**Oversight Hearing on the Access to Justice Commission**

**March 14, 2011**

**Committee on the Judiciary**

**Councilmember Phil Mendelson, Chairperson**

 **Testimony of Vanessa Buchko, Esq., AARP Legal Counsel for the Elderly**

Good afternoon, Chairman Mendelson and members of the committee. My name is Vanessa Buchko, and I am a legal services attorney at AARP Legal Counsel for the Elderly, a non-profit provider of free legal services to older District residents. Included among our services is Project HELP (the “D.C. Homebound Elderly Project”), which serves the legal needs of the most vulnerable senior citizens in our community: the homebound elderly. For the past three years I have been honored to serve as the Project HELP staff attorney, where I provide much-needed legal assistance directly in our clients’ homes, assisted living facilities, nursing homes and hospital rooms.

Project HELP represents those at risk of home loss in landlord-tenant or property tax court, defends homebound seniors in lawsuits brought by creditors, assists clients with guardianship matters, and helps protect elders who have been taken advantage of by consumer or mortgage scams. I also regularly assist clients with creating necessary “end-of-life” documents such as wills, powers of attorney, and advance directives. In addition, I conduct public benefit check-ups to ensure that homebound seniors—many of whom have never had an attorney—are receiving all the benefits to which they are entitled, and I routinely investigate living conditions for evidence of abuse or neglect.

In 2007, LCE was able to launch Project HELP thanks to the funding appropriated by the D.C. Council at the urging of the D.C. Access to Justice Commission. This highly innovative program—the only one we know of in the United States—serves those D.C. residents who are among the most at risk of falling through the cracks. The assistance that homebound seniors now receive from LCE is particularly important in light of the seriousness of the cases and the clients’ desperate need for legal help. In some instances, prospective Project HELP clients were found to be living without running water, amidst heightened levels of rodent and cockroach infestations, and surrounded by large volumes of clutter due to hoarding. In other cases, prospective clients were living with an extremely low income because they were incapable of handling applications for much needed public benefits.

For example, I recently assisted an 86 year old widow and longtime District resident with a complex set of issues in a case that lasted several months. This elderly woman was living in absolute squalor in her Ward 7 apartment. Her landlord had started to make several necessary repairs to her home months beforehand, but then abruptly stopped mid-construction. Large black garbage bags had been hung up over the areas where the walls and ceiling were removed. Several windows were broken, and her bedroom floor was completely covered with construction dust and debris. Plus the electrical wiring was so bad that she could not use her oxygen machine unless all her lights and television were turned off. Even more shocking was the fact that she had no hot water and no heat. To top it all off, her tiny apartment was infested with both cockroaches and rodents.

Unfortunately, my colleagues and I quickly determined that this elderly woman was no longer competent—something LCE attorneys encounter with some regularity, as many seniors battle with Alzheimer’s disease and dementia as they grow older. Furthermore, the power of attorney that this woman had signed in favor of her son was not valid under D.C. law. Therefore, we filed a petition for the son to be appointed as her emergency guardian and requested that the court order specifically grant her son the power to sue and settle lawsuits on her behalf. Once the emergency guardianship was granted, I filed a Temporary Restraining Order, a Preliminary Injunction, and a complaint in the Housing Conditions Court. After the emergency guardianship expired, we also successfully pursued his appointment as her general guardian.

Thanks to LCE’s negotiations on behalf of this vulnerable senior, her landlord agreed to make the necessary repairs. When the repairs were not satisfactory, we negotiated for a new apartment for her at the same rent level in a much nicer building also owned by the same landlord, where she will be moving shortly. This single story—one of many—clearly demonstrates the powerful impact and importance of Project HELP for our most at-risk elderly neighbors.

According to the D.C. Office on Aging, the local population age 60 and older is now 100,870 (almost 17% of the total population), with 19,910 persons in the 80+ age category.[[1]](#footnote-1) This means one out of every six residents of the District is age 60 or above. Sadly, D.C. has the nation’s highest percentage (17.4%) of people age 65 or above who live at or below the poverty level.[[2]](#footnote-2) Most notably for Project HELP, *the U.S. Administration on Aging reports that 15,726 noninstitutionalized residents in the District of Columbia aged 65 years or older have a “go-outside-home disability.”*[[3]](#footnote-3) These individuals are often aging in place but have become isolated because of their homebound status. Due to their isolation and disabilities, these seniors suffer from a low quality of life.

Although Project HELP is a city-wide initiative, we try to increase access to justice for those who need it most. Census data shows that the majority of D.C.’s elderly poor reside in Wards 1, 5, 7 and 8, including the neighborhoods of Trinidad, Ivy City, Shaw, Petworth, and East of the River. Therefore, we concentrate the bulk of our efforts in these neighborhoods through speaking engagements at churches and coordination with social service agencies and community groups, particularly those that serve significant numbers of low-income seniors.

In FY 2009, Project HELP served 620 District residents. A robust 65% of these people live in Wards 1, 5, 7, or 8. Although FY 2010 has not yet concluded, it seems that our numbers will be even greater this year, as we have already served 490 people in the first three quarters of the current fiscal year.

Project HELP’s judicious use of this grant gives the funds exponential effect. Over the past few years, we have received valuable assistance from retired attorneys and student interns. We have also developed a cadre of outside *pro bono* attorneys who handled a total of 49 cases involving homebound Project HELP clients in 2009 and 2010. In addition, the nature of our work and the types of results we seek also creates a cost savings to the District. By drafting powers of attorney, we have saved the court system large sums of money that would otherwise have been paid to private attorneys handling protective arrangement cases. By resolving property tax issues for our clients, we not only save clients’ homes and avoid eviction proceedings but also avoid placing these clients in public housing. Furthermore, by working to keep our clients in their homes rather than moving them into nursing homes, we preserve District resources that would otherwise be paid through Medicaid.

The efforts of the Access to Justice Commission are crucial in improving the ability of our most vulnerable senior citizens to access the civil legal system. The Commission’s focus on equal access to justice has a resounding effect through the grant money that it has graciously awarded to LCE and Project HELP. Funding cuts to the Commission would translate to diminished legal services to all vulnerable District residents, including low-income, homebound seniors.

Thank you very much for recognizing the need to bring justice to low-income, homebound seniors and doing all you can to maximize funding for outreach, education and legal services that preserve the District’s diversity and the dignity of our older neighbors in need.

 **2010 Commission-funded Activities of LCE’s Project HELP**

**Representative case outcomes that demonstrate the impact of the Commission’s support:**

* A 91-year-old homebound woman who lives alone was served with paperwork indicating that an estranged family member had filed for a civil protection order against her. The petitioner alleged that this client had called his house several times and had sent the police to visit him. The distraught client explained that she thought her son, who is in his 70’s, lived with this estranged family member, and she was trying to contact her son. During a break from this very emotional court hearing, the client was able to speak with her son on the phone for the first time in many years. The Project HELP staff attorney negotiated with the petitioner to reach a settlement favorable to all parties. Although this case was very upsetting for the client, she was happy with the settlement and very relieved that the case was dismissed. She thanked the Project HELP staff attorney profusely for coming to her aid during this difficult time.
* A public housing resident contacted Project HELP with concerns about her housing. She needed to move to an apartment on the ground floor because she lives in a building without an elevator and has difficulty navigating the stairs. Project HELP worked with the client to investigate various housing options in her neighborhood and then, when the client decided that she wanted to remain in the same housing complex, negotiated with her current landlord for another apartment. At the client’s request, Project HELP also ensured that hypoallergenic paint would be used in the client’s new apartment and made sure that the client approved the new floorplan. Although the move was postponed several times, partly due to recertification and HUD inspection issues, she finally moved into her new apartment. Because the client could not afford to hire movers, another division of LCE recruited a group of student volunteers to move the client’s belongings.
* Capitol Hospice contacted Project HELP about a 65-year-old Vietnamese speaker who was dying of cancer. The client had received paperwork from her landlord and was told to appear in court, but her health did not allow her to do so. After the Project HELP staff attorney spoke with the client through a translator and examined the paperwork, the attorney learned that the landlord was suing for eviction. The staff attorney convinced the landlord’s counsel to dismiss the case. In addition, the staff attorney helped the client execute a Durable Health Care Power of Attorney and conducted a public benefits check up to determine if the client could be eligible for any additional public funds.
* A client who has been bed-bound for many years received a very large property tax bill that she was unable to pay. As a result, a lien would likely be sold on her house at the tax sale in September 2010. The client was afraid that she would lose her home, the house that she and her mother purchased more than thirty years ago. Project HELP staff determined that the increased bill was due to the cancellation of her senior/disabled property tax deductions. As an initial step, the Project HELP staff attorney worked with the client to correct the name on her deed (the client had originally purchased the house under another name). Then, the staff attorney advocated on the client’s behalf with OTR. After much discussion, OTR agreed to apply the senior/disabled deductions retroactively, which eliminated the outstanding taxes. The client’s home was removed from the tax sale list. Due to our advocacy, the client’s tax bill was reduced by roughly $6,500.

**Outreach and education**

In 2010, Project HELP reached residents throughout the District by giving presentations at the following apartment buildings, community centers, or places of worship:

\*Emmaus Services for the Aging \*Shaw Public Library

\*Asbury Dwellings \*VA Hospital, Geriatrics Caregivers’ Group

\*James Apartments \*Zion Senior Center

\*IONA \*Northwest One Public Library

\*St. Mary’s Court (twice) \*Washington Seniors Wellness Center

\*North Capitol Senior Building \* Emory Fellowship Church

\*Greater Fellowship Church \*Campbell AME Church

Project HELP also held three estate planning workshops in 2010 during which we helped local residents create and sign wills and powers of attorney.

\*Emmaus Services for the Aging

\*Shaw Public Library

\*Northwest One Public Library

In addition, the Project HELP staff attorney held estate planning training sessions for *pro bono* attorneys at two prominent law firms in the District, Sidley Austin LLP and Dickstein Shapiro LLP. She also held an estate planning training session at the courthouse for attorneys representing intellectually disabled clients. A combined total of approximately 71 attorneys, summer law clerks, and legal staff attended these presentations, and it is our hope that many of them will accept *pro bono* cases involving homebound clients in the future.

In addition, Project HELP staff engaged in the following additional community events or trainings:

\*Vacant Property Tax Training with the D.C. Bar

\*Bar Association of D.C. Annual Meeting

\*Holistic Legal Services Committee

\*Guest lecturer at AU Washington College of Law

\*Washington Council of Lawyers meeting

1. *See* State Plan on Aging 2011-2012 at [http://dcoa.dc.gov/DC/DCOA/About+DCOA/Publications/ District+of+Columbia+State+Plan+on+Aging+2011-2012](http://dcoa.dc.gov/DC/DCOA/About%2BDCOA/Publications/%20District%2Bof%2BColumbia%2BState%2BPlan%2Bon%2BAging%2B2011-2012), at 10 (viewed 3/10/11). [↑](#footnote-ref-1)
2. AARP Public Policy Institute, Across the States: Profiles of Long-Term Care and Independent Living, Seventh Ed. 2006, at 70, 71, 75. [↑](#footnote-ref-2)
3. Census 2000 Data on the Aging at [http://www.aoa.gov/AoARoot/Aging\_Statistics/Census\_Population/ census2000/SF3/ Disabilities-x-State-65plus.pdf](http://www.aoa.gov/AoARoot/Aging_Statistics/Census_Population/%20census2000/SF3/%20Disabilities-x-State-65plus.pdf) (viewed 3/10/11). [↑](#footnote-ref-3)