



**WASHINGTON LAWYERS' COMMITTEE**  
**FOR CIVIL RIGHTS AND URBAN AFFAIRS**

**Housing & Neighborhood Revitalization Public Oversight Roundtable  
on the DC Housing Authority's Transformation Plan**

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Committee for Civil Rights and Urban Affairs*  
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The DC Housing Authority's ("DCHA") Transformation Plan to relinquish federal and local control of public housing and use mechanisms like conversions under the Rental Assistance Demonstration program ("RAD") and the demolition of public housing to make repairs puts public housing tenants at risk of displacement and will likely further entrench segregation in the District. The Washington Lawyers' Committee is here to urge the Council to guard against such outcomes while preserving and improving truly affordable public housing. First, we ask the Council to pass the Public Housing Preservation and Tenant Protection Amendment Act of 2020 (the "Act") that provides tenants living in properties scheduled for demolition or RAD conversions with right to return protections and further admission, recertification, and transfer-related protections, as well as publicly available relocation plans, at properties scheduled for demolition. Critically, the Act requires DCHA to enshrine these protections in enforceable rules governing redeveloped properties before it can receive Mayoral approval of any demolition and disposition application to HUD. Second, we urge the Council to require DCHA to develop "build first" plans for any property slated for extensive repairs or demolition to avoid requiring tenants to relocate. Third, we ask that you require DCHA to apply a nuanced approach to the process of making repairs that is tailored to the needs of the particular site at issue and that minimizes disruption to tenants.

**I. INTRODUCTION AND OVERVIEW**

Public housing is one of our community's most valuable affordable housing assets. It is intended "to provide decent and safe rental housing for eligible low-income families, seniors, and persons with disabilities."<sup>1</sup> In the District, 20,000 residents live in approximately 7,000 public housing apartments and townhomes,<sup>2</sup> and there are approximately 26,500 applicants on the public housing waitlist.<sup>3</sup> These numbers underscore the great, unmet need for affordable housing in our city, of which public housing is an integral part. DC public housing is also home to low-income families with children, persons with disabilities, and seniors, the most at risk of our City's residents<sup>4</sup>—all of whom will be impacted by DCHA's Transformation Plan.

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<sup>1</sup> "HUD's Public Housing Program," available at: [https://www.hud.gov/topics/rental\\_assistance/phprog](https://www.hud.gov/topics/rental_assistance/phprog).

<sup>2</sup> 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/git3vcz5221.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?topicid=3>; see also "[DCHA] Responses to Questions Received from the Local Affordable Housing Advocacy Community Concerning DCHA's Portfolio Stabilization" at 4-5 (available upon request).

<sup>3</sup> 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>.

## II. PROBLEMS WITH THE TRANSFORMATION PLAN

DCHA's Transformation Plan relies on conversions under the RAD program and HUD's approval of Section 18 Demolition/Disposition applications to rehabilitate 14 properties for which long overdue repairs are "extremely urgent."<sup>4</sup> The Plan lacks sufficient details showing how DCHA will implement these conversions and demolitions in the least disruptive manner possible to existing public housing tenants. This omission is concerning. The history of RAD conversions nationally and demolition of DC public housing properties illustrate how these actions have often displaced public housing tenants and further entrenched segregation.

Because we live in a hyper-segregated city that that has experienced the greatest "intensity of gentrification" in the nation and lost 20,000 African-American residents to displacement from low-income neighborhoods in 2000-2013,<sup>5</sup> these consequences should deeply concern the Council, and any Transformation Plan should provide concrete strategies to avoid them. Further, the Plan fails to account for the reality that tenants who are forced to move from their homes while their properties undergo repairs may not find suitable replacement housing, particularly if DCHA seeks approval of numerous demolition and disposition applications at the same time.

### A. The Risks of Demolition and Disposition Applications and Related Lack of Available Affordable Replacement Housing

DCHA plans to redevelop at least ten properties under the Section 18 Demolition/Disposition application process. HUD will issue DCHA Tenant Protection Vouchers for those properties as it approves the Section 18 Demolition/Disposition applications from DCHA. While public housing residents are not required to accept a voucher of any kind as part of the rehabilitation and/or redevelopment process, realistically, in order for buildings to undergo serious repairs through demolition, tenants must move out of their homes. Impacted tenants will have the option to move into a different public housing unit, accept a Tenant Protection Voucher to find housing on the private market, or leave the public housing program altogether. Given the lack of availability in, and deteriorated condition of, most of the remaining public housing stock, the only realistic option for these tenants may be to accept a voucher.

Tenant Protection Vouchers are not a failsafe option, however, given pervasive source of income discrimination, onerous screening criteria utilized in privately owned properties, as well as the saturation of the District's housing market, all of which make it increasingly difficult to secure housing with a voucher. Due to these barriers, tenants who seek housing with a voucher are often forced to live outside of their communities or outside of the District altogether.

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<sup>4</sup> "District of Columbia Housing Authority 20 Year Transformation Plan", at 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 January 23, 2020).

<sup>5</sup> See Nate Silver, "The Most Diverse Cities Are Often the Most Segregated," available at <https://fivethirtyeight.com/features/the-most-diverse-cities-are-often-the-most-segregated/> (describing the District as the sixth most segregated city in the U.S.) (last visited January 23, 2020); Jason Richardson, Bruce Mitchell, et al., *Shifting Neighborhoods: Gentrification and cultural displacement in American cities* (March 2019) at 4.

Relatedly, DCHA has previously reported that most DC voucher holders continue to reside in racially concentrated, under-resourced, and densely populated neighborhoods, namely in Wards 7 and 8.<sup>6</sup> This is especially true for families who seek larger units of three or more bedrooms because Wards 7 and 8 are home to most of the few affordable family-sized units in the City.<sup>7</sup> The potential for further entrenching segregation by substituting public housing with vouchers cannot be overstated. Advocates' collective experience shows that many tenants who use Tenant Protection Vouchers during relocation often have limited relocation options and do not return to their redeveloped public housing properties.

## **B. The Implementation Pitfalls of RAD**

The history of RAD<sup>8</sup> 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 has not adequately addressed how it will guard against: (1) failures to create or comply with 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; (3) rescreening of tenants at the time of conversion in contravention of RAD's protections; and (4) failures to provide reasonable accommodations to individuals with disabilities.<sup>9</sup> The current plan does not reflect any attempts to learn from and protect against the potential pitfalls of RAD, which opens up the District to the possibility that upon implementation, RAD will generate deleterious consequences for DC's public housing residents. Equally concerning, the properties slated to undergo RAD conversions are located in Wards 1, 5, and 6, areas that are already gentrified or rapidly becoming gentrified. Without safeguards to ensure public housing residents are not displaced during RAD conversions, these conversions may contribute to the segregation of the affected neighborhoods, making them whiter and wealthier while accelerating the loss of African-American residents from these wards.

## **III. THE LIKELY HARMFUL CONSEQUENCES OF DCHA'S PLAN**

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

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<sup>6</sup> 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>.

<sup>7</sup> 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).

<sup>8</sup> The RAD program 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. The private owners would make repairs to units in the converted properties and be required to rent to eligible tenants who would be issued subsidies in the form of project-based vouchers or project-based rental assistance. National Housing Law Project, Resources, Rental Assistance Demonstration, available at <https://www.nhlp.org/resources/rental-assistance-demonstration-rad/> (last visited January 23, 2020).

<sup>9</sup> 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>.

children.<sup>10</sup> 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.<sup>11</sup> In these properties, children comprise at least 20 percent of the population, and in some cases, between 35-50 percent of property residents.<sup>12</sup> Families that must move away from their communities typically experience disruption and diminished access to education and afterschool care for young children.<sup>13</sup> Research shows that high school-aged children forced to relocate are more likely to drop out of school.<sup>14</sup> 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.<sup>15</sup>

Without proper oversight, DCHA’s Transformation Plan will adversely affect and temporarily or permanently dislocate 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.<sup>16</sup> The Council need only look to the experience of former residents of Barry Farm and Kenilworth Courts who have attempted to use Tenant Protection Vouchers to relocate and have faced additional barriers to securing housing for examples of the harm tenants suffer when DCHA does not adequately plan for, and implement protections against, displacement. These tenants have reported not receiving meaningful housing relocation assistance, leaving them unable to relocate in the private market before their Tenant Protection Vouchers expired.

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 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 Tenant Protection Voucher. Tenants in such a position are 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. This is hardly new information to DCHA: Residents repeatedly described their experiences and voiced these

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<sup>10</sup> 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 January 23, 2020).

<sup>11</sup> “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; last assessed in September 2019). We counted Barry Farm as a public housing property with a significant percentage of families with children based on prior DCHA demographics reports of the property.

<sup>12</sup> *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 as of September 2019).

<sup>13</sup> *See supra* at note 10.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *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/wp-content/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).

concerns at summer 2019 community engagement meetings regarding DCHA’s Transformation Plan. In its Plan, DCHA has not explained how it will provide effective relocation assistance nor provided enforceable oversight or other mechanisms for safeguarding against these outcomes.

#### **IV. WAYS TO MITIGATE THE HARM TO TENANTS**

##### **A. The Public Housing Preservation and Tenant Protection Amendment Act of 2020**

The Public Housing Preservation and Tenant Protection Amendment Act of 2020 guards against the possibility of tenant displacement and further perpetuation of segregation. For example, the draft bill will require DCHA to “implement and effectuate the right to return protections under DCHA Resolution 16-06, expanding its principles to all [RAD] . . . rehabilitation[.]” projects, which, significantly, includes a prohibition on rescreening criteria more onerous than what is required to be admitted to public housing. It also extends critical procedural protections related to recertification and transfers to tenants in buildings slated for demolition and mandates that DCHA develop meaningful and publicly available relocation plans. DCHA would have to incorporate these protections in enforceable rules governing redeveloped properties before it could receive Mayoral approval of any demolition and disposition application to HUD. While the bill does not extend the one-for-one replacement requirements to the RAD context because the legislation is intended to primarily govern the demolition/disposition process, the Council should question DCHA regarding what enforceable mechanisms it will use to ensure housing in RAD-converted properties is replaced at the same total numbers, subsidy levels, and bedroom sizes.

##### **B. Build First**

Another way to ensure public housing residents are not displaced from their communities is to require DCHA to develop “build first” sites within the same ward as any property slated for extensive repairs, demolition, or redevelopment that would require tenants to relocate. To date, DCHA claims there are only four sites where “build first” “might be an option.” Given the District’s vast land holdings, this seems implausible. To that end, we recommend that DCHA take a hard look at whether there are other sites where it can “build first,” and work with other District agencies to utilize other District-owned land for this purpose. Further, we recommend that each “build first” site include units at the same rental rates as existing public housing and be available to potentially displaced tenants to give them the opportunity to remain in their community as redevelopment takes place.

##### **C. Nuanced Approach to Making Repairs**

The DC Council should require DCHA to approach the rehabilitation of its “extremely urgent” properties from an individually tailored position given the fraught history of RAD conversions and DC’s prior demolition and redevelopment of public housing. To undertake such an approach, DCHA should consider the needs of the particular site at issue, identify how many residents will need to move, whether they need to be moved at all, and if so, what the least disruptive means are to do so. At all times, DCHA must consider whether the chosen approach will curb or entrench segregation so it can foster inclusive communities and equal housing opportunities for its residents.