


FROM	NAME & TITLE	Tisha Edwards, Director	CITY of BALTIMORE <b>MEMO</b>	
	AGENCY NAME & ADDRESS	Mayor's Office of Homeless Services – 7 E Redwood St. 5 <sup>th</sup> floor, Baltimore, MD 21201 (667) 210-4406		
	SUBJECT	City Council Bill 20-0592—Office to End Homelessness		

TO

DATE:

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

November 10, 2020

**Position: Letter of Information**

The Mayor's Office of Homeless Services (MOHS) is herein reporting on City Council Bill 20-0592, Office to End Homelessness (as amended on October 20, 2020), 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 takes no position on the bill, but would like to offer additional recommended amendments to the proposed local housing voucher program, which will require a significant 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 implement a charter amendment to create the Office to End Homelessness, moving the office out from under the Mayor's Office and creating a permanent chartered 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 \$1.3 million 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 30% of monthly income towards household rent.

As part of the first round of amendments to the bill, it is proposed that the staff of the Mayor's Office of Homeless Services would be transferred to the Office to End Homelessness.

The agency defers to the Law department regarding whether the Council has the authority to charter 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.
- 2) § 4-23 states that families may request 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 Department of Finance has indicated that General Funds will not be available to support implementation of the 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) The standards for termination 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. This discrepancy should be clarified in forthcoming versions of the bill.
- 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 in Baltimore is funded by the U.S. Department of Housing and Urban Development 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 simply request to return to permanent supportive housing and be considered eligible for assistance.

- 3) The Mayor's Office of Homeless Services 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.” 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 houses the housing voucher program.
- 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 to protect a 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.

## **Conclusion**

Although the Mayor's Office of Homeless Services takes no position on this bill, the agency supports the creation of a local housing voucher program as affordable housing is in short supply in Baltimore City. However, as currently proposed, there are several ambiguities surrounding program operation and administration that must be resolved before a local housing voucher program can move forward.

**The Mayor's Office of Homeless Services thanks the Health Committee for the opportunity to respond to Council Bill 20-0592 and stands ready to answer any questions the committee must have.**

cc: Henry Raymond  
Matthew Stegman  
Nina Themelis