



**Written Testimony of The Washington Lawyers' Committee for Civil Rights and Urban Affairs  
District of Columbia Council Committee on Housing  
Performance Oversight Hearing for the District of Columbia Housing Authority  
March 9, 2023**

**I. Introduction and Overview**

The District of Columbia is facing an affordable housing crisis that is harming far too many families and persons of color. Public housing is a key element to creating safe, accessible, and stable housing for all District of Columbia residents, but for years, the District of Columbia Housing Authority (“DCHA” or “Agency”) has allowed many of its public housing units to fall into disrepair, and many are left vacant. At the same time, DCHA has also failed to protect the interests of Housing Choice Voucher holders (“Voucher holders”) who are often exploited due to the Agency’s failures to ensure it does not overpay landlords for rents throughout the District. In turn, the Agency’s significant overpayments in rent have limited its ability to provide more DC residents with Vouchers and housing opportunities. All the while, the solutions proposed both by this Council and DCHA since late 2022 have done little to address the root issues.

The Council’s emergency legislation at the behest of the Mayor that removed dissenting voices from DCHA’s Board of Commissioners who repeatedly attempted to address DCHA’s mismanagement and often were at odds with the Mayor set DCHA even further back.<sup>1</sup> This new board is performative at best; it has further expanded Mayoral control of the Agency’s governing body and diminished residents’ voices in key decision-making processes, particularly when one of the resident members is a non-voting member. And, DCHA’s poorly thought out public housing strategy, whether it be its failure to immediately order repairs for units that are not up to code, or its haphazard public housing wait list events that are inaccessible to persons with disabilities and many families, is further proof DCHA is thoughtlessly addressing these issues.

To protect the rights of public housing residents and wait list residents, as well as guard against the exploitation of Voucher holders and the Voucher Program itself, the Committee urges the Council to attach strings to its budget allocation to DCHA. To receive funding, the Council should require DCHA to: (1) implement a schedule of repairs for public housing units that have outstanding housing conditions; (2) address its low occupancy rate by bringing more vacant public housing units up to code; (3) fill vacant and habitable public housing units in a manner that allows meaningful access to wait list participants and provides reasonable accommodations to persons with disabilities and families with children; and (4) conduct rent reasonableness assessments prior to allowing Voucher holders to lease up at any rental housing unit.

**II. Demographics of Public Housing Residents and Voucher Holders**

DCHA currently serves 7,389 public housing tenants, approximately 94% of whom are Black residents, according to DCHA’s own reporting.<sup>2</sup> An additional percentage of public housing residents identify as Hispanic, bringing the total percentage of public housing residents

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<sup>1</sup> District of Columbia Housing Authority Stabilization and Reform Emergency Amendment Act of 2022, available at: B24-1144-Signed\_Act.pdf (dccouncil.gov).

<sup>2</sup> Fiscal Year 2022-2023 Performance Oversight Pre-Hearing Questions, February 24, 2023, at 22, available at: Pre-Hearing-Responses-DCHA-2.27.2023.pdf (dccouncil.gov).

who are people of color to 97%. Within the Voucher Program, the demographics tell a similar story. Specifically, 93% of Voucher recipients are Black DC residents while an additional 4% of Voucher holders identify as Hispanic.<sup>3</sup> Further, a significant portion of public housing residents and Voucher holders are comprised of women and persons with disabilities.<sup>4</sup>

Accordingly, DCHA's failures to protect the interests of public housing residents and voucher holders is a racial justice issue because the majority of those residing in public housing or using a Voucher to pay for the rent are low-income people of color.

### **III. DCHA's Failures in Public Housing**

#### **a. The Agency's failure to make repairs has caused significant harm to public housing residents.**

As HUD pointed out in its October 2022 report: "DCHA is not maintaining [public housing] units in decent, safe, and sanitary condition."<sup>5</sup> Among the hazardous conditions public housing tenants have endured are "lead-paint hazards; out-of-code plumbing; [and] water damage and mold."<sup>6</sup> This is compounded by the Agency's failure to address emergency work orders,<sup>7</sup> a practice that has not changed in any meaningful way since the new Stabilization and Reform Board (formerly the Board of Commissioners) began its term in January 2023,<sup>8</sup> other than to continue Agency plans to privatize public housing, described below.<sup>9</sup> Meanwhile, public housing residents continue to face extensive delays in repairs or receive no repairs and suffer serious harm as a result.

The Agency's failures to make timely and necessary repairs to public housing have resulted in physical, medical, and psychological injury to public housing residents. For example, pervasive mold is known to cause a variety of health effects and has been linked to upper respiratory tract symptoms, coughing, and wheezing.<sup>10</sup> Individuals who have existing respiratory issues, such as asthma, are especially sensitive to environmental factors, and as a result, can have

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<sup>3</sup> HUD 2021 Picture of Subsidized Housing, available at: <https://www.huduser.gov/portal/datasets/assths.html#2009-2021>.

<sup>4</sup> Fiscal Year 2022-2023 Performance Oversight Pre-Hearing Questions, February 24, 2023, at 22, available at: <https://www.dccouncil.gov/documents/2023/02/24/2023-02-24-pre-hearing-responses-dcha-2.27.2023.pdf> (dccouncil.gov).

<sup>5</sup> U.S. Department of Housing and Urban Development District of Columbia Housing Authority Assessment ("HUD Assessment"), Finding PH 31, at 33, available at: [https://oag.dc.gov/sites/default/files/2022-10/DCReview\\_Final%209302022%20%281%29.pdf](https://oag.dc.gov/sites/default/files/2022-10/DCReview_Final%209302022%20%281%29.pdf).

<sup>6</sup> "D.C. Housing Authority's leadership is failing, HUD report says," Washington Post, available at: <https://www.washingtonpost.com/dc-md-va/2022/10/07/hud-report-dcha-failures/> (citing HUD Assessment).

<sup>7</sup> HUD Assessment, Finding PH 31, at 34, available at: [https://oag.dc.gov/sites/default/files/2022-10/DCReview\\_Final%209302022%20%281%29.pdf](https://oag.dc.gov/sites/default/files/2022-10/DCReview_Final%209302022%20%281%29.pdf).

<sup>8</sup> [https://www.dchousing.org/api/files/board/y15oytxi\\_mnp0q3fq865nxpmuwxe865.pdf](https://www.dchousing.org/api/files/board/y15oytxi_mnp0q3fq865nxpmuwxe865.pdf).

<sup>9</sup> See Resolution 23-10 (seeking conversion of five public housing properties to private housing through the Rental Assistance Demonstration Program); see also Board of Commissioners Meeting Final Transcript, January 25, 2023, at 274-276, available at: [https://www.dchousing.org/api/files/board/2elt2f60\\_iktynx3g293a44upjal293.pdf](https://www.dchousing.org/api/files/board/2elt2f60_iktynx3g293a44upjal293.pdf).

<sup>10</sup> Centers for Disease Control and Prevention, *Basic Facts about Mold and Dampness*, <https://www.cdc.gov/mold/faqs.htm#:~:text=Mold%20will%20grow%20in%20places,carpet%2C%20fabric%2C%20and%20upholstery>, (last updated on Aug. 11, 2020).

more intense reactions to mold.<sup>11</sup> Studies have also linked dampness and early mold exposure to the development of asthma in children.<sup>12</sup> These negative health effects track the testimonies of numerous public housing residents that this Council has heard for years.

Other poor housing conditions like the presence of rodents can also bring on negative health consequences. Rodents, for example, are known to carry diseases that can be transferred directly to humans through bite wounds and contamination of residents' food; as such, their presence in many residents' homes represent a significant threat to these residents.<sup>13</sup> What's more, conditions like pests often induce mental health deterioration such as symptoms of depression.<sup>14</sup> DCHA can and must do better. We ask that the Council require the Agency to immediately devise a schedule of repairs and provide regular updates to HUD and the Council on its progress for all public housing units that are not currently up to Code.

**b. DCHA's efforts to address its low occupancy rate by privatizing public housing and leading poorly executed wait list events are creating more harm.**

At the same time as DCHA has allowed much of its public housing stock to deteriorate, its occupancy rate has, unsurprisingly, plummeted. At 76%, DCHA's occupancy rate is the lowest of any large public housing authority in the nation with one in four of its units left vacant—all in the midst of an affordable housing crisis.<sup>15</sup> That said, the Agency's proposal to privatize up to 40% of its public housing stock is misguided for a number of reasons that we have previously brought to the Agency and the District's attention.

As housing advocates noted in a letter Mayor Bowser and the Council in February 2019, the well-documented negative impacts to public housing residents resulting from conversion mechanisms such as the Rental Assistance Demonstration ("RAD") program should be cause for concern. RAD has a history of limited oversight of the program and deleterious effects on public

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<sup>11</sup> See World Health Organization, *WHO Guidelines for Indoor Air Quality: Dampness and Mold* 71 (2009), [https://www.euro.who.int/data/assets/pdf\\_file/0017/43325/E92645.pdf](https://www.euro.who.int/data/assets/pdf_file/0017/43325/E92645.pdf) (“[i]n [the reviewed studies] dampness-related factors were consistently associated with asthma exacerbation”).

<sup>12</sup> See “Household Molds Linked to Childhood Asthma,” National Institutes of Health (Aug. 20, 2012), <https://www.nih.gov/news-events/nih-research-matters/household-molds-linked-childhood-asthma> (study of association between molds and asthma provides “strong evidence that indoor mold can contribute to asthma development” and “stresses the urgent need for remediating water damage in homes, particularly in lower income, urban communities where this is a common issue” (citation omitted)); see also Jouni Jaakkola et al., *Home Dampness and Molds, Parental Atopy, and Asthma in Childhood: A Six-Year Population-Based Cohort Study*, 113, *Env'tl Health Perspectives* 357 (Mar. 1, 2005), <https://ehp.niehs.nih.gov/doi/10.1289/ehp.7242> (“Our results ... provide further evidence that exposure to molds increases the risk of developing asthma in children”).

<sup>13</sup> EPA, *About Rats and Mice*, available at: <https://www.epa.gov/rodenticides/about-rats-and-mice>.

<sup>14</sup> Snehal N. Shah et al., *Housing Quality and Mental Health: the Association between Pest Infestation and Depressive Symptoms among Public Housing Residents*, *Nat'l Libr. of Med.* (Aug. 23, 2018), available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6181819/>.

<sup>15</sup> HUD Assessment at 16, available at: [https://oag.dc.gov/sites/default/files/2022-10/DCReview\\_Final%209302022%20%281%29.pdf](https://oag.dc.gov/sites/default/files/2022-10/DCReview_Final%209302022%20%281%29.pdf); see also “1 in 4 public housing units sit vacant during D.C. affordability crisis,” *Washington Post*, available at: <https://www.washingtonpost.com/dc-md-va/2022/10/19/dc-public-housing-vacancy-spirals/>.

housing residents.<sup>16</sup> The Committee recognizes that the Agency may be attempting to address some of these concerns in its published RAD regulations amending the Administrative Plan, but these changes do not, for example address the reality that the private market rarely builds family-sized units.<sup>17</sup> The effect of this trend within the private market could be detrimental to the families who currently depend on and reside in public housing's larger units, particularly when these families make up approximately 23% of all public housing households.<sup>18</sup> If past practice evidenced by recent subsidized housing redevelopments with minimal larger units is indicative of future policy, many DC families will be shut out of RAD or other privatized housing.<sup>19</sup> For those who choose to find other suitable housing large enough to accommodate their families, the options will be limited and concentrated east of the River.<sup>20</sup> The result will be a further entrenchment of residential segregation for DC families. Accordingly, the better solution is for DCHA to rehabilitate public housing properties and maintain these units as affordable in perpetuity. Doing so will protect the interests of families with children and ensure these families are not displaced from their homes and broader communities.

With respect to how best to increase the high vacancy rate in public housing, the Committee finds DCHA's recent attempts to address the issue through pop-up public housing wait list events to have been haphazard at best. Based on our understanding from reports from community members, DCHA provided extremely short notice to individuals on the wait list to sign up for appointments at these events to determine whether these residents were eligible for available public housing. More importantly, the events all but disregarded the needs of seniors and persons with disabilities. For example, the format for the wait list events require people to show up in person and stand in line for hours without regard to individuals' disabilities and with no mechanism to request a reasonable accommodation. Families with children also reported having a hard time taking advantage of these events because it was nearly impossible for many families to stand in line for hours with young children. To add insult to an already injurious process, many documents required by the agency for purposes of determining eligibility, such as proof of SSDI and SSI payments, take weeks to obtain, thus foreclosing housing opportunities to

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<sup>16</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>.

<sup>17</sup> DC Policy Center. *Appraising the District's rentals – Landscape of Rental Housing*. 1 Apr. 2020. [dcpolicycenter.org/publications/appraising-the-districts-rentals-chapter-ii/](http://dcpolicycenter.org/publications/appraising-the-districts-rentals-chapter-ii/).

<sup>18</sup> HUD 2021 Picture of Subsidized Housing, available at: <https://www.huduser.gov/portal/datasets/assthsg.html#2009-2021>.

<sup>19</sup> Tatian, Peter and Leah Hendey, et al., "An Assessment of the Need for Large Units in the District of Columbia," June 2019, commissioned by the Office of the Deputy Mayor for Planning and Economic Development, at 48-50, [https://dmped.dc.gov/sites/default/files/dc/sites/dmped/publication/attachments/Formatted%20FSU%20Study\\_FINAL%206-24\\_1.pdf](https://dmped.dc.gov/sites/default/files/dc/sites/dmped/publication/attachments/Formatted%20FSU%20Study_FINAL%206-24_1.pdf); see also McCabe, Brian, "DC's New Communities Initiative, Explained," Feb. 10, 2021, [ggwash.org/view/80371/what-is-dcs-new-communities-initiative-anyway](http://ggwash.org/view/80371/what-is-dcs-new-communities-initiative-anyway).

<sup>20</sup> DC Policy Center. *Appraising the District's rentals – Landscape of Rental Housing*. 1 Apr. 2020. [dcpolicycenter.org/publications/appraising-the-districts-rentals-chapter-ii/](http://dcpolicycenter.org/publications/appraising-the-districts-rentals-chapter-ii/); Tatian, Peter and Leah Hendey, et al., "An Assessment of the Need for Large Units in the District of Columbia," June 2019, commissioned by the Office of the Deputy Mayor for Planning and Economic Development, at 22, 27, [https://dmped.dc.gov/sites/default/files/dc/sites/dmped/publication/attachments/Formatted%20FSU%20Study\\_FINAL%206-24\\_1.pdf](https://dmped.dc.gov/sites/default/files/dc/sites/dmped/publication/attachments/Formatted%20FSU%20Study_FINAL%206-24_1.pdf).

many residents who were not able to provide the necessary eligibility documentation. The Council must urge DCHA to rethink its strategy to get residents off of the public housing wait list and into housing.

#### **IV. Lack of Rent Reasonableness Calculations in Voucher Program**

With respect to its Voucher Program, the Committee would be remiss to not recognize that DCHA's efforts to implement higher payment standards—among the most generous in the country—have enabled Voucher holders and their families to meaningfully choose where they would like to live and helped break down patterns of segregation.<sup>21 22</sup> That said, DCHA's practice of failing to ensure the rents it pays across the District are reasonable has resulted in deleterious effects for Voucher holders and the agency. Firstly, as a matter of sound fiscal policy, the agency's repeated failures to conduct annual rent reasonableness assessments have resulted in the agency overpaying significant monies in rent to landlords.<sup>23</sup> Moreover, these failures to conduct rent reasonableness assessments coincide with concerning discriminatory practices by landlords of charging Housing Choice Voucher holders different and higher rents as compared to non-Voucher holders, often with DCHA's imprimatur, that lead to a loss of housing opportunities. Even recently, we have continued to hear similar disturbing reports of disparate treatment of Voucher holders from other legal services providers. These scenarios confirm that source of income discrimination is on the rise and that DCHA's practice of paying higher rents to landlords without doing its due diligence has all but incentivized landlords to seek higher rents from Voucher holders.

An equally serious concern to the Committee is the pattern by some landlords to neglect their properties while continuing to rent their units mainly to Housing Choice Voucher holders because they want the steady rent money offered by DCHA. As a result, Voucher holders have been forced to live in rapidly deteriorating conditions. The Council is undoubtedly familiar with Sanford Capital's practice—prior to the OAG's intervention—of renting a significant number of its units to Voucher holders while neglecting its duty to repair; this practice has continued today at complexes like The Havana in NE DC.<sup>24</sup>

Against the backdrop of these concerns, we urge the Council to require the Agency to implement HUD's recommendations to “establish policies and procedures to ensure that DCHA is performing a rent reasonableness determination before executing a HAP contract [and] before

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<sup>21</sup> DCHA Testimony, DC Council Public Hearing, Feb. 20, 2020, available at: [dc.granicus.com/MediaPlayer.php?view\\_id=&clip\\_id=5384&caption\\_id=11875496](https://dc.granicus.com/MediaPlayer.php?view_id=&clip_id=5384&caption_id=11875496).

<sup>22</sup> We join the Equal Rights Center and other housing advocates in noting that the agency's proposal in 2022 to decrease its payment standards was troubling though we are heartened the agency ultimately reversed course.

<sup>23</sup> HUD Assessment, HCV 5, at 46, available at: [https://oag.dc.gov/sites/default/files/2022-10/DCReview\\_Final%209302022%20%281%29.pdf](https://oag.dc.gov/sites/default/files/2022-10/DCReview_Final%209302022%20%281%29.pdf).

<sup>24</sup> Thompson, Steve and Dalton Bennett, “D.C. overpays landlords millions to house the city's poorest,” The Washington Post, Feb. 16, 2023, available at: <https://www.washingtonpost.com/investigations/2023/02/15/dc-housing-authority-overpays-landlords/>; see also Mills, Alexa and Andrew Giambrone, “Life is Hell for Tenants of Giant D.C. Slumlord, Stanford Capital,” Washington City Paper, Feb. 2, 2017, available at: <https://washingtoncitypaper.com/article/192384/life-is-hell-for-tenants-of-giant-dc-slumlord-sanford-capital/>.

any increase in rent to the owner,” both now and retrospectively for 2021 and 2022.<sup>25</sup> For retrospective determinations, DCHA should assess whether the rents it paid for newly admitted Voucher holders and in annual rent increases during that period were reasonable. If they were not, we ask the Council to ensure that DCHA takes corrective action to recoup these monies, in line with HUD’s recommendations.<sup>26</sup> Further, where DCHA is aware that a landlord is engaging in source of income discrimination, we strongly urge you to require the Agency to refuse to enter into and approve HAP contracts for these landlords and refer such landlords to organizations like the Committee or Equal Rights Center for corrective action.

## V. Conclusion

DCHA is rife with mismanagement issues, among the most concerning of which are its failures to serve the interests of its public housing residents and Voucher holders. Because the majority of public housing residents and Voucher holders are low-income people of color, and more specifically, Black DC residents, we urge the Council to require DCHA to correct its failures because doing so is a matter of racial justice. We specifically demand that the Council require DCHA, as a condition to receiving funding this year, to immediately repair public housing units with outstanding conditions; address its low occupancy rate, including by rehabilitating vacant public housing units; fill available public housing units in a way that allows meaningful access to wait list participants and provides reasonable accommodations to persons with disabilities and families with children; and conduct rent reasonableness assessments prior to leasing up units for Voucher holders.<sup>27</sup>

Thank you.

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<sup>25</sup> HUD Assessment, HCV 5, at 46-47, available at: [https://oag.dc.gov/sites/default/files/2022-10/DCReview\\_Final%209302022%20%281%29.pdf](https://oag.dc.gov/sites/default/files/2022-10/DCReview_Final%209302022%20%281%29.pdf).

<sup>26</sup> HUD Assessment, HCV 5, at 46-47, available at: [https://oag.dc.gov/sites/default/files/2022-10/DCReview\\_Final%209302022%20%281%29.pdf](https://oag.dc.gov/sites/default/files/2022-10/DCReview_Final%209302022%20%281%29.pdf).

<sup>27</sup> We would be remiss to omit that DCHA’s most recent efforts to make substantive and wholesale changes to its Administrative Plan, Admissions and Continued Occupancy Plan, and Move to Work Plan are being rushed, with limited opportunities for housing advocates and DC residents to meaningfully provide input. That said, the Committee, and members of the public housing advocates’ coalition, will endeavor to provide feedback on these changes, all of which must go through an official rulemaking process. Once we do, we welcome the opportunity to meet with the Council to discuss our concerns. See more details at [Moving to Work – District of Columbia Housing Authority \(dchousing.org\)](https://dchousing.org).