This is concerning, given the District’s shortage of affordable family-sized units; CNHED and the Urban Institute estimate that there are over 11,500 large renter households with incomes less than 50 percent AMI and 9,700 of these households are either under-housed or housing cost-burdened.⁸

Recommendations:

- Explicitly name one-for-one replacement of units (at the same bedroom sizes) lost to demolition or conversion as a binding guiding principle that cannot be later reneged due to lack of funding or other challenges.
- Conduct cost analysis to estimate the resources required for one-for-one replacement and rewrite the 20-Year Transformation Plan to reflect these changes.
- Review lessons learned from the New Communities Initiative and create contingency plans for potential roadblocks to one-for-one replacement.
- Explore other types of funding necessary for ensuring no loss of deeply affordable units including but not limited to local funding.
- In the spirit of full transparency, provide advocates and tenants with iterations of the cost-analysis and other research conducted to explore one-for-one replacement financing options.

⁸ Urban Institute & Coalition for Nonprofit Housing and Economic Development, As Assessment of the Need for Large Units in the District of Columbia, <https://www.urban.org/research/publication/assessment-need-large-units-district-columbia>.

6. Ensure replacement units are deeply affordable and subsidized in perpetuity

There have been several recent publications that have detailed the extent of the challenges that DC faces as it confronts its affordable housing crisis. The most pressing challenge within DC's affordable housing crisis is how to create and preserve housing for the residents making the least amount of money in this city. According to the Center on Budget and Policy Priorities, the number of public housing units has decreased by more than 250,000 units, nationwide, in the last twenty-five years. DCHA has lost a substantial number of public housing units (over 4,000) in that period of time. It is crucial that the number of units that currently house DC's public housing residents remain after any repositioning efforts. While the ultimate goal of any public housing repositioning should be to increase the number of units available to DC's lowest-income residents struggling to survive in this city, DCHA must ensure, at a minimum, that all replacement units are available to its current and future residents within the 0-30 percent AMI range. These replacement units must remain deeply affordable in perpetuity. Thus, all contractual and development deals must reflect and enforce such terms.

In order to protect the lowest-income DC residents, DCHA must preserve its interest in the proposed redeveloped properties. Of course, the strongest way for DCHA to preserve its interest in the redeveloped properties is to use one of its separate entities in order to continue to own and manage the property after any repositioning or conversion. If private owners are being considered, DCHA must preserve its interest in the properties by entering into ground leases with any private owners. DCHA must, at minimum, retain ownership of the valuable land that is currently housing DC's most vulnerable residents. Any private ownership of the buildings developed on DCHA's land must be pursuant to a fixed period of time and under specific conditions. The RAD Use Agreement, which is tied to the land and survives RAD HAP Contract termination, should be used to make sure that private owners rent to low-income tenants. DCHA cannot allow its properties to become subject to the will of developers whose sole purpose in this city is to garner exorbitant profits. Though imagined profits are often vital to developer interest, DCHA must counter that motivation by asserting its own interest as supreme: preserving and creating housing for the residents earning the least in the District (0-30 percent).

While mixed-income development broadens the range of financing tools and subsidies available to develop and rehabilitate units, there must be constraints on just how "mixed" the incomes can be. There must remain an overarching commitment to those families struggling the most to live in DC. It is important to be clear about what the AMI levels mean within the context of this region. With such high income inequality in this area, what is considered "affordable housing" and who is targeted is often an area of contention. The median family income for the entire country is \$75,000. As published by the U.S. Department of Housing and Urban Development, the median family income for a family of four in the DC area is \$121,300, an increase from last year. That stark difference highlights the importance of the details of this repositioning plan. The median income of this region is steadily rising; thus, DCHA must be intentional about its commitment to extremely low-income households. In the context of this region, creating and preserving housing for 0-30 percent AMI means making sure that families currently making no more than approximately \$36,000 a year can still live in this city. DCHA's properties are a major part of that equation.

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. According to DCHA, eighty-five percent of the residents in its properties are within the 0-30 percent AMI level. The overwhelming majority of DC's rent-burdened residents, 77 percent, fall within this range. A recent Washington Post article described data indicating that Washington DC has the highest intensity of gentrification of any other city in the nation. Unsurprisingly, minority residents account for nine out of ten of those extremely low-income households. With a total of over 60,000 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 is evident.

The currently proposed repositioning plan is linked to an increase of housing vouchers on the already difficult DC housing market for that demographic. As more housing vouchers enter the market, residents searching for affordable units must compete for the small number of those available to them. Any repositioning efforts based on mixed-income development in DC must be available to voucher holders seeking to utilize their vouchers in DC. Therefore, maximum rents charged in the mixed-income developments should not exceed the payment standards set and covered by DCHA.

DCHA should not be prepared to transition redevelopment to the private sector without maintaining control of how potential private owners will operate. DCHA must maintain a superseding interest and commitment to guaranteeing the affordability of the buildings/units on its properties, making it clear and specific in any potential development contracts. Unfortunately, HUD's oversight of its increasingly popular RAD program has been significantly lacking. DCHA must fill that gap with its own oversight of repositioning efforts. Requiring regular reporting and monitoring of any private developers and owners during and post-repositioning is fundamental to ensuring building affordability. DC residents who cannot afford increasing market value rents should not be priced out of the District due to competing developer interests in profits—particularly not on properties redeveloped on DCHA land.

7. Reparations to public housing tenants harmed by DCHA, and mitigation of future harm

A legacy of intentional divestment by HUD and years of neglect from DCHA has resulted in housing that, by the agency's own admission, is neither safe, healthy nor dignified. We have seen tenants with persistent pest infestations, mold, exposure to lead and more, and we have seen the resulting trauma and its impacts on the lives of the people we serve, represent and organize. While we are heartened by DCHA's recent admission that this is no way for people to live—and respect their desire to do something different, even if we disagree on how—it is not enough to simply do better going forward. To do so neglects the years of harm endured by public housing residents who have been living in slum conditions, and does nothing to make public housing residents whole. It is our position that DCHA's plan also include a reparations framework that seeks to make amends to residents for harm endured, and further, that it mitigates future harm. By a reparations framework, we mean a restorative lens that acknowledges the harm done, seeks to make the harmed person(s) whole and establishes a plan that ensures the intentional mitigation of that harm going forward. Ultimately, a robust community engagement process can help inform what repairing harm might look like, but at minimum we suggest:

- **A moratorium on evictions on the basis of non-payment of rent.** Rental arrears are still being used as a basis for evicting public housing residents at properties the agency has admitted are “unsuitable for housing purposes.” Housing is one of the most basic human needs, with public housing being one of the few options for families living on extremely low incomes. To effectively remove families from unsafe living conditions only to turn them out on the street, is unjust.
- **Waiving of rental arrears for residents who owe back rent, and rental credits for residents who have been paying.** To demand rent be paid in units that DCHA officials refer to as “uninhabitable”⁹ adds insult to the injury of living in housing that poses serious risks to residents’ health and safety. Owing back rent can force residents into repayment agreements that are ultimately untenable, making it all but impossible for them to successfully maintain their housing and also can prohibit them from returning to the redeveloped properties. For residents who have been paying on time, some form of rent compensation is owed.

It is not enough for DCHA to decide to do better five, ten or fifteen years from now. Residents must be compensated for the harm endured, and DCHA’s Board of Commissioners must pass a resolution adopting these resident-centered recommendations to ensure that past, present and future harms are accounted for.

8. Minimize displacement

DCHA’s plan must build in concrete protections to avoid the unnecessary displacement that has characterized RAD-based efforts elsewhere in the country.

DCHA’s Plan primarily relies on RAD and HUD’s approval of Section 18 Demolition/Disposition applications.¹⁰ RAD allows housing authorities to remove public housing units from the public housing portfolio for the purpose of financing repairs and entering into long-term project-based Section 8 contracts with private owners. Pursuant to those contracts, the private owners would make repairs to units in the converted properties, including gut rehabs, and be required to rent to eligible tenants to whom the housing authority would issue subsidies in the form of project-based voucher or project-based rental assistance.¹¹ As HUD approves Section 18 Demolition/Disposition applications, it will issue DCHA tenant protection vouchers (“TPVs”).

While public housing residents are not required to accept a voucher of any kind pursuant to redevelopment, realistically, in order for much of DCHA’s plan to work – in order for buildings to undergo serious repairs or to be demolished – tenants must move out of their homes. Tenants will have the option to move into a different public housing unit, accept a voucher to find

⁹ D.C. Housing Authority Proposes To Completely Demolish Or Gut Ten Public Housing Properties, <https://dcist.com/story/19/07/03/the-d-c-housing-authority-proposes-plan-to-completely-demolish-or-gut-ten-public-housing-properties/>.

¹⁰ “District of Columbia Housing Authority 20 Year Transformation Plan”, p. 20, (stating that the agency’s “long term strategy” is to pursue conversion of the properties using a combination of RAD and Section 18 Demolition/Disposition applications to fund capital improvements), available at: <https://dcha.us/articles/1/57> (last visited September 24, 2019).

¹¹ National Housing Law Project, Resources, Rental Assistance Demonstration, available at <https://www.nhlp.org/resources/rental-assistance-demonstration-rad/>, (last visited September 24, 2019).

housing on the private market, or leave the public housing program altogether. With more than 2,600 public housing units in dire need of repair, and 14 buildings slated to be demolished or to undergo extensive repairs due to safety hazards such as lead and mold contamination, there simply are not enough safe public housing units available to accommodate the families that will be displaced if DCHA implements this plan. Therefore, the most prudent and safe option – and perhaps the only viable option – for tenants living in public housing units subject to DCHA’s Plan may be to accept a voucher. However, due to source of income discrimination, circumstances that make it difficult for former public housing tenants to satisfy onerous screening criteria in RAD-converted buildings or other privately owned properties, as well as the saturation of the District’s housing market, individuals are often unable to successfully utilize vouchers to secure housing. This almost inevitably means moving out of their community, and often, out of the District altogether.

Public housing tenants who have already been impacted by DCHA’s Plan, like former residents of Barry Farm and Kenilworth Courts, have attempted to use TPVs to relocate and have faced additional barriers to securing housing. These tenants have reported not receiving meaningful housing relocation assistance, leaving them unable to relocate in the private market before their TPVs expire. Although DCHA claims it will provide relocation assistance to impacted residents, its track record at properties like Barry Farm and Kenilworth Courts suggests that tenants living at the 14 properties currently slated for demolition or disposition may also run the risk of receiving ineffective relocation assistance, and as a result, find themselves unable to timely secure comparable housing with a TPV. Tenants in such a position would be forced to choose between a less habitable or less safe unit in the private market or a move to other public housing that may not be suitable for their family size or far from their communities; circumstances that residents have already described for DCHA at community engagement meetings regarding its repositioning plan. In its Plan, DCHA has not outlined how it will provide truly effective relocation assistance nor provided enforceable oversight or other mechanisms for safeguarding against these outcomes.

The history of RAD implementation nationally reveals serious problems involving lack of adequate oversight by HUD and local housing authorities that has often resulted in extended or permanent displacement of residents. DCHA’s plan does not address how it will avoid repeating those problems.¹² For example, DCHA has not addressed how it will guard against: (1) failure to create or comply with adequate written relocation plans, including concrete benchmarks and timelines for implementation of such plans; (2) a loss of affordable housing due to exceptions to the one-for-one unit replacement requirement; and (3) failures to provide reasonable accommodations to individuals with disabilities.¹³ If this plan is adopted, DCHA must learn from RAD experiences elsewhere and build in protections for tenants that guard against unnecessary and harmful displacement.

Displacement can inflict serious, irreparable consequences on the most vulnerable public housing residents.

¹² *Id.*

¹³ 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>.

Displacement has serious, ongoing negative consequences for families. It often increases commute time to work or limits access to public transportation necessary to get to work—jeopardizing jobs, increasing financial instability for families, and inducing anxiety in adults and children.¹⁴ Displacement is especially difficult for seniors and families with children. Nearly 48 percent of the properties that DCHA has slated for this first phase of “repositioning,” whether through demolition, gutting and rehabilitation, or non-gutting and rehabilitation, are home to families with children.¹⁵ In these properties, children comprise at least 20 percent of the population, and in some cases, between 35-50 percent of property residents.¹⁶ Families that must move away from their communities typically experience disruption and diminished access to education and afterschool care for young children.¹⁷ Research shows that high school-aged children forced to relocate are more likely to drop out of school.¹⁸ Senior residents and individuals with disabilities forced to leave their homes and use a voucher to secure housing in a different neighborhood lose access to caretakers and community support and have difficulty obtaining prescriptions and medical records.¹⁹ (We are particularly concerned by data that shows that almost 10 percent of Arthur Capper tenants have died since the September 19, 2018 fire.)

Without proper oversight, DCHA’s Plan will adversely impact public housing residents, including numerous seniors, persons with disabilities, and families with children, who are some of the most at-risk members of our community.²⁰

Recommendations:

To avoid these consequences, DCHA should incorporate and adhere to the following in its Plan:

- Adopt a resolution that makes the “build first” concept applicable to all public housing properties subject to redevelopment.
- Develop build first sites within the same ward as any property slated for extensive repairs, demolition, or redevelopment which would require tenants to relocate. The build first sites must include units at the same rental rates as existing public housing, and

¹⁴ *Id.*

¹⁵ See “Public Housing,” District of Columbia Housing Authority website, available at: <http://www.dchousing.org/topic.aspx?topid=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.)

¹⁶ See *id.* (showing 36 percent of the residents at Woodland Terrace and Richardson Dwellings are children while 50 percent of tenants at Elvans Road are minors).

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Center for Health Journalism, “In Nation’s Capital, Rising Gentrification Undermines Health”, July 2017, available at: <https://www.centerforhealthjournalism.org/2017/07/19/nation%E2%80%99s-capital-rising-gentrification-undermines-health-african-american-community> (last visited September 24, 2019).

²⁰ See, 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/wpcontent/uploads/2018/10/dcha.pdf>; see also, “Public Housing,” DCHA website, available at: <http://www.dchousing.org/topic.aspx?topid=3>. (showing DC public housing primarily houses low income families with children, persons with disabilities, and seniors).

should be available to potentially displaced tenants to give them the opportunity to remain in their community as redevelopment takes place.

- If DCHA can demonstrate in a specific situation that displacement is unavoidable, its plan must limit the amount of time tenants may be away from their communities by delaying forced relocation until actual demolition is imminent. In other words, tenants should not be forced to move until a developer has been selected, financing has been approved and funds received, initial permits have been approved by the District's Zoning Commission, and the period to appeal zoning decisions has passed. Of course, tenants may choose to move, which is entirely different.
- Permission to submit demolition/disposition applications to HUD and the release of any local funding DCHA should be conditioned on the implementation of policies and procedures, including establishment of an oversight working group that will allow residents and advocates to offer meaningful input into the decision making process regarding repairing, stabilizing the public housing portfolio, and the development and implementation of relocation plans.
- In addition to providing security deposits, DCHA should pay for all rental applications that relocating residents need to submit. The current policy of payment for two applications leaves most relocating residents paying large sums from their own pockets. Residents should also be provided with stipends for transportation to conduct the rental search.

9. Financing and voucher related assumptions/concerns

Replacement Tenant Protection Vouchers (Replacement TPVs):

DCHA has stated that Replacement TPVs are the best way to relocate current public housing tenants to safer conditions. Unfortunately, we see all too often that many families with vouchers are living in the same dilapidated conditions as families in public housing. DCHA's presumption that all families will be moving to safe and habitable housing is simply untrue. Furthermore, there is not enough affordable housing in the District to absorb 400 families per year. These 400 families will be competing for the same units as relocating voucher holders, families coming off the voucher waitlist, Rapid Rehousing and Targeted Affordable Housing participants, as well as families living on low incomes who are paying market rent for "affordable" rent controlled and LIHTC units.

Project-Based Vouchers:

In DCHA's "best case" scenario, the public housing replacement units would comprise 80 percent of each redevelopment project and those units would be subsidized through the project-based voucher program. It's our understanding through multiple meetings with DCHA staff that these vouchers would come from some combination of 1) Replacement TPVs awarded to DCHA for vacancies that occurred in the demo/dispo properties in the last 24 months; 2) Replacement TPVs that revert to DCHA if a tenant at a demo/dispo property chooses to relocate to another

public housing unit; 3) Replacement TPVs that revert to DCHA after the original recipient exits the program through termination, death, or voluntarily relinquishing the Replacement TPV likely upon return to the property; and 4) MTW authority that allows DCHA to project-base portions of its capital, operating and tenant voucher funds.

The redevelopment of these properties relies 100 percent on the availability of PBVs, but there is no guarantee from HUD that DCHA will be awarded Replacement TPVs. While DCHA has submitted applications for Replacement TPVs in the past (at Barry Farm and Kenilworth, for example), HUD only awarded Relocation TPVs that cannot be project-based. Even more uncertain is whether DCHA will have enough Replacement TPVs to project-base at each of these projects when there is so much overlap in the redevelopment timelines and completion projections are 15+ years away in some cases. The result will be projects being delayed for years while residents remain displaced from their communities and, in many cases, living in harmful conditions no better than the obsolete public housing they're being relocated from.

LIHTC, Bonds, Housing Production Trust Fund, HOME Funds, etc.:

DCHA plans to keep their gap financing applications to the District at or below \$30 million/year (with some years being up to \$50 million). The redevelopment of Arthur Capper, Barry Farm, and Kenilworth have been delayed for years in large part because of the unavailability of District financing. Simply stated, DCHA's redevelopment timeline for the repositioning is unrealistic without a firm commitment from the District to earmark \$30 million + per year for public housing redevelopment. Like most other developers, DCHA and its private development partners have historically had to apply multiple times for the same projects in order to receive competitive financing awards from the District. DCHA staff agree that, without a dedicated affordable housing funding stream, they do not assume that they will receive awards in the first round for every application, but it is unclear if the timeline shown in the Plan takes those financing delays into account.

Requests for More Information:

DCHA should share annual data on the number of voucher units that failed first and/or second Housing Quality Standards (HQS) inspections over the last 5 years due to landlord violations. In addition, we would like to see how many Housing Assistance Payment (HAP) contracts DCHA has terminated in the last five years for failed HQS inspections due to landlord violations. This data will give the public a better understanding of the quality of the housing stock where DCHA voucher holders are currently living.

DCHA should share data on the average search time between voucher issuance and lease-up/failure to lease up, as well as requests for extensions, including reasonable accommodation requests, for additional search time beyond the 180 days allotted. This data will give the public a better understanding of whether the private housing market will be able to absorb hundreds of additional voucher holders each year.

Recommendations:

- DCHA should retain majority/controlling interest in all of the redevelopments to ensure continued control of property operations and enforcement post-conversion.
- Affordability restrictions on the public housing replacement units should be in perpetuity and run with the land through a ground lease.
- DCHA should partner with non-profit affordable housing developers that, like the agency, are mission driven and serve people living on low incomes. Transfers of interest to a for-profit tax credit developer should be approved by the District after public notice.
- DCHA should not submit demo/dispo applications until it has selected developers for each site and has more concrete financing strategies for each individual property, including but not limited to, a firm commitment from the District to create and operate a dedicated funding stream for public housing redevelopment.
- DCHA should reduce the number of public housing tenants it intends to relocate with vouchers annually from 400 to 200 until the agency can demonstrate its ability to successfully rehouse these families in the District.

Sincerely,

Empower DC

Bread for the City

DC Fiscal Policy Institute

Legal Aid Society for the District of Columbia

Legal Counsel for the Elderly

Neighborhood Legal Services Program

Washington Lawyers Committee for Civil Rights and Urban Affairs

Washington Legal Clinic for the Homeless