



**Testimony of Beth Mellen Harrison
Supervising Attorney, Housing Unit
Legal Aid Society of the District of Columbia**

**Before the Committee on Housing and Neighborhood Revitalization
Council of the District of Columbia**

Budget Oversight Hearing Regarding the Office of the Tenant Advocate

April 25, 2018

The Legal Aid Society of the District of Columbia¹ submits this testimony to urge the Committee 1) to increase funding for the Office of the Tenant Advocate (OTA) to launch a pilot program to provide mold assessment services for low-income tenants; and 2) to restore cuts in the Mayor's budget for OTA.

Legal Aid represents hundreds of low-income tenants in housing cases each year. We work with countless families who are struggling to make ends meet, often because of lack of access to affordable housing. Far too many of these families are forced to live in substandard housing conditions that threaten their health and safety, including mold. Access to legal counsel to fight an eviction case, challenge a rent increase, or enforce the right to habitable housing can have a tremendous positive impact for these families.

OTA provides important services for District tenants, including funding for legal service providers to represent tenants in housing cases and emergency housing assistance for tenants suddenly displaced by fire, flood, or government closure of a property with substandard conditions. Legal Aid has been in discussions with OTA in recent months about the possibility of using expanded funding to fill another gap, by providing mold assessment services to low-income tenants. Legal Aid urges the Committee to consider increased funding to allow OTA to launch a pilot mold program, as well as to restore cuts in the Mayor's budget for OTA's legal service provider grants and emergency housing assistance programs.

OTA SHOULD RECEIVE INCREASED FUNDING TO LAUNCH A MOLD ASSESSMENT PROGRAM

Legal Aid and other providers who work with low-income tenants continue to see far too many instances in which families with children, seniors, and other tenants with underlying health conditions are forced to deal with indoor mold contamination in their homes. For these tenants, the presence of mold in their homes is not simply an inconvenience, it is a serious health risk.

¹ The Legal Aid Society of the District of Columbia was formed in 1932 to "provide legal aid and counsel to indigent persons in civil law matters and to encourage measures by which the law may better protect and serve their needs." For more than 85 years, Legal Aid staff and volunteers have been making justice real for tens of thousands of the District's neediest residents. Legal Aid currently works in the areas of housing, family law, public benefits, and consumer law.

Exposure to mold has been linked to upper respiratory tract symptoms, coughing, wheezing, and an increased risk of developing asthma; for individuals already dealing with asthma, exposure to mold can exacerbates their symptoms.² In the District – where asthma rates are higher than national averages and highest in low-income areas – the effects of mold growth can be expected to be even more serious.³

The Air Quality Amendment Act of 2014 empowers tenants living with indoor mold in their units to force their landlords to abate the problem. The Act requires landlords to inspect within seven days of receiving notice from a tenant of suspected indoor mold and to remediate any mold within 30 days. Indoor mold contamination – the presence of mold above a threshold of 10 square feet – requires professional remediation. The Department of Energy and the Environment (DOEE) is charged with licensing professional mold assessors and remediators. DOEE has issued extensive regulations requiring comprehensive remediation to ensure not only that indoor mold is removed, but also that the underlying cause of the mold is addressed.⁴ The Act is one of the most far-reaching laws addressing indoor mold in residential units in the nation.

Unfortunately, the Act also is entirely dependent on private enforcement by tenants. DOEE does not perform inspections for indoor mold, and the Department of Consumer & Regulatory Affairs repeatedly has refused to cite for indoor mold. With no access to government inspections, tenants often must turn to private mold assessors to inspect and establish that indoor mold contamination exists and that professional mold remediation is required under the law. These private assessments can cost anywhere from \$500 to \$1,000 or more, far out of reach for most low-income tenants.

Long term, Legal Aid supports legislation that would vest authority and provide sufficient resources for government inspections for mold, comparable to government inspections currently conducted for housing code violations. District residents should not have to endure indoor mold contamination simply because they cannot afford to hire their own professional mold assessor. An alternative would be to provide government funding for low-income tenants to hire private mold assessors. We understand that OTA is prepared to launch such a program on a pilot basis.

Legal Aid, Children’s Law Center, and Legal Counsel for the Elderly – all organizations that worked on the mold statute and regulations – have been in discussions with OTA in recent months about the concept of creating a pilot mold assessment program. With increased funding, OTA could either hire its own licensed professional mold assessor on staff, or contract out to one or more licensed professional mold assessors to offer these services. This would allow OTA to

² Individuals with mold allergies, with compromised immune systems, and with chronic lung illnesses can have more severe reactions. See Centers for Disease Control and Prevention, “Facts About Mold and Dampness,” at http://www.cdc.gov/mold/dampness_facts.htm; see also World Health Organization, *WHO Guidelines for Indoor Air Quality: Dampness and Mold* (2009).

³ It is estimated that asthma currently affects 9.6 percent of adults and 12.6 percent of children in the District of Columbia. See Centers for Disease Control and Prevention, National Center for Environmental Health, Division of Environmental Hazards and Health Effects, *Asthma in the District of Columbia*, available at http://www.cdc.gov/asthma/stateprofiles/Asthma_in_DC.pdf. These numbers are above national averages. See *id.*

⁴ See generally D.C. Code §§ 8-241.01-8-241.09; 20 DCMR § 3200, *et seq.*

provide access to mold assessment services for low-income tenants, the first critical step in ensuring private enforcement of the mold law's requirements. OTA then could represent the tenants or refer their cases out to legal service providers for any necessary legal action to ensure that remediation occurs as required by law.

We urge the Committee to consider increasing funding for OTA so that the agency can launch a pilot mold assessment program. Should such funding be provided, we are committed to working with OTA to ensure the success of this pilot program.

CUTS TO OTA'S BUDGET SHOULD BE RESTORED

The Mayor's budget cuts funding to OTA in two areas that are of particular concern for Legal Aid and the low-income tenants that we represent. First, OTA's legal service provider program – which provides funding to contracted non-profit legal service providers, including Legal Aid, to provide tenants with legal assistance – has been cut by \$40,000. Second, OTA's emergency housing program – which provides emergency housing assistance to displaced tenants – has been cut by \$10,000.

While these cuts may seem relatively modest, they will have a real impact for low-income tenants. Legal Aid and other providers use OTA funding to increase the number of tenants we can represent in cases involving eviction, rent control, and housing conditions. Assistance of counsel can make the difference for a family seeking to avoid displacement, preserve an affordable housing unit, or enforce their right to safe, habitable housing. Examining the cases funded by our OTA grants over the years, we have seen that the funding we receive is returned in equal measure in the tangible, countable financial benefits that we are able to recover for our clients, all of whom are low-income District residents.

Similarly, OTA's emergency housing assistance program is one of the only funds of its kind that is available to help displaced District tenants in need of immediate financial assistance for emergency housing, storage of possessions, and initial payments for replacement housing. This fund helps low-income families avoid homelessness and its devastating impacts.

We urge the Committee to restore these cuts to OTA's budget to ensure that these important services for District tenants will continue.

Thank you for this opportunity to submit written testimony.