

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



Statement of Kate Vlach
Office of Attorney General for the District of Columbia

Before the

Special Committee on COVID-19 Pandemic Recovery
Councilmembers Charles Allen and Vincent Gray, Chairpersons

Public Oversight Hearing
An Equitable End To Safety Net Protections Put In Place During The COVID-19 Pandemic
May 21, 2021

Introduction

Greetings Chairpersons Allen and Gray, Councilmembers, staff, and residents of the District. My name is Kate Vlach, and I have the privilege of serving as an attorney in the Office of the Attorney General for the District of Columbia. I am pleased to provide comment on behalf of Attorney General Karl Racine on how the District can equitably lift pandemic safety net measures.

OAG's Role in Enforcing and Defending the District's Pandemic Policies

During the pandemic, the Office of the Attorney General (OAG) has been responsible for enforcing numerous consumer and tenant protections, and we are grateful for the partnership of the tenant advocacy community, the Office of the Tenant Advocate, the Mayor's Office, and the Council in that work. Since late April 2020, our Social Justice Section has received more than 474 complaints, including 151 related to illegal attempts to evict tenants or otherwise violate COVID-19 emergency laws.

Not only has OAG prevented illegal evictions, rent increases, and utility shut-offs, but we have preserved flexibility in the District's administration of nutrition programs and defended the constitutionality of the District's eviction protections. Last spring, OAG successfully fought a federal rule that would have taken away Supplemental Nutrition Assistance Program benefits from thousands of District residents.¹ And just last week, we won an order in the D.C. Court of Appeals allowing the District's eviction filing moratorium to remain in effect pending a final court decision.²

This work has been critical in protecting our most vulnerable residents during the twin public health and economic crises created by the pandemic. And as we begin to recover from these crises, we must be mindful that, while we all have suffered, not all of us have suffered the same. Some District residents have been harmed much more severely, and it will take them much longer to get back on their feet. Our recovery plans must therefore be data-driven and guided by principles of justice and fairness, which require that we understand how policies affect the most vulnerable members of our community. My remarks today will focus largely on housing protections, which have been the centerpiece of the District's pandemic response and will close with a note on public benefits.

Recovery Will Be Slow and Uneven for Many of Our Neighbors

Health and economic data demonstrate why many of our residents will continue to need additional support, even as the District begins to recover. COVID-19 is still a real threat to significant segments of our population, and recovery has been and will continue to be uneven in terms of both health and finances. Our vaccination rate may be almost 36 percent District-wide, but it is closer

¹ Office of the Attorney General, *AG Racine Announces Federal Court Blocks Trump Administration From Cutting Food Benefits* (Mar. 13, 2020), <https://oag.dc.gov/release/ag-racine-announces-federal-court-blocks-trump>.

² *District of Columbia v. Towers*, No. 21-CV-34, (D.C. May 13, 2021), https://www.dccourts.gov/sites/default/files/2021-05/DC%20v%20Towers%2021-CV-34_1.pdf.

to 20 percent or less in predominately African American wards. Incidence of COVID-19 infections among Hispanic and Latinx residents continue in disproportionately high numbers. And we are still losing approximately one District resident a day to COVID-19, with the vast majority of those deaths in communities of color.³

Employment may be improving overall, but at least 22,000 residents who had jobs last March were still unemployed this April.⁴ And when we take a closer look at the numbers, we see that unemployment has hit people of color and women harder and has lasted longer for them.⁵ For instance, at the start of the pandemic, a quarter of all Latina workers lost their jobs—the worst hit of any population segment.⁶ Even those who have regained employment will need time to recover from months of lost wages. Meanwhile, the unemployment rate for Black women now hovers at close to 9 percent compared to approximately 5 percent for White men.⁷

We also need time to rebuild our business and caregiving infrastructure. Certain jobs will take longer to return, particularly those in the service and hospitality industries. And at least 235 District businesses have permanently shuttered since last March.⁸ What’s more, daycare programs are a critical part of enabling parents to go back to work, but it is estimated that 40 percent of the nation’s daycare centers have closed.⁹

Thus, we should be sure that all parts of our community have begun to experience the benefits of improved health and finances before we declare victory and begin to unravel the pandemic safety net.

³ *COVID-19 Surveillance*, D.C., <https://coronavirus.dc.gov/data> (last visited May 20, 2021) (28 deaths in the last 30 days); “Total Lives Lost by Race,” *COVID-19 Surveillance*, D.C., <https://coronavirus.dc.gov/data> (last visited May 20, 2021).

⁴ Unique Moriss-Hughes *et al.*, Dep’t of Emp’t Svcs., D.C., *D.C. Labor Market Indicators: January 2015 - March 2021*, https://does.dc.gov/sites/default/files/dc/sites/does/page_content/attachments/DC%20Labor%20Market%20Indicators_March2021.pdf.

⁵ Nate Rattner & Thomas Franck, “Black and Hispanic women aren’t sharing in the job market recovery,” *CNBC* (Mar. 5, 2021), <https://www.cnbc.com/2021/03/05/black-and-hispanic-women-arent-sharing-in-the-job-market-recovery.html>.

⁶ Ella Koeze, “A Year Later, Who Is Back to Work and Who Is Not?,” *New York Times* (Mar. 9, 2021), <https://www.nytimes.com/interactive/2021/03/09/business/economy/covid-employment-demographics.html>.

⁷ Chabeli Carrazana, “Black women continue to face high unemployment as labor market sees modest gains,” *The 19th* (Mar. 5, 2021), <https://19thnews.org/2021/03/february-jobs-report-unemployment-rate-black-women/>.

⁸ Ally Schweitzer, “D.C. Lost At Least 375 Businesses Since Last March. Here’s How Those Closures Have Reshaped The City,” *DCist* (Mar. 11, 2021), <https://dcist.com/story/21/03/11/d-c-lost-at-least-375-businesses-since-last-march-heres-how-those-closures-have-reshaped-the-city/>.

⁹ Elinor Aspegren, “COVID-19 made child care deserts even worse in 2021, leaving working parents to scramble,” *USA Today* (May 13, 2021), <https://www.usatoday.com/story/news/education/2021/05/11/covid-19-worsening-child-care-deserts-joe-biden-famillies/3923706001/>.

Housing Protections

Keeping families housed has been the keystone of the District’s pandemic safety response, and recent studies strongly suggest that the eviction moratoria saved lives.¹⁰ Although virus cases are dropping, eviction limits will remain necessary for some time. As many as 57,000 households or 131,000 District tenants are behind on rent.¹¹ Lifting eviction limits too quickly could result in a flood of eviction filings, backing up the courts and devastating tenants. A significant number of tenants will self-evict rather than contend with a lawsuit, and landlords could wait months or years more for repayment.

That is why OAG strongly supports a twin strategy of extending current eviction moratoria and rent freezes while improving alternative channels to help landlords and tenants get current on rent without having to go to court.

Extending Protections

- **Eviction moratoria:** Continuing the eviction moratoria for the duration of the public health emergency is essential to keep infection spread low and to ensure that our neighbors remain housed while we wait for recovery to reach all parts of our community. Even as the outlook improves nationally and locally, financial stability will not happen overnight for our most vulnerable residents. OAG therefore recommends extending the eviction moratoria to prevent any eviction, the filing of new eviction cases, or the serving of summons on tenants until 120 days after the public health emergency ends. This will allow a reasonable period for residents to rebound from the pandemic—or for the Council to evaluate alternative adjustments. Without this buffer, tenants and the court likely will not have sufficient time to recover.
- **Late-fee and rent-increase freeze:** The current freeze on late fees and rent increases should also be extended to prevent tenants from falling deeper into the red as they work to get current on rent.¹² Extending this freeze for at least 90 days from the end of the public health emergency gives tenants more time to recover, and simplifies calculations for rent repayments under the STAY DC program, which projects rental assistance up to 3 months into the future.

Investing in Alternatives

Of course, the best way to stem the tide of potential evictions is to invest in robust non-litigation alternatives, including strengthening the STAY DC program that uses public

¹⁰ Kathryn M. Leifheit *et al.*, *Expiring Eviction Moratoriums and COVID-19 Incidence and Mortality* (Nov. 30, 2020) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3739576.

¹¹ Josh Kaplan, “Thousands Of D.C. Renters Are Evicted Every Year. Do They All Know To Show Up To Court?,” *DCist* (Oct. 5, 2020), <https://dcist.com/story/20/10/05/thousands-of-d-c-renters-are-evicted-every-year-do-they-all-know-to-show-up-to-court/>

¹² *See* D.C. Code §§ 42-3505(c)(6), 42-3194.01.

monies to cover rent costs and instituting a formal eviction diversion program for tenants with additional needs.

- **STAY DC:** The STAY DC program has been granted \$350 million in federal funds to help struggling families get current on rent. But we have to remove as many barriers with the STAY DC program as possible to quickly pump this money into our community. Not unlike the early days of the COVID-19 vaccine rollout, residents who may lack internet access or smart phones are being asked to spend hours navigating a cumbersome online system; many application materials are printed in English only; and there has been little direct outreach or community engagement to promote awareness of the program.

It makes sense to apply the equity best practices and lessons learned from the vaccine rollout, including designing accessible systems and engaging in meaningful person-to-person outreach. We should streamline the application to the fullest extent allowable under federal guidelines, for instance by pre-populating information or waiving documentation requirements for residents who already qualify by nature of their enrollment in TANF or unemployment benefits. We also should make application materials available in all the major languages spoken in the District; partner with tenant advocacy groups to spread the word and facilitate sign ups; and meet people where they are by hosting pop-up application clinics at apartment complexes, food pantries, and places of worship. One might even consider combining ongoing vaccine outreach with rent relief outreach.

In addition to encouraging programmatic improvements, the Council should clarify both in statute and to community members that STAY DC assistance will not count toward the one-time annual limit on receiving rental assistance that typically applies to ERAP and other District rental assistance programs.

- **Non-Payment of Rent Mediation Program:** Then, for those tenants who do not qualify for STAY DC funds, or who owe more months of rent than the program can cover, a formal rent repayment mediation program should be instituted. Negotiating rent repayment plans is complex, especially when federally subsidized housing is involved, or when tenants have limited English proficiency or special needs. Without adequate support through the process, tenants will struggle to engage with housing providers for repayment plans. OAG recommends that the Council establish a program to provide this support. One option is a pre-court mediation process through community mediation centers, with funding support from the District and pro bono law firm staffing. Another is mediation through the Superior Court Multidoor Mediation program that could be initiated without a formal eviction filing, complete with monetary support to community organizations that can help tenants through the process. Either way, the parameters of the program must ensure that tenants receive full information about public and charitable rental assistance options and help accessing those benefits. This is also a chance to reconsider how we resolve housing disputes writ large and could become a permanent fixture beyond the pandemic transition period.

Other Needs

While housing has been and will continue to be at the center of our pandemic recovery, we must also consider residents' other needs. Our low-income neighbors who fell behind on rent have also struggled with other expenses, and many have incurred other forms of debt. We will need to implement permanent reforms to our debt collection protections, which fail to account for the modern ways in which debt collectors exploit and harass those trying to get back on their feet. Be on the lookout for proposed legislation shortly. And, it bears explicit mention that access to civil legal services (for housing disputes, for debt-collection matters, and for benefits cases) will be a critical part of the District's recovery and must be funded appropriately.

Public Benefits

Finally, OAG is committed to extending our own policies that streamline residents' access to financial supports. Under federal law, a custodial parent applying for TANF or Medicaid typically must assist the District in opening a child support case against the noncustodial parent or else face sanctions that reduce benefits by 25 percent. However, with new flexibilities permitted under COVID-19 pandemic procedures, OAG's Child Support Services Director instructed that sanctions would not be imposed during the pandemic. OAG intends to extend this policy for as long as possible to allow beneficiaries adequate time to provide the information necessary to preserve their benefits.

Should other agencies determine that simplified enrollment practices or more expansive eligibility standards can and should be retained long-term, OAG stands ready to advocate for and defend the District's continued leadership in offering benefits that meet our residents' needs.

Conclusion

On behalf of my colleagues and the Attorney General, I want to thank the Council for your leadership in responding to this unprecedented public health crisis and for never losing sight of residents who needed our help. This recovery period is an opportunity not just to triage the immediate crises we face but to implement permanent changes in the way we handle housing and public benefits for the long haul. I welcome any questions you may have.