

**Testimony of Anna Purinton, Staff Attorney
Legal Aid Society of the District of Columbia**

**Committee on the Judiciary
Council of the District of Columbia**

**Budget Hearing – D.C. Access to Justice Initiative
April 20, 2012**

I testify in favor of full funding for the District of Columbia Access to Justice Initiative, which provides critical funding for civil legal services to help the District's poorest and most vulnerable residents. The D.C. City Council began direct funding of civil legal services in 2007 to help to meet the legal needs of persons living in poverty in the District. My testimony today focuses on the Court-Based Legal Services Project, one of the projects funded with these very important funds.

The Court-Based Legal Services Project, based in the Landlord-Tenant Branch of D.C. Superior Court, provides same-day representation to low-income tenants facing eviction, as well as ongoing representation in many of these cases. The Project addresses the critical and continuing need for legal representation for low-income tenants in eviction cases. Over the past five years, the Project has reduced barriers to legal services for low-income tenants and formed a strong partnership with the courts, including the new Housing Conditions Calendar.

The Court-Based Legal Services Project Addresses the Critical and Continuing Need for Legal Representation for Low-Income Tenants in Eviction Cases.

By representing low-income tenants in housing cases, the Project helps to address a critical and ongoing need for the District's most vulnerable residents. Tens of thousands of tenants are sued in the Landlord and Tenant Branch of D.C. Superior Court every year.¹ While over 90 percent of the landlords in these cases are represented by counsel, only 3 percent of the tenants have attorneys.² Access to representation by counsel is critical in order for a tenant to articulate her defenses and navigate the rules and procedures of the court system. Put simply, when a tenant has an attorney, she is more likely to keep her home and avoid eviction.

Keeping tenants in their homes is essential, particularly for persons living in poverty in the District. Low-income tenants face a continually dwindling stock of affordable housing options in D.C.³ The recession has only deepened poverty in the District, with more tenants

¹ In 2011, landlords filed nearly 37,000 cases with the Landlord and Tenant Branch of D.C. Superior Court. *District of Columbia Courts Statistical Summary 2011 4* (2012).

² D.C. Access to Justice Commission, *Justice for All? An Examination of the Civil Legal Needs of the District of Columbia's Low-Income Community* 76 (2008).

³ The available stock of affordable rental units (\$750 or less per month) in D.C. decreased by a third between 2000 and 2007, while the number of high cost rental units (more than \$1500 per month) more than doubled. D.C. Fiscal Policy Institute, *Nowhere To Go: As DC Housing Costs Rise, Residents Are Left With Fewer Affordable Housing Options Today* (Feb. 2010). Today, the average fair market rent for a two-bedroom apartment in D.C. is

losing ground and placed at risk of eviction, but with fewer resources to find alternative housing. The stakes could not be higher in eviction cases for tenants living in poverty.

The foreclosure crisis has only amplified the need for legal services. While tenants in D.C. have the right to stay in their homes after foreclosure, they often are not aware of these rights and need the help of an attorney to ensure that they are not evicted wrongfully. Tenants living in foreclosed properties also have found that banks too often fail to maintain their properties, resulting in unsafe conditions that violate the Housing Code. With the help of an attorney, these tenants can enforce their rights.

The Court-Based Legal Services Project Expands Access to Attorneys.

The Project has significantly expanded access to attorneys for low-income tenants in the District. The D.C. Bar Foundation funds dedicated to this Project currently support eight attorneys at Legal Aid and Bread for the City. Since the Project's inception in 2007, our attorneys have served nearly 3,000 individuals or families. We have helped the majority of these tenants avoid eviction and stay in their homes. Many of these tenants also have benefited from improved living conditions, because their landlords were required to repair violations of the Housing Code. While the need for representation remains overwhelming, our Project is making a difference.

The Project provides legal representation for low-income tenants in two ways. First, we provide same-day representation to handle the tenant's immediate needs in their legal cases. During calendar year 2011, we provided same-day representation to tenants and their families in over 600 cases. These services can include everything from helping a tenant stay a writ of restitution or vacate a default judgment to continuing a case to allow more time to consult with counsel to dismissing a case or reaching a settlement agreement. For example, during calendar year 2011, we provided temporary representation to help over 120 tenants settle their cases with their landlords.

Beyond this same-day representation, our Project attorneys also provide ongoing representation to hundreds of tenants every year, ensuring that the client will have an attorney through the conclusion of her court case. About one-third of the tenants that we meet with are able to resolve their case through our same-day representation. For the remaining tenants, we are able to successfully place approximately 75 percent of the cases for extended representation, either by representing the client ourselves or referring the client to another legal services or pro bono attorney.

For more details about the services provided by Project attorneys, please see the attached statistical summary for calendar year 2011.

over \$1,500, far out of reach for most low-income tenants. National Low Income Housing Coalition, *Out of Reach 2012* (D.C. dataset), <http://nlihc.org/oor/2012/DC>.

The Court-Based Legal Services Project Reduces Barriers to Legal Services for Low-Income Tenants.

Even when civil legal services are available, individuals living in poverty often face barriers to accessing these services, including geographic isolation, disability, and limited English proficiency. By locating our services in the courthouse and working closely with interpreters, social services providers, and the court system, our Project attorneys successfully reduce these barriers to access.

Our office location in the courthouse significantly reduces geographic barriers. Put simply, we are where the clients are. We have found that although the office is located in downtown D.C., far from many of our clients' homes, we draw in tenants from all parts of the city. During the 2010 fiscal year and the first half of the 2011 fiscal year, more than two-thirds of the intakes conducted at the Landlord Tenant office were for clients who live in the District's poorest Wards (5, 6, 7, and 8). A review of Legal Aid's own intakes shows that a significantly higher percentage of clients from those wards come through the courthouse office than our main Northwest office, even though both offices are downtown and located within a mile of each other.⁴

Low-income tenants with disabilities or limited English proficiency often are most in need of legal representation to navigate the court process. To address language barriers, both Legal Aid and Bread for the City employ bilingual staff. We also work closely with the Community Legal Interpreter Bank to secure interpreter services for languages that our attorneys do not speak, for example Amharic and American Sign Language. Through staff and outside resources, we are able to serve low-income tenants in their language.

Project attorneys also are trained for and experienced at working with individuals with disabilities. We often are able to secure critical services for these clients through a network of social services providers across the District. Judges, mediators, court personnel, and even opposing counsel often refer tenants with disabilities to the Project for representation because of the high-quality services that we provide for these individuals.

The Court-Based Legal Services Project Works in Partnership with the Court.

During the past five years, the Project has worked in partnership with the court system, other legal services providers, and the D.C. Bar Pro Bono Program to enhance the fairness and efficiency of the Landlord and Tenant Branch's operations. Judges, mediators, and even landlords' attorneys have come to rely on Project attorneys to provide advice and representation to tenants who have questions about their cases or present a particular need for representation because of disability, limited English proficiency, age, or other factors. Legal Aid and Bread for the City also coordinate closely to refer clients between each other and to other organizations as needed to ensure that tenants receive services whenever possible.

⁴ During 2011, at our main office in Northwest, 52% of applicants were from wards 5, 6, 7, or 8; 20% were from wards 7 or 8. At the courthouse office, by contrast, 70% of applicants were from wards 5, 6, 7, or 8, and 45% were from wards 7 or 8. These results for our courthouse office mirror the overall composition of our intake pool across all offices, including our community offices in Southeast.

Our presence in the courthouse also allows us to monitor trends and respond to systemic issues. When Project attorneys see an emerging issue with a particular landlord or landlord's attorney or notice a problem at a particular property, we can monitor those cases and coordinate our response. We track new case filings and conduct outreach to tenants living in foreclosed properties. Project attorneys also participate on court committees and in ongoing discussions about changes to court operations and other systemic issues.

Our clients' stories tell the impact of the Court-Based Legal Services Project.

The impact of the Project is perhaps best understood through stories of clients helped by our attorneys. Today you will hear from Anthony Overton, one of many tenants represented by Legal Aid over the past year.

After paying rent for several months to live in an uninhabitable and illegal rooming house, Anthony Overton filed suit in July 2011 against his landlord, Malcolm Alexander, in the new Housing Conditions Court. DCRA inspected the property a few weeks later and found extensive housing code violations at the property, including mice infestation; holes in the walls and ceilings; water damage, mold, and mildew; missing smoke detectors and fire extinguishers; a broken door and windows; and plumbing leaks. Most significantly, Mr. Overton's room was determined to be uninhabitable because it did not have the minimum lighting and ventilation required by the Housing Code.

Soon after Mr. Overton filed his housing conditions case, the landlord shut off all water service to the building. A few weeks later, gas service to the building was disconnected. Although Mr. Overton had a pending case in the Housing Conditions Court, it still took four weeks to get the water turned back on. DCRA eventually paid the bill and put a lien on the property. It took even longer – about two months – to get the gas service reconnected. Based on the deteriorating conditions at the building, Mr. Overton also began withholding his rent.

The landlord responded to Mr. Overton's housing conditions case by suing him in two separate eviction cases and in a small claims case. He claimed that Mr. Overton was not a tenant at all, but a squatter with no legal rights. The landlord then filed a second eviction case alleging nonpayment of rent.

Mr. Overton established his tenancy with numerous receipts for rent payments. The Landlord Tenant Court judge found that the landlord had failed to complete necessary repairs at the property. However, the judge also found – as Mr. Overton himself admitted – that he was not current in his rent. The trial court entered a judgment for possession against Mr. Overton. The judge did not abate the rent owed but instead ordered Mr. Overton to pay the full amount of back rent to the court registry, not his landlord, until repairs were complete. The parties were told to return to Housing Conditions Court to deal with outstanding repair needs.

Meanwhile, Mr. Overton's case in Housing Conditions Court had stalled. The landlord cited various, shifting excuses for his failure to make repairs: he denied Mr. Overton's tenancy until the Landlord Tenant Court held otherwise; cited lack of access for repairs, though admitting

that he had keys; stated that he still needed to assess repair needs months after receiving the first of two comprehensive DCRA inspection reports; and alleged that he could not pay for repairs but declined to provide any evidence of his income or financial circumstances.

It was at this point – three months into Mr. Overton’s cases, with no repairs completed, a pending order to pay his full, unabated rent to the court, and a live writ ordering his eviction – that Mr. Overton came to Legal Aid for representation. We immediately helped him file a motion for the judge in the eviction cases to reconsider his ruling. The judge ordered a stay on Mr. Overton’s eviction so that he could reconsider his decision. We also obtained an order for the landlord to restore gas service (and heat) to the property immediately. For the first time since the Housing Conditions case had been filed, the landlord finally started making repairs. Although it took several more months to obtain an order with respect to remaining repair needs, Mr. Overton finally started to see progress.

Ultimately, Mr. Overton and his landlord were involved in six separate court cases, requiring over 20 separate court appearances over a six-month period. It took months for the Housing Conditions Court to order the landlord to make repairs, despite two comprehensive DCRA inspection reports finding substantial, unabated housing code violations. As a result of the multiple court appearances and time away from work, Mr. Overton eventually lost his job as a barber.

Although Mr. Overton was an adept advocate for himself, he still was not able to achieve the results he deserved until he obtained the representation of counsel. When Mr. Overton sought to enforce his rights by filing a case in Housing Conditions Court, he then had to deal with multiple, retaliatory cases filed by his landlord. Mr. Overton faced eviction if he did not pay his full back rent, without abatement, despite uncontested evidence of substantial housing code violations in his home. He spent three months in Housing Conditions Court without obtaining a single order for repairs, even though his building lacked gas service, his room did not meet minimum lighting and ventilation requirements, and the entire property had extensive housing code violations that had been cited by DCRA. If Mr. Overton had never come to Legal Aid, his landlord might have gotten away with this.

Mr. Overton’s story does have a happy ending. With the help of his Legal Aid attorney, he was able to reach a fair settlement in his case. His landlord agreed to refund all of the money that Mr. Overton had paid for rent in exchange for his agreement to vacate the property. Mr. Overton has been able to move on with his life. He has a new job as a barber and no longer faces the stress of living in unsafe and unsanitary housing.

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Thank you for this opportunity to testify before the Council and to share one of many client stories.