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Government of the District of Columbia



Office of the Tenant Advocate

Testimony of

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**Public Oversight Roundtable:  
The Office of the Tenant Advocate's  
Use of the Emergency Housing Fund**

Committee on Public Services and Consumer Affairs  
The Honorable Muriel Bowser, Chairperson  
Council of the District of Columbia

Wednesday, July 14, 2010  
10:00 a.m.

Room 412  
John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004

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Good morning, Chairperson Bowser, and thank you for this opportunity to discuss what is known as the Emergency Housing Program. I am Johanna Shreve, Chief Tenant Advocate for the District of Columbia at the Office of the Tenant Advocate. For context, let me begin by explaining what the “Emergency Housing Program” specifically refers to. Section 307 of the Rental Housing Conversion and Sale Act of 1980 (D.C. Official Code § 42-3403.07) establishes the “Housing Assistance Fund” and further divides the Fund into three (3) equal pots to be used for four (4) distinct purposes:

1. One-third of the Fund is used by DHCD for *both* the D.C. Home Purchase Assistance Program and Housing Assistance Payments for low-income tenants displaced by the conversion of rental properties to condominiums and cooperatives;
2. One-third is used by the OTA for the agency’s administrative and operational purposes; and
3. One-third is used by the OTA to “fund emergency housing and tenant relocation assistance.” This last provision provides the statutory authority for the OTA’s “Emergency Housing Program” (D.C. Official Code § 42-3407.03(b)(1)).

Chairperson Bowser, during this year’s oversight and budget hearings, you and I had a very good and very welcome discussion about the “Emergency Housing Program,” more specifically about the need for reasonable limitations on programmatic benefits, particularly in the current fiscal environment. The

Committee's May 2010 Budget Report directs the OTA to issue regulations for the program and sets forth specific criteria that ought to be considered. Today I would like to discuss our progress in doing just that as well as some of the more challenging policy issues we confront in determining what limitations are reasonable. I would also like to take this opportunity to suggest a couple of statutory changes regarding management of the Fund and enforcement action -- changes that I believe would help improve the revenue picture for this important program.

### **Emergency Housing Program**

I will not take the time now to describe in detail how the program currently operates. The guidelines – which we share with tenants and other governmental and non-governmental agencies in a housing emergency – are included as an attachment to our responses to the Committee's questions in anticipation of this roundtable. In a nutshell, we generally define a relevant emergency housing situation as one involving tenant displacement due to an unanticipated event, such as a fire, government building closure, or sewage backup, which renders the unit uninhabitable whether temporarily or permanently. The Fund is deployed to assist tenants in need of alternative housing in two ways: first, emergency housing usually consisting of hotel accommodations, generally limited to fourteen days; and second, relocation assistance which may consist of moving and storage expenses, first month's rent plus security deposit, rental application fee, and utility deposit if necessary. The OTA may also cover the cost of replacement

bedding when the accommodation has been deemed uninhabitable due to bed bug infestation.

OTA emergency housing assistance is an important homelessness prevention program, I believe, especially in these economic hard times and at a time when the District's shelter system and so many other social services are over-stretched.

### **Committees FY 2011 Policy Recommendations**

The policy recommendations in the Committee's FY 2011 Budget report include:

1. Publication of regulations detailing the use of the Housing Assistance Fund;
2. Establishment of certain limitations including:
  - a. The number of days that any individual or family may receive funds;
  - b. The total amount of funds that may be expended per individual or family;
  - c. Limitations on incidental expenditures;
  - d. A protocol for determining eligibility for funds;
3. Procedures for preparing individuals and families to transition from emergency to permanent housing;
4. A separate budget line-item for expenditures of Fund revenue for the agency's administrative and operational purposes.

### Budget structure

Upon reviewing these policy recommendations, I immediately directed the agency's budget officer to restructure the budget to more clearly delineate administrative and operational expenditures from emergency housing program expenditures. The restructured program budget is included as attachment #3 to the agency's responses to Committee's questions. It will be implemented in the next budget cycle, Fiscal Year 2012, but we have already started to track expenditures accordingly.

### Rulemaking

Regarding rule-making we have begun the process of elaborating the current guidelines with reference to the Committee's policy recommendations as well as the regulations for analogous programs such as Emergency Rental Assistance Program at the Department of Human Services. We have also consulted the Office of Documents and Administrative Issuances, and on that basis I am confident that we will be in a position to publish final rule-making within 90 days of the start of Fiscal Year 2011, that is by the end of the calendar year.

### Transition procedures

Regarding procedures for preparing individuals and families to transition from emergency housing to permanent housing are in place, we currently engage sister agencies -- such as the Housing Authority when the household is a voucher recipient -- and other organizations that assist tenants in finding relocation housing. Of course we will consult all these entities in developing

proposed rule-making, as well as other relevant agencies such as DHS, in order to explore ways to better coordinate and stream-line relevant services. I am sure that this process will put more “best practice” ideas on the table.

Limitations on benefits

The program already encompasses certain limitations on benefits to any particular individual or family. For example we limit hotel stays to fourteen days with a narrowly defined exception where the family has found permanent relocation housing and is able to provide the OTA with a move-in “date certain.” As well “relocation assistance” is narrowly defined by reference to specific categories: moving and storage and first month’s rent, and three (3) types of fees -- rental applications; utility deposits; and security deposits. These limitations imply dollar limitations based on prevailing market prices which can vary considerably – particularly hotel rates. Also I believe that a certain degree of discretionary deployment of funds is needed to address extenuating circumstances, and that too rigid a set of rules could lead to unfortunate or even tragic consequences.

However, I very much appreciate the Committee’s concern that well-defined limitations are inseparable from programmatic efficiency and viability, as well as to ensure its *availability* for the greatest possible number of District residents who are in need of this service. I look forward to our continued dialogue about how best to strike the appropriate balance.

### **Revenue enhancement**

I would also like to mention two statutory changes which we have previously discussed, which I believe would enhance the program's revenue picture as well as effectiveness.

#### Lien authority

Currently, under the Nuisance Abatement law (D.C. Official Code 42-3131.01 *et seq.*), DCRA has the ability to impose the cost of nuisance abatement work on the derelict housing provider as a property tax lien. This works as a revolving fund that, when working as intended, allows DCRA to recoup funds expended at one nuisance property to apply to the abatement of the next nuisance property case. It also is intended to provide derelict housing providers and others with an incentive to comply with District's property maintenance laws.

I believe this type of lien authority is highly appropriate for a program such as the one we are discussing today. In those instances when it is the housing provider's dereliction that is the cause both of tenant distress and displacement, and the expenditure of tax-payer dollars, it is the housing provider who should be held financially accountable. Currently, the OTA is reimbursed only when the OAG includes such expenditures as damages in a more general "slumlord" action, but such "coat-tailing" covers only a tiny fraction of relevant OTA expenditures.

I will also note here that as a contractual matter we have a kind of "revolving fund" for security deposits. Our contract with the housing vendor includes a provision requiring the return of the security deposit at termination of

the tenancy directly to the OTA. Thus far \$1,600 has been returned to the agency under this provision.

*Sole management authority*

In relevant part Title II, Subtitle L of the Fiscal Year 2010 Budget Support Act of 2009 (L18-111, effective March 19, 2010) gave DHCD responsibility for co-managing the Housing Assistance Fund with the OTA, which upon the agency's establishment had been given sole management responsibility. As I have discussed with Director Edmonds, co-management is problematic from various standpoints. As a programmatic and budgetary matter, the Fund is of much more central importance to the OTA. Thus we have a greater incentive to take all action necessary to collect all fees owed, ensure proper distribution of funds according to statutory purposes, and improve overall accountability. We'd like to further discuss this matter with you and Director Edmonds as well as Councilmember Michael Brown due to the relevance of the Committee he chairs.

Thank you again, Chairperson Bowser, for holding this roundtable and for your leadership on these matters of utmost importance to tenants in the District of Columbia. This concludes my testimony and I am happy to take any questions you may have at this time.