



July 13, 2021

Economic and Community Development Committee  
21-0036R: Informational Hearing - Avoiding an Eviction Crisis

Madame Chair and Members of the Committee:

On behalf of the Public Justice Center as a member of [Baltimore Renters United](#), thank you for the opportunity to testify. I want to emphasize two things: Scale and Scope -- 1) Scaling up current eviction prevention efforts as quickly as possible, and 2) Maximizing the scope of who is covered with effective policies.

According to the Sheriff's Office there were over 823 warrants of restitution issued in June and July. In other words, those 823 eviction cases have already been adjudicated and eviction is imminent. This trend is not improving. Based on the [latest census data](#), 21,450 households in Baltimore City are facing a rent-based eviction. The average rent debt is \$3,155, for a total arrearage of \$67 million. Due to centuries of disinvestment, segregation, and other hallmarks of structural racism, this crisis has had a disparate impact on Black and Brown households. While persons of color comprise 52% of Maryland's population, 79% of those households impacted by the COVID eviction crisis are persons of color. Thus, the very same Black and Brown communities that were required to provide critical services during the pandemic as our "essential workers" are now the same communities impacted by the slow recovery in areas like tourism and the ongoing difficulty of securing adequate childcare to facilitate a return to employment.

**The good news is that the City has been allocated \$100 million, primarily in federal funds, to address this crisis. The major source of anxiety and uncertainty for tens of thousands of Baltimore families is whether the City can act quickly and effectively to prevent an eviction crisis.** The CDC Eviction Order will expire on July 31. The Governor's Eviction Order will expire on August 15. Even today, well before these orders have expired, landlords across the City are exploiting weaknesses in eviction protections to proceed with evictions. For example, Ms. Teena Hickman lost her job at McDonalds when the pandemic began. She spent the next 15 months supervising Zoom school for her 9- and 14-year-old children. She was able to pay some money toward the rent but not enough. Because her landlord, Dominion Property Management, was unable to obtain full payment, it filed over 5 eviction actions against Ms. Hickman for failure to pay rent. It also sent Ms. Hickman a 60-day notice to non-renew her tenancy and filed a non-renewal or "tenant holding over" eviction case against her when she was unable to vacate. On July 2, the Baltimore City Community Action Partnership (BCAP) paid the landlord over \$8,500 in past-due rent and offered to pay the landlord more to keep Ms. Hickman in the property. The landlord took the \$8,500 but then initially refused to cancel an eviction that was scheduled for today, July 13, for

the non-renewal eviction. BCAP reached out to Public Justice Center, and we filed an emergency motion to try to stop the eviction. The parties ultimately settled the case providing Ms. Hickman the chance to continue residing at the property through October 31, 2021, with financial assistance from BCAP. This outcome demonstrates the importance of effective rental assistance-legal partnerships. Yet, with non-renewal or “tenant holding over” evictions up 115% in Maryland year over year and over 21,000 households facing eviction, the need becomes even clearer to 1) scale up current coordinated efforts as quickly as possible, and 2) revise the scope of what is possible.

The City Council should take the following steps immediately:

1. **Advocate for the Mayor’s Office of Children and Family Success (MOCFS) To Have All Necessary Resources to Expedite Eviction Prevention Efforts.** Over the past 12 months, MOCFS has created a significant eviction prevention program from whole cloth. The social safety net for eviction prevention had been cut to the bone in Baltimore City – and throughout the nation – such that standing up an entirely new program to address eviction prevention with \$100 million has been a monumental task. MOCFS requires the support of all branches of government to now implement its ambitious agenda. The City Council could support this effort through a resolution or other show of public support.
2. **Advocate for MOCFS, the District Court, and the Sheriff’s Office to Implement an Eviction Diversion Program.** The Mayor and City Council should pass a resolution calling for the creation of an eviction diversion program in eviction cases at court, and the Mayor should make any necessary policy changes at MOCFS to implement such a program that would align the timing of eviction adjudications with the timing of emergency rental assistance. Although the White House has called for an all-of-government approach to ensuring utilization of emergency rental assistance funds, the district court is unlikely to devise an eviction diversion program without the programmatic and fiscal commitments of the City and MOCFS. We understand that MOCFS will commit to being present at District Court to provide and coordinate rental assistance for eviction cases. This is a good first step toward a more coordinated approach to avoid evictions. Additional coordination with the Court, the Sheriff’s Office and legal partners will help stand up this important effort.
3. **Advocate for MOCFS to Implement Policy Changes That Will Maximize Eviction Protections and Efficiency.**
  - a. Recently implemented changes: MOCFS recently began providing notice directly to tenants about the amount of any payment to the landlord. This was a critical operational policy change.
  - b. Pending changes that must be expedited:
    - i. Transparency About Wait List. At present it is very difficult for tenants to estimate when their application will be processed. Many have been waiting for months. We understand that MOCFS is creating a system to provide more transparency about the status of a tenant’s application.
    - ii. Expedite Relocation Program. Many tenants will need relocation assistance either because the property is uninhabitable or because the landlord wants to evict them, similar to Ms. Hickman, regardless of financial assistance.

MOCFS has been planning a relocation program for months, but it is still not operational. MOCFS must expedite operationalizing a relocation program. With non-renewal evictions on the rise, it is likely that many tenants will not be able to “pay and stay” and will require relocation assistance.

- iii. Implementing Signed Contracts. MOCFS has been planning for some time to require landlords to sign contracts to receive funds. As part of the contract, the landlord must agree to drop any non-renewal eviction for at least 90 days. As Ms. Hickman’s case demonstrates, this is a critical part of an effective housing stabilization program. Landlords must not be allowed to take City/Federal funds and still move forward with eviction on some other grounds.
- c. Policy Change Required: Pay the Tenant Directly When the Landlord Refuses. To encourage landlords to participate in accepting funds and stopping evictions, federal regulations encourage local jurisdictions to pay tenants directly when the landlord refuses to participate in the program. This is part of the carrot-and-stick approach to ensuring landlords participate and keep people housed. MOCFS has declined to adopt this policy at the moment and will not pay tenants when the landlord refuses assistance. MOCFS should change this policy.

#### **4. Pass A Resolution Calling on the Mayor to Fund Right to Counsel.**

As Ms. Hickman’s case demonstrates, eviction prevention is most effective when rental assistance funds are paired with legal representation for tenants. The City must fund the implementation of City Council Bill 20-465, Landlord-Tenant-Right to Counsel in Eviction Cases. As the Council recognized in 2020, Right to Counsel is one of the most effective tools to avoid the devastation of evictions to our City and its families, and will result in significant cost savings for both the City and State. The [Baltimore City study by Stout Risius Ross](#) found that 92% of represented tenants would avoid disruptive displacement in eviction actions with access to representation. Federal ARPA funds present a unique opportunity to fund implementation of the Right to Counsel law in the short term while the Mayor and Council consider longer term solutions. To that end, as detailed in the attached letter sent to Mayor Scott, we have proposed an allocation of federal ARPA funds over the next 4 fiscal years, starting with \$2.5 million in FY 2022; \$4.5M for FY 2023; \$6.3M for FY 2024, and \$7.7M for FY 2025. Part of these funds could come from the Emergency Rental Assistance Program (ERAP) funds administered by MOCFS, and part from the Fiscal Recovery Funds (FRF) that the Dept. of Housing and Community Development may request. Once federal funds are exhausted, the Council should help determine a more sustainable funding plan for full implementation.

#### **5. Extend the Lease Renewal and Renter Relief Acts.**

The Council recently passed CB 21-0031, which would require landlords to offer lease renewals except for good cause for 180 days after the end of the Governor’s state of emergency. This lease renewal provision addresses the very issue that Ms. Hickman and thousands of other families are encountering right now: the unjustified termination of their tenancies. We hope that the Mayor will

sign the bill, but then the Council should look immediately at an extension since 180 days past July 1 will not provide adequate relief to the thousands of families currently impacted.

Additionally, in 2020, the Council passed The Renter Relief Act, 20-364, that prohibits rent increases for 90 days after the end of the state of emergency. Again, with the emergency having expired on July 1, Baltimore City needs additional time for a full economic recovery before landlords are allowed to again raise the rent in an increasingly tight rental market.

#### **6. Never Return to the Bad Old Days.**

Coordinated, well-funded eviction prevention efforts that include financial assistance, legal services, and social services are long overdue. Once Baltimore has built this comprehensive eviction prevention infrastructure, it should never return to the bad old days in which none of these resources existed, and over 6,500 families each year were put out on the streets. This new emphasis on housing stability can assist thousands of families each year in not only maintaining a roof but the corresponding benefits to education outcomes, stable employment, and better mental and physical health.

Thank you again for the opportunity to testify.

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SENT BY ELECTRONIC MAIL ONLY

April 30, 2021

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*Re: Allocating federal funds to implement Right to Counsel in Evictions law*

Dear Mayor Scott, Deputy Mayor Carter, Director Edwards, and Commissioner Kennedy:

Baltimore Renters United, the Public Justice Center, and the Maryland Access to Justice Commission urge you to allocate part of the recently awarded federal funding to implement Council Bill 20-0625, Landlord – Tenant – Right to Counsel in Eviction Cases (“Right to Counsel law”), sponsored by Mayor Scott, which became effective on April 1, 2021. The Right to Counsel law calls for the City to expand access to legal representation for all eligible tenants in eviction cases within four years. The law also calls for DHCD to fund community-based groups to conduct outreach and education regarding tenants’ rights, including the right to counsel.

We appreciate the Administration’s support for this initiative to increase housing stability and enforce laws protecting tenant’s rights to habitable, fair, accessible, and affordable housing with security of tenure. Laws protecting human rights require enforcement, and access to representation is a critical component of such enforcement. [The Baltimore City study by Stout Risius Ross](#) found that 92% of represented tenants would avoid disruptive displacement in eviction actions with access to representation. The Stout study concluded that full implementation of a right to counsel for tenant households with incomes below 50% of the Maryland median income would cost \$5.7 million. We estimate that full implementation of the Right to Counsel law, including all tenants (regardless of income) plus administrative expenses

and an outreach/education initiative would cost \$7.7 million annually (\$6.8 million for legal representation; \$700,000 for outreach/education; \$200,000 for administration).

We know that access to representation is even more critical in the middle of a pandemic in which 3,300 families in Maryland have already been evicted despite the so-called eviction “moratoria” in place. According to recent census data, [almost 25,000 Baltimore City households are currently facing eviction with a total rent debt estimated at \\$82 million.](#)

Baltimore City has a unique opportunity to address this eviction crisis and begin implementing the Right to Counsel law using the recent influx of federal funds. We recognize and thank the City for previously allocating over \$600,000 in federal CARES Act funds toward legal representation. Legal services organizations have hired new staff and begun providing representation in as many cases as we can. Under the terms of new federal funding pursuant to the Consolidated Appropriations Act of 2020 (“CAA”), the City is set to receive appx. \$17 million from Treasury and another \$40.5 million from the State for an Emergency Rental Assistance Program (“ERAP 1”), which must be expended by Sept. 1, 2022. The vast majority of these funds must be allocated to rental and utility assistance. [However, up to 10% of these funds can be used for “housing stability services” which can include representation for tenants in eviction actions.](#) Based on Treasury’s guidance, we believe that “housing stability services” include outreach and education to tenants looking to access and maintain stable housing. Like the CAA, the American Rescue Plan Act (“ARPA”) will provide significant funding to an Emergency Rental Assistance Program (“ERAP 2”). Based on allocations under the CAA, we estimate that the City will receive as much as \$15 million from Treasury and \$30 million from the State pursuant to ARPA/ERAP 2, all of which must be expended by 2025 (possibly 2027 depending on the interpretation). Like ERAP 1, at least 10%, possibly more, of these funds can be used for housing stability services. Finally, we understand the City is slated to receive \$555 million in Coronavirus Local Fiscal Recovery Funds (“CLFRF”) that must be allocated by December 31, 2024. These funds can be used for a broad range of purposes including “to respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) or its negative economic impacts, including assistance to households, small businesses, and nonprofits....”

Legal representation is a key component of any eviction prevention project in response to COVID-19. [Connecticut recently announced that it is allocating \\$20 million of its CSFRF money toward providing tenants legal counsel in eviction cases and related outreach and education.](#) The [National Coalition for a Civil Right to Counsel is urging jurisdictions across the nation to use part of the ERAP and CS/LFRF funds to increase access to legal counsel for tenants facing eviction.](#) Legal representation in this context plays the role of ensuring that landlords abide by the terms of the contracts that they sign when receiving rental assistance. That is, we have seen a number of landlords attempt to take the rental assistance but still evict the tenant. Legal representation to enforce tenants’ rights under the law and any rental assistance contract ensures that rental assistance is effective in stabilizing housing that is safe, habitable, fair, and accessible.

Accordingly, we urge the Administration to allocate new federal funding toward implementation of the Right to Counsel law to the greatest extent possible. We urge the Administration to allocate 10% of ERAP 1 and ERAP 2 funds, approximately \$10 million, and \$11 from the

CLFRF, a total of \$21 million, toward implementation of the Right to Counsel law over FY 2022 -- FY 2025. Below is an example of a \$21 million funding allocation plan that would build toward full implementation of the Right to Counsel law:

FY 2022: \$2.5 million

FY 2023: \$4.5 million

FY 2024: \$6.3 million

FY 2025: \$7.7 million

Federal funds will allow the Scott Administration to lay a foundation in housing court that levels the scales of justice between landlords and tenants and significantly reduces the individual and government costs of eviction. We are available at your earliest convenience to discuss this matter further. Thank you for your consideration.

Regards

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On behalf of Baltimore Renters United

Reena Shah, Executive Director  
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