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	<b>AGENCY NAME &amp; ADDRESS</b>	Mayor's Office of Homeless Services – 7 E Redwood St. 5 <sup>th</sup> floor, Baltimore, MD 21201 (667) 210-4406		
	<b>SUBJECT</b>	City Council Bill 21-0004 — Office to End Homelessness		

DATE:

**TO**

The Honorable President and  
 Members of the City Council  
 City Hall, Room 400

February 23, 2021

**Position: Letter of Information**

The Mayor's Office of Homeless Services (MOHS) is herein reporting on City Council Bill 21-0004, Office to End Homelessness, the purpose of which is to establish the Office of Ending Homelessness as a chartered agency and create a local housing voucher program for low-income formerly homeless households. MOHS has significant concerns about the proposed local housing voucher program, which will require a sizeable investment of General Funds to properly implement a well-designed voucher program to ensure housing permanency for formerly homeless households.

**Background**

Currently, the City's response to homelessness is carried out under the Mayor's Office of Homeless Services. The proposed legislation would create the Office to End Homelessness, moving the office out from under the Mayor's Office and creating a permanent agency. The new agency's Director would be selected and recommended by the Mayor to the City Council for their approval, and terminated by the Mayor if necessary.

The bill proposes to create a local housing voucher program supported through the Affordable Housing Trust Fund (overseen by the Department of Housing and Community Development). This voucher program would provide rental assistance to households exiting permanent supportive housing and require that enrolled households contribute up to 30% of monthly income towards household rent.

The agency defers to the Law department regarding whether the Council has the authority to create a new agency and the associated personnel actions contemplated in the bill.

**Concerns**

- 1) The standards for termination from the housing voucher program are unclear and participants could be subject to termination under different standards depending on if they receive a tenant or project based voucher.
- 2) § 4-23 states that families may request a return to permanent supportive housing at any time. However, this may not be feasible as families will not be homeless at the time of the request and thus may not be eligible to re-enter Permanent Supportive Housing programs at that time.
- 3) The financial sustainability of the proposed local housing voucher program is uncertain. The Department of Finance has indicated that General Funds will not be available now or for the foreseeable future to support implementation or administration of the housing

voucher program and current staff have neither the workload capacity nor technical expertise to launch and operate a housing voucher program. The proposed funding source, the Affordable Housing Trust Fund, revenue is dependent on large scale real estate transactions and fluctuates significantly each year which is potentially problematic as state and federal funds cannot currently be used to support the local housing voucher program.

- 4) The hearing process as designed in the bill would require the hiring of a hearing officer with a law degree, given the complicated nature of the hearings and the need for the hearing officer to reach final conclusions of law. In order for the hearings to be properly conducted in accordance with the bill, additional funding would be required to support the hiring of a qualified hearing officer.

## Explanation

- 1) As currently drafted, the standards for the termination of assistance between tenant-based vouchers and project-based vouchers are potentially quite different in ways that could be prejudicial to clients enrolled in the local housing voucher program. § 4-19(G) states that “a housing provider receiving assistance under this section may not terminate a family’s lease or fail to renew a family’s lease unless the family has committed a serious breach of the lease or for other good cause in accordance with the program’s rules and regulations.” The section does not elaborate what will qualify as a breach of the program rules and regulations and ultimately means that households enrolled in the housing voucher program could face arbitrary termination depending on whether they receive a project-based voucher or a tenant-based voucher.

§ 4-22(A) lays out specific conditions under which assistance can be terminated to a family enrolled in the housing voucher program but it is not clear if there are circumstances outside of these conditions that could trigger termination as per § 4-19(G). Furthermore, the bill does not elaborate whether families enrolled in a project-based tenant voucher and subsequently terminated would be eligible to transfer to a tenant-based voucher.

Clarification around the standards for termination from the local housing voucher program should be included in the bill and households enrolled in the program should be subject to uniform standards in order to receive assistance, regardless of if they receive a project or a tenant-based voucher.

- 2) § 4-23 states that “at any time, a family admitted into the program may voluntarily request that program assistance be terminated and to be returned to permanent supportive housing.” This provision may face several regulatory and practical roadblocks. Permanent Supportive Housing (PSH) in Baltimore is funded by the U.S. Department of Housing and Urban Development (HUD) under the Continuum of Care program. These regulations, as defined in 24 CFR 578.3, currently allow for individuals to receive assistance only if they are considered to be “Category 1” or “Category 4” homeless.

Category 1 is defined as: “(i) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;

(ii) An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, State, or local government programs for low-income individuals); or (iii) An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.”

Category 4 is defined as “any individual or family who: (i) Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence;

(ii) Has no other residence; and

(iii) Lacks the resources or support networks, e.g., family, friends, and faith-based or other social networks, to obtain other permanent housing.”

Families enrolled in the local housing voucher program do not fall under either category, meaning that they will not be considered eligible to return to permanent supportive housing programs while enrolled in the housing voucher programs. Families would only be eligible to return to a permanent supportive housing program once they have lost their housing through the housing voucher program and are facing literal homelessness. Given these considerations, families are unlikely to be able to successfully request to return to permanent supportive housing and be considered eligible for assistance. The Baltimore City HUD office has confirmed that clients enrolled in such a local housing voucher program would not be able to return to permanent supportive housing while currently housed with a voucher.

While the bill states that the Office to End Homelessness could petition the U.S. Department of Housing and Urban Development (HUD) for an exemption from this requirement, such an exemption is highly unlikely to be granted as these are federal regulations for a nationwide program designed to target assistance to homeless households. The likelihood that households who are not currently homeless would be granted the opportunity to return to PSH after losing their program eligibility is very low.

- 3) The agency’s concerns around the lack of funding for program administration have not yet been resolved through amendments to the bill. The Department of Finance has submitted a written response to this bill, wherein they stated “The City is facing major fiscal concerns and cannot at this time support the implementation of a new program with General Fund dollars without pulling resources from other services.”

On February 9, 2021, the Director of the Bureau of the Budget and Management Research (BBMR), Bob Cenname, was quoted in the Baltimore Sun discussing the General Funds budget outlook, stating that “It’s going to look ugly for a long period of time. The City is projecting a minimum \$30 million dollar budgetary shortfall for this fiscal year alone.”

In light of the projected severe shortfall in General Funds in the next fiscal year, the Mayor's Office of Homeless Services is concerned that adequate administration of this program will not be feasible, regardless of which agency ultimately is responsible for the housing voucher program. As previously stated, MOHS does not have any staff with the workload capacity or technical expertise to design, launch, and operate a local housing voucher program. Significant funding for staffing and technical assistance must be allocated in order to ensure the program is functional and sustainable.

MOHS is also concerned about ongoing funding stability of this program as households exiting PSH and receiving this local voucher are doing so because they cannot sustain market rate housing on their own without assistance. Funding for the local housing voucher program, at this point, comes exclusively through designations made by the Affordable Housing Trust Fund (AHTF) Board. The AHTF depends on the tax-income from large-scale real estate transactions in order to replenish the funds, which means that the funding level for this Fund varies annually depending on this specific type of economic activity in Baltimore.

The COVID-19 pandemic has seriously impacted the real estate market in Baltimore and the knock-on effects in the local economy are likely to continue for years. Already, the Affordable Housing Trust Fund experienced a 15% decrease in revenue in FY21 as compared to FY20. This decline in revenue is expected to continue as economic recovery in Baltimore lags. The local housing voucher program, while a priority for the AHTF, is not the only priority, and as a result, flat-level funding in future years is not guaranteed.

The long-term sustainability of the program is not guaranteed as the AHTF is unlikely to fully recover from the economic downturn for several years and General Funds will likely not be available to cover any budgetary shortfalls. Local voucher programs are not something that can currently be funded using State or Federal grant dollars; meaning that the voucher program would have to rely on local tax dollars or philanthropic funding.

As households will lose eligibility for PSH programs after entering the local housing voucher program, this funding instability will likely mean that households would have to be exited from the program subject to funding cuts, at which point, they will have to return to the homeless services system and wait, possibly for years, for another PSH unit to become available.

It is important to understand the impact that this would have on households in the local housing voucher program. In order to become eligible for permanent supportive housing programs, households must be either chronically homeless and/or have a serious disability. Many households have co-occurring health issues, including serious medical conditions like diabetes or congestive heart failure, complex mental health conditions such as Post Traumatic Stress Disorder or schizophrenia, and substance abuse disorder. These disabilities often impact a household's ability to find and sustain employment, which ultimately means that many households subsist on limited monthly income comprised of state and federal entitlement benefits like SSI/SSDI and TCA.

Returning households to homelessness as a result of the financial instability of the local housing voucher program would have a highly negative impact on these households,

especially as there are no supportive services contemplated as part of this voucher program to help transition households to other affordable housing options.

- 4) The hearing process as outlined in the bill will require that a hearing officer with a law degree is hired in order to comply with the regulations therein.

§ 4-26(B) states that either the Executive Director or delegated Hearing Officer will have the authority to issue “(1) proposed or final findings of fact; (2) proposed or final conclusions of law; (3) proposed or final findings of fact and conclusions of law; (4) proposed or final orders; or (5) the final administrative decision of the office.” The requirement for the hearing officer to reach a conclusion of law requires an in-depth understanding of the law itself and functional knowledge of how to arrive at such a conclusion.

In addition to these requirements, § 4-27(A)(2) outlines the right for program participants to be represented by legal counsel, to call witnesses and to submit evidence. § 4-28(B) details that either party may cross-examine witnesses. § 4-28(C) requires a hearing officer to understand what hearsay is under the law, to understand what legal privileges are and which must be recognized under the law, and grants the authority for the hearing officer to take judicial notice of certain facts.

While all of these protections are important for program participant’s right to due process and affordable housing, they create an unfunded mandate for the agency. Given the extensive responsibilities attached to the Executive Director position and the complicated nature of the hearing process, it is not practical to allocate responsibility for conducting this hearing process to the Executive Director. Furthermore, this role cannot be delegated as proposed under the bill as there is currently no funding for a hearing officer position attached to this program nor anyone on staff at the Mayor’s Office of Homeless Services who could assume this role as part of their job duties. As a result, in order for the agency to comply with the hearing process as outlined in the bill, funding must be allocated for a qualified hearing officer in order to protect the due process rights of program participants.

## **Conclusion**

While the Mayor’s Office of Homeless Services supports the creation of a local housing voucher program as affordable housing is in short supply in Baltimore City, there are significant concerns about the design, funding source, and long-term sustainability of the local housing voucher program in this bill. The ambiguities surrounding program operation and administration should be resolved before a local housing voucher program is finalized.

**The Mayor’s Office of Homeless Services thanks the Economic and Community Development Committee for the opportunity to respond to Council Bill 21-0004 and stands ready to answer any questions the committee must have.**

cc: Henry Raymond  
Natasha Mehu  
Nina Themelis