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Government of the District of Columbia



Office of the Tenant Advocate

Testimony of

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**Public Oversight Roundtable on:  
Examining the District's Legislative Prohibition on Evictions  
During the COVID-19 Pandemic**

Committee on Judiciary and Public Safety  
The Honorable Charles Allen, Chairperson

Committee on Housing & Neighborhood Revitalization  
The Honorable Anita Bonds, Chairperson

Committee on Human Services  
The Honorable Brianne K. Nadeau, Chairperson

Council of the District of Columbia

on

Thursday, February 4, 2021  
9:00 a.m.  
Via Virtual Platform

## **Introduction**

Good afternoon Chairpersons Allen, Bonds, and Nadeau, as well as to the members and staff of each Committee. I am Johanna Shreve, Chief Tenant Advocate at the Office of the Tenant Advocate (OTA). Thank you for convening this truly important joint roundtable to examine the District's legislative prohibitions on evictions during the COVID-19 pandemic. These prohibitions include moratoria on (1) the issuance of notices to vacate to tenants; (2) the filing of eviction actions in court; and (3) the execution of evictions after a writ has been issued.

Today I will testify about the critical importance of all three moratoria – which collectively serve to prevent not only the formal eviction of tenants, but also “self-evictions” by all too many tenants who feel compelled to move when they receive a notice to vacate or a court summons – perhaps because they do not fully understand or appreciate their rights. My testimony today is not merely an academic exercise. So many renters who now seek the help of the OTA testify to the staggering impact of the pandemic. They never dreamed that they would be in the position they are in now – at risk of losing their jobs and the roof over their heads, if they haven't already. Indeed, eviction concerns rose from the fifth

most frequent category of OTA case-intake inquiries in 2019 to become the third most frequent in 2020 – a 21% increase even with the moratoria in place.

Since the early days of the public health emergency (PHE), these concerns have increasingly preoccupied the entire agency – including staff in each of the agency’s three core mission areas: legal advice and representation; policy advocacy; and education and outreach. The legal team has heard from countless tenants who have been laid off from work and now live with the specter of eviction; advised many of them on negotiating rental payment plans with landlords to avoid eviction; and helped many more navigate other pandemic rights and protections. The policy team has strived to help secure and enhance those rights and protections in collaboration with the Council, the Mayor, sister agencies, and the advocacy community. And the education and outreach team has tailored its presentations to apprise as many tenants as possible about the government’s responses to the PHE, their pandemic-related rights and resources, and the availability of rental assistance programs.

*All three moratoria promote the well-being and health of tenants and the general public*

In our new reality, the ability to close oneself inside one’s home and away from others is essential to stopping the spread of a deadly disease. All three

moratoria have served to help tenants stay in their homes and keep themselves and their communities safe. This is not only a matter of governmental decree, it is also a matter of demonstrable fact. A recent analysis by the National Bureau of Economic Research concluded that eviction moratoria – as well as relief from utility disconnections – reduced COVID-19 cases by 8.2 percent from the onset of the pandemic through the end of November 2020.<sup>1</sup> Even after accounting for the various federal- and state-level interventions, the authors found that local eviction moratoria reduced the number of COVID-19 cases by 3.8 percent and COVID-related deaths by 11 percent.<sup>2</sup> The authors concluded that “[h]ad such policies been in place across all counties (i.e., adopted as federal policy) from early March 2020 through the end of November 2020 [...] policies that limit evictions could have reduced COVID-19 infections by 14.2% and deaths by 40.7%.”<sup>3</sup>

The national public health contribution of eviction moratoria is clearly articulated in the Federal eviction moratorium order handed down by the Centers for Disease Control and Prevention (CDC): eviction moratoria “facilitate self-isolation by people who become ill or who are at risk for severe illness from

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<sup>1</sup> National Bureau of Economic Research, “Housing Precarity & the COVID-19 Pandemic: Impacts of Utility Disconnection and Eviction Moratoria on Infections and Deaths Across US Counties” (January 2021), p. 2, available at [https://www.nber.org/system/files/working\\_papers/w28394/w28394.pdf](https://www.nber.org/system/files/working_papers/w28394/w28394.pdf).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at p.11.

COVID-19 due to an underlying medical condition”; “allow state and local authorities to more easily implement stay-at-home and social distancing directives”; and “protect public health because homelessness increases the likelihood of individuals moving into close quarters in congregate settings, such as homeless shelters[.]”<sup>4</sup> This same reasoning applies to the District’s own eviction moratoria.

*The moratoria on filings and notices to vacate prevent self-evictions that would occur notwithstanding the moratorium on the execution of writs*

The moratoria on eviction filings and notices to vacate are important components of a pandemic eviction prevention strategy. Even if a tenant knows that she cannot be forced to vacate a rental unit before the PHE ends, the prospect of having to defend herself against a lawsuit is likely to be highly stressful. For many tenants, it is more than they feel they can handle – whether in terms of available time and energy, or financially or emotionally. Thus many tenants will simply vacate their homes and move on in order to avoid the stresses altogether. Indeed, the OTA hears from many tenants who contact us about eviction-related issues only *after* they have “self-evicted.” This should not be

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<sup>4</sup> Order of the Centers for Disease Control and Prevention, “Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19,” (effective 1/31/21-3/31/21), p. 4, available at [https://www.cdc.gov/coronavirus/2019-ncov/more/pdf/CDC-Eviction-Moratorium-01292021.pdf?utm\\_source=NLIHC+All+Subscribers&utm\\_campaign=d882d55894-CDC+Eviction+Moratorium+Extension+012921&utm\\_medium=email&utm\\_term=0\\_e090383b5e-d882d55894-293346066&ct=\(CDC+Eviction+Moratorium+Extension+012921\)](https://www.cdc.gov/coronavirus/2019-ncov/more/pdf/CDC-Eviction-Moratorium-01292021.pdf?utm_source=NLIHC+All+Subscribers&utm_campaign=d882d55894-CDC+Eviction+Moratorium+Extension+012921&utm_medium=email&utm_term=0_e090383b5e-d882d55894-293346066&ct=(CDC+Eviction+Moratorium+Extension+012921)).

surprising. After all, the three moratoria are merely different stages in the same process at which the tenant far too often is not represented or is otherwise severely disadvantaged.

Accordingly, from an overarching policy perspective, the OTA sees little practical difference between the public health aims and purposes of the three moratoria. Similarly, the Council's ban on notices to vacate is a necessary enhancement to the District's protections against loss of housing during the pandemic. A notice to vacate states the legal basis for the eviction, as well as providing the tenant with a time period by which they must vacate or face an eviction lawsuit. However, during the moratorium on eviction filings the time period stated on a notice to vacate results in a false sense of legal urgency. This serves as a further source of stress and pressure for the tenant to abandon her home.

OTA attorneys have noted a rash of improper notices to vacate, even prior to the moratorium on such notices. Tenants have often acted on these notices and self-evicted even, even where the landlord did not state a proper legal basis for eviction or was clearly acting in bad faith. For example, some tenants have "self-evicted" in response to a notice to vacate for the landlord's personal use and occupancy, only to discover too late that the landlord has sold the property soon

afterwards instead of occupying it. The OTA has also noted instances of landlords serving tenants with a notice to vacate in order for the landlord's family members to occupy the unit, which is not a legal basis for eviction in the District of Columbia. The fact that tenants do act on these improper notices to vacate is another reason that the moratorium on all such notices is important during the pandemic.

*The moratorium on the filing of eviction actions is critical due to foreseeable tenant disadvantages in virtual court proceedings*

Requiring tenants to defend against a lawsuit remotely during an ongoing pandemic presents them with serious disadvantages, and would hamper their ability to properly assert their rights. If tenants are forced to defend their rights in virtual hearings during a pandemic, this will exaggerate the already prevalent imbalance between experienced, well-resourced landlords and average tenants who typically have to represent themselves.

Perhaps the most obvious disadvantages arise from the nature of virtual legal proceedings. Lower income tenants – those who historically find themselves in Landlord and Tenant Court in higher numbers – tend to lack easy access to the equipment required to appear in court remotely or experience challenges due to a lack of technical skills. Because the District's public libraries are closed during

the PHE, tenants are likelier to incur additional expenses to be able to appear remotely. And in doing so they are likelier to expose themselves, friends, or family to the virus.

In addition, residential internet service is often unreliable, and tenants are likely to also have to use unfamiliar, specialized software for video conferencing that they do not necessarily use in their everyday lives. All of us who work in office settings have experienced the seemingly minor mishaps that can be caused by inadvertently leaving the microphone muted or on during virtual conferences, as well as hitches in the video or audio feed with no readily apparent solution. For the many tenants who find themselves in Landlord and Tenant Court without counsel, accessing and navigating the virtual world – indeed having to learn it on the fly – is a lot to ask.

In short, being pulled into the legal process is a daunting prospect for a typical tenant. The psychological toll on the tenant who receives a notice to vacate or court summons – as well as the practical harms – is a common observation among OTA attorneys and the outside attorneys with whom we consult. It is clear to me that to permit such legal papers to be served on tenants during a raging pandemic would defeat the public health goals and the other public interest goals of the eviction moratoria.



## **Conclusion**

For these reasons, I commend the Council and the Mayor for acknowledging that the three eviction moratoria – on the execution of writs, eviction filings in court, and issuance of notices to vacate – all serve the same public health and housing security goals. I also commend the Council and the Mayor for establishing a range of COVID-related relief programs – especially rental assistance programs – aimed at helping housing providers and tenants alike.

Again I thank you, Chairpersons Allen, Bonds, and Nadeau, for holding this roundtable and for your continued attention to these critical matters. That concludes my testimony, and I welcome any questions you and other members may have.