

# COMMITTEE ON HOUSING

ROBERT C. WHITE, JR., CHAIR  
COUNCIL OF THE DISTRICT OF COLUMBIA

## MEMORANDUM

**TO:** Chairman Phil Mendelson  
**FROM:** Councilmember Robert C. White, Jr.  
Chair, Committee on Housing  
**DATE:** July 6, 2023  
**RE:** Requests for July 11, 2023



I request that the following legislation be placed on the agendas for the legislative meeting of the Council and, where specified, the Committee of the Whole (COW) meeting on July 11, 2023:

### Permanent Legislation

I request that the following two bills appear on the COW agenda and on the legislative meeting consent agenda (or, if no COW meeting is scheduled, I request that these measures appear on the legislative meeting agenda accompanied by motions to waive Rule 231(c)):

- **B25-0045, the Banning Associations from Banning Youth Amendment Act of 2023**

Families with young children are facing an acute shortage of licensed childcare facilities in the District. A variety of legal and economic factors contribute to this shortage. One issue is that condominium associations have the power to prohibit childcare businesses from operating on site, even if the businesses satisfy the requirements for licenses from the Office of the State Superintendent for Education. Councilmember Nadeau introduced B25-45 to ensure that condominium associations cannot adopt or maintain bylaws or other governing instruments that prohibit licensed childcare businesses.

A childcare business operating in a condominium space would still need to comply with generally applicable condominium rules, such as noise restrictions. The bill also allows condominium associations to impose certain liability insurance requirements, and the committee print adds provisions allocating responsibility for matters such as increased utility costs.

Notably, the Department of Buildings (DOB) has informed the Committee on Housing that existing building code provisions preclude custodial care businesses in many multifamily residential buildings. In its report on B25-45, the Committee has urged DOB and the Office of the State Superintendent of Education to explore ways to facilitate the safe and compliant operation of childcare businesses in these settings.

- **B25-0074, the Fairness in Renting Clarification Amendment Act of 2023**

In March of 2022, the Council passed B24-0096, the “Eviction Record Sealing Authority and Fairness in Renting Amendment Act of 2022,” combining concepts from three separate proposed bills focused on protecting tenants’ rights (B25-0096, B24-106, and B24-119). Part of B24-0096 clarified the amount in fees that housing providers are allowed to collect from prospective tenants prior to signing a lease, presumably to cover the cost of screening a prospective tenant for

suitability in renting a unit. Since the law’s passage, tenants and tenant attorneys have noticed a pattern of housing providers charging application fees *plus* other similar fees that were named something else, like “processing fee.” The intent of the Eviction Record Sealing Authority and Fairness in Renting Amendment Act of 2022 was to reduce barriers for people seeking access to rental housing in the District, not to allow housing providers to charge the same costs by another name. Through amending the Rental Housing Act of 1985, this bill seeks to address gaps and prevent loopholes in the law in order to provide additional predictability for renters bearing the burdens of high rents, limited income increases, and discrimination within the housing market.

The bill does the following:

- Adds a definition of “application fee” and makes clear that housing providers cannot charge any fees other than an application fee prior to signing a lease with a prospective tenant.
- Adds a provision that restricts housing providers from charging a tenant seeking to find a replacement tenant, assign the lease, or sublet more than the amount allowed under the law for an application fee.
- Adds a provision that restricts housing providers from charging a prospective tenant multiple application fees if the prospective tenant applies to multiple units within a housing provider’s portfolio within a 30-day period.
- Adds a provision that restricts housing providers from charging fees to incoming, current, or outgoing tenants for unit conditions that are consistent with the standard of ordinary wear and tear and for which the landlord is responsible to maintain a unit in a condition consistent with the implied warranty of habitability and regulatory requirements.
- Increases the amount of notice a housing provider is required to provide a tenant upon a proposed rent increase. A housing provider would be required to provide 60 days’, rather than the current 30 days’, notice of a rent increase to a prospective tenant. A housing provider would also be required to give 30 days’, rather than the current 15 days’, notice of a rent increase before the tenant is required to provide the housing provider with a notice of intent to vacate a unit.
- Adds a cross reference to a judicial procedural provision under D.C. Official Code § 16–1501 that prohibits housing providers from filing to recover possession for non-payment of rent if the amount owed is under \$600. Temporary legislation that includes this provision in the Rental Housing Act will expire on July 26, 2023. This cross reference provides ease for those navigating the District’s rental housing laws.

The Committee on Housing unanimously passed the legislation at markup on June 22, 2023. I intend to move an amendment to this legislation, which I will circulate separately to address concerns received subsequent to the mark-up.

### **Emergency Legislation**

- **Advisory Neighborhood Commission Remote Operations Emergency Declaration Resolution of 2023**
- **Advisory Neighborhood Commission Remote Operations Emergency Amendment Act of 2023**
- **Advisory Neighborhood Commission Remote Operations Temporary Amendment**

## Act of 2023

This legislation would ensure that Advisory Neighborhood Commissions (ANCs) remain authorized to conduct meetings virtually or in hybrid fashion, consistent with authority that has been available to them continuously since shortly after the onset of the COVID-19 pandemic. The Committee on Housing plans to consider making a permanent to change to this effect during Council Period 25. For now, the most recent extension of ANCs' remote meeting authority, the Post-Public Health Emergency Protections Extension Temporary Amendment Act of 2022, is scheduled to expire shortly after the Council's summer recess, necessitating emergency legislation to avoid any potential gap in applicability.

- **Foreclosure Moratorium and Homeowner Assistance Fund Coordination Emergency Declaration Resolution of 2023**
- **Foreclosure Moratorium and Homeowner Assistance Fund Coordination Emergency Amendment Act of 2023**
- **Foreclosure Moratorium and Homeowner Assistance Fund Coordination Temporary Amendment Act of 2023**

As part of its response to the COVID-19 pandemic, the District imposed a temporary moratorium on residential foreclosures. In 2022, through emergency and temporary legislation, Council ended the blanket moratorium, but maintained protection from foreclosure for homeowners who had already applied for support from the Homeowner Assistance Fund (HAF) prior to November 11, 2022.

As of June 20, 2023, the Department of Housing and Community Development was still processing 400 HAF applications. There will not be time to renew the foreclosure moratorium legislation and protect these applicants after the Council's summer recess and be confident it will go into effect prior to the expiration of the current temporary legislation on October 6, 2023. Emergency extension legislation is therefore necessary.

- **Migrant Services and Supports Extension Emergency Declaration Resolution of 2023**
- **Migrant Services and Supports Extension Emergency Amendment Act of 2023**
- **Migrant Services and Supports Extension Temporary Amendment Act of 2023**

Since October 6, 2022, a substantial influx of migrants, totaling approximately 10,373 individuals, have arrived in Washington, DC from Texas and Arizona, on over 290 buses. Additionally, prior to April 13, 2022, an additional 8,000 migrants arrived on over 300 buses. Just last week, 104 individuals arrived from Texas on multiple buses. The unique challenges faced by these migrants necessitate sustained attention and comprehensive support that surpass the capabilities of non-Governmental Organizations (NGOs) alone. NGOs have expressed limitations in terms of staffing, resources, and logistics.

To address these pressing needs, the Council enacted the Migrant Services and Supports Temporary Act of 2022 on October 4, 2022. This act established the Office of Migrant Services (OMS), which continues to provide essential services to support migrants. It is important to note that the temporary act is set to expire on August 3, 2023, unless further Council action is taken.

Abrupt discontinuation of these services would result in significant harm to both migrants and District residents.

To ensure the continued provision of necessary assistance and aid to migrants who have sought refuge within our borders, while also preserving programs and resources essential for the welfare of existing District residents, it is imperative to extend the provisions of the Migrant Services and Supports Temporary Act of 2022 without delay. This legislation seeks to accomplish that by extending the existing act, while also incorporating subsequent clarifying changes related to eligibility, procedural protections and support services. The Committee on Housing is in the process of evaluating permanent legislative proposals for the care of migrants in the District.

- **Family Re-Housing Stabilization Program Protection Emergency Declaration Resolution of 2023**
- **Family Re-Housing Stabilization Program Protection Emergency Amendment Act of 2023**
- **Family Re-Housing Stabilization Program Protection Temporary Amendment Act of 2023**

This legislation aims to codify Department of Human Services (DHS) regulations that establish criteria for granting a Family Re-Housing Stabilization Program (FRSP) extension. Under this legislation, individuals seeking an extension within the FRSP program would be required to submit a written request, explaining their need for continued assistance beyond the initial 12 months. They must also demonstrate sincere efforts towards their goals and an inability to maintain housing stability independently.

Furthermore, this legislation mandates that DHS conduct a comprehensive assessment, taking into account various aspects of the participant's circumstances, such as their progress and eligibility for affordable housing. If granted, extensions will be provided for periods of up to 6 months, subject to regular reviews conducted every three 3 months. Emergency legislation is necessary due to recent data from the DHS, which indicates that around 207 FRSP participants are set to be exited from the program between August 2023 and February 2024 without being matched to housing resources. By codifying the existing DHS regulations, we can provide a temporary solution that allows the Council sufficient time to work towards a comprehensive resolution for FRSP participants, ensuring they receive the necessary support to avoid homelessness.

### **Contract Approval Legislation at the Request of the Executive**

I request that the four resolutions listed in this section appear on the legislative meeting consent agenda. Each of these resolutions would approve a multiyear contract between the District of Columbia Housing Authority (DCHA) and the owner of the site of a planned affordable housing development. A collection of District agencies led by the Department of Housing and Community Development (DHCD) conducted a consolidated competitive solicitation process and selected these projects, among others, for various forms of government affordable housing funding and financing.

At this stage of the award process, DCHA's role is to commit future project-based Local Rent

Supplement Program (LRSP) funding. DCHA plans to enter into definitive agreements with the eventual operators of the affordable housing when the projects are eventually completed and occupied, but its funding commitment is required now to help secure financing. Each of the four contracts described below is therefore styled as an Agreement to Enter into a Long-Term Subsidy Contract (ALTSC).

As multiyear contracts, ALTSCs require the Council's affirmative approval under section 451(c)(3) of the Home Rule Act, D.C. Official Code § 1-204.51(c)(3). Abbreviated notices of intent to act have been filed for each of these measures to allow their consideration prior to recess.

- **PR25-0297, the Local Rent Supplement Program Contract No. 2022-ALRSP-02A with Dix Street Residences Approval Resolution of 2023**

This ALTSC between DCHA and Dix Street Residences, LLC (an affiliate of Atlantic Pacific Companies) would provide for a 15-year operating subsidy, in an initial annual amount not to exceed \$416,808, in support of 24 affordable senior housing units at 5717 Dix Street NE in Ward 7.

DCHA reports that 2 parcels at 58th and Dix Streets NE are currently the site of a vacant retail building and vacant trailer. The owner has proposed to build a new 4-story, 47-unit, mixed-income apartment building for seniors. The proposed unit mix for the full building is as follows: 27 1BRs, 16 2BRs, and 4 3BRs. The proposed ALTSC would dedicate LRSP funding in support of 12 of the 1BRs, 8 of the 2BRs, and all 4 of the 3BRs. The owner is also reserving 10 1BRs for Permanent Supportive Housing recipients, though this is not the purpose of the proposed ALTSC.

The contract is available in the Council's Legislative Information Management System (LIMS) as CA25-0279.

- **PR25-0298, the Local Rent Supplement Program Contract No. 2022-ALRSP-03A with ECD Edgewood Commons 5 LP Approval Resolution of 2023**

This ALTSC between DCHA and ECD Edgewood Commons 5 GP, LLC (an affiliate of Enterprise Community Development) would provide for a 15-year operating subsidy, in an initial annual amount not to exceed \$993,216, in support of 56 affordable senior housing units at 435 Edgewood Street NE in Ward 5.

DCHA describes the proposed project as the final phase of a "restoration" of Edgewood Commons, pursuant to a master plan established in the 1960s. The owner has proposed to build a new 56-unit affordable apartment building for seniors. The proposed unit mix for the full building is as follows: 8 studios and 48 1BRs. The proposed ALTSC would dedicate LRSP funding in support of all 56 units. The contract is available in LIMS as CA25-0280.

- **PR25-0302, the Local Rent Supplement Program Contract No. 2022-ALRSP-01A with Lisner Senior Independent Owner LP Approval Resolution of 2023**

This ALTSC between DCHA and Lisner Senior Independent Owner LP (an Urban Atlantic

company) would provide for a 15-year operating subsidy, in an initial annual amount not to exceed \$1,652,352, in support of 52 affordable senior housing units at 5455 Western Avenue NW in Ward 3.

The proposed senior housing building would connect to the existing Lisner-Louise-Dickson-Hurt Home, a health care facility for lower-income seniors. The proposed ALTSC would dedicate LRSP funding in support of 52 1-bedroom units for seniors. The contract is available in LIMS as CA25-0281.

- **PR25-0304, the Local Rent Supplement Program Contract No. 2022-ALRSP-04A with Jubilee Ontario Place LP Approval Resolution of 2023**

This ALTSC between DCHA and Jubilee Ontario Place LP would provide for a 15-year operating subsidy, in an initial annual amount not to exceed \$830,688, in support of 23 affordable housing units at 2400 Ontario Rd NW in Ward 1.

According to DCHA, the proposed construction site consists of 4 parcels of about 20,000 square feet total, with an assortment of single-story commercial buildings and 2-story homes. Extensive soil contamination remediation will be required. The owner has proposed to build a new 4-story, 52-unit affordable apartment building. The proposed affordability mix is as follows: 29 units for households at or below 30% MFI, 12 units for households at or below 40% MFI, and 11 units for households at or below 50% MFI. The proposed ALTSC would dedicate LRSP funding in support of 23 of the units for households making 30% MFI or less. Separately, the contractor plans to reserve 6 units for permanent supportive housing. The contract is available in LIMS as CA25-0292.