



January 30, 2024

Department of Housing and Community Development  
Attn: Ms. Colleen Green, Director  
1800 Martin Luther King, Jr. Avenue SE  
Washington DC, 20020

*Comments delivered via email to [opm.questions@dc.gov](mailto:opm.questions@dc.gov)*

Dear Director Green,

The Equal Rights Center (ERC) is a civil rights organization that identifies and seeks to eliminate unlawful and unfair discrimination in housing, employment, and public accommodations in its home community of Greater Washington, D.C. and nationwide. For many years, the ERC has received funding through the U.S. Department of Housing and Urban Development's (HUD) Fair Housing Initiatives Program to conduct intakes with individuals in the District who believe they may have experienced housing discrimination, investigate individual claims and systemic forms of housing discrimination, pursue enforcement of the Fair Housing Act as needed, and conduct education and outreach about fair housing protections and requirements.

The ERC appreciates the opportunity to comment on a draft of the District's Fiscal Year 2023 CAPER. We have reviewed the draft document available on DCHD's website and would like to offer the following comments for DHCD's consideration in crafting a final CAPER document for submission to HUD.

The District is experiencing a dire affordable housing crisis that is steeped in systemic inequity. As the cost of housing has skyrocketed, it has become much more difficult for low-income households to afford living in the District. More than one in ten DC residents is facing housing insecurity.<sup>1</sup> Low-income Black DC residents are facing the worst consequences of this housing crisis: Black residents account 68% of those facing housing insecurity.<sup>2</sup> The scope of the affordable housing crisis facing the region is now massive, and will require local jurisdictions to mount equally massive, thoughtful, and immediate investments in response.

Last year the Metropolitan Washington Council of Governments (COG) and eight local jurisdictions, including DHCD and other agencies on behalf of the District, published the draft

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<sup>1</sup> Solari, Claudia et al, *Housing Insecurity in the District of Columbia*, Urban Institute, Nov. 16, 2023, 2, <https://www.urban.org/research/publication/housing-insecurity-district-columbia>.

<sup>2</sup> Ibid.

Regional Fair Housing Plan, which identified local barriers to fair housing choice and strategies for overcoming those barriers. A core focus of the plan is increasing affordable housing to combat the tide of increasing segregation in the region.

We commend the CAPER’s identification of “the preservation and creation of affordable housing” as “DHCD’s priority need”. This is aligned with not only the fair housing related issues of greatest concern in the ERC’s opinion, but also fair housing impediments identified and recommendations made in the Regional Fair Housing Plan.<sup>3</sup> The draft CAPER also highlights some laudable achievements. For example, DHCD provided financing to 17 projects, which will produce a total of 1,660 affordable housing units. It also acquired the Aston Building in Foggy Bottom and will soon open “the first-of-its-kind non-congregate Bridge Housing building for individuals who are medically vulnerable, matched to housing or those who cannot be served by congregate settings.”<sup>4</sup>

Nevertheless, we find it difficult to meaningfully review DHCD’s use of funds based on the data presented in the report. The report outlines that more than \$90 million in various funds were at DHCD’s disposal in FY 2023, but that DHCD only spent about \$50 million.<sup>5</sup> The report helpfully notes that the almost \$15 million in HOME funds were expended after the conclusion of FY 2023,<sup>6</sup> but no further information is provided about the remaining unspent \$25 million and whether the funds have already been allocated to specific projects or whether the funding is at risk of being returned to HUD for lack of use, as has occurred in multiple years in the recent past.<sup>7</sup>

Similarly, many of the tables appear to be incomplete and critical data appears to have been omitted prior to the publication of the draft CAPER. About two-thirds of the goals in the table of goals for all funding streams show zero progress being made.<sup>8</sup> No explanation is provided regarding whether this data is pending or whether no progress was made for some or all of those goals. Additionally, while the report notes that half of the Housing Production Trust Fund (HPTF) must be used for producing housing that is affordable to households with income below 30 of the AMI, it never provides a breakdown of the units produced via the HPTF based on AMI.<sup>9</sup> The only data we could identify in this report on the subject notes that a quarter of the units funder under HPTF and Low Income Housing Tax Credits (LIHTC) were intended for households under 30% of the AMI.<sup>10</sup> Given that DHCD has historically failed to dedicate at least half of the units produced under HPTF for households under 30% of the AMI, the ERC is

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<sup>3</sup> DHCD, *District of Columbia FY 2023 Consolidated Annual Performance and Evaluation Report*, Dec. 2023, 9.

<sup>4</sup> *Ibid*, 25.

<sup>5</sup> *Ibid*, 2.

<sup>6</sup> *Ibid*, 2.

<sup>7</sup> Cuccia, Annemarie, “D.C. Routinely Fails To Spend Millions Of Federal Grant Dollars For Ending Homelessness”, DCist, June 13, 2023, [dcist.com/story/23/06/13/dc-homeless-housing-returns-federal-grants/](https://dcist.com/story/23/06/13/dc-homeless-housing-returns-federal-grants/).  
Cenziper, Debbie et al, “The D.C. Housing Department forfeited millions as families waited for help”, Washington Post, May 6, 2017, [www.washingtonpost.com/investigations/dc-housing-department-forfeited-millions-as-families-struggled-to-find-homes/2017/05/06/ea325f42-161f-11e7-ada0-1489b735b3a3\\_story.html](https://www.washingtonpost.com/investigations/dc-housing-department-forfeited-millions-as-families-struggled-to-find-homes/2017/05/06/ea325f42-161f-11e7-ada0-1489b735b3a3_story.html).

<sup>8</sup> DHCD, *District of Columbia FY 2023 Consolidated Annual Performance and Evaluation Report*, Dec. 2023, 8.

<sup>9</sup> *Ibid*, 16.

<sup>10</sup> *Ibid*, 7.

concerned about whether DHCD successfully met this important goal in FY 2023. All in all, the ERC struggled when reading this report to determine whether funding is being spent in a way that meaningfully addresses the District’s affordable housing needs.

*The District as a Whole, Not Just DHCD, Has a Duty to Affirmatively Further Fair Housing*

The ERC appreciates that DHCD is responsible for submitting the District’s CAPER report to HUD, but also recognizes that the District as a whole, not just DHCD, has an obligation to Affirmatively Further Fair Housing (AFFH). As a result, multiple District agencies are responsible for ensuring that the District effectively meets the goals outlined in the Regional Fair Housing Plan. As we’ve shared publicly in the past, we remain concerned about what appears to be an ongoing lack of commitment to AFFH by District government as a whole, caused in large part perhaps by the lack of coordination on these topics amongst District agencies.

Given the immense challenges facing the District in responding to the growing affordable housing crisis, the ERC was baffled to read the District “did not encounter any problems meeting” its goals to provide affordable housing. DC has faced a number of barriers to promoting affordable housing, including a lack of funding for various affordable housing programs, NIMBY-based community opposition, and additional agency challenges. For example, while local residents generally supported the District’s purchase of the Ashton, a small number have fiercely opposed the project and sued the District twice now in an attempt to bring the shelter development to a halt.<sup>11</sup>

More concerning, multiple DC agencies ran out of funding for various affordable housing programs months before the end of the fiscal year, highlighting the significant gap between the need for services and the number of people that can be served through current levels of funding. The Home Purchase Assistance Program (HPAP) administered by DHCD and the Emergency Rental Assistance Program administered by DHS both frequently run out of funds prior to the end of the fiscal year. In FY 2023, ERAP closed its applications portal in March and HPAP ran out of funds in June.<sup>12</sup> While DC Council allocated an additional \$33 million to ERAP to cover the funding gap, those funds were only sufficient to cover applications that had already been received prior to the ERAP portal closing.<sup>13</sup> DC residents were thus unable to apply for ERAP between April and October 2023, leaving residents who were facing eviction for non-payment of rent at imminent risk of becoming unhoused.

Further, the challenges facing government agencies extend beyond a lack of funding. One particularly stark example of this is the performance of the DC Housing Authority. Put simply, DCHA is an agency in crisis with its reputation is in shambles. This reality compromises its

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<sup>11</sup> Filter, Erika, “West End property owners file second lawsuit to block conversion of The Aston”, The GW Hatchet, Nov 13, 2023, [gwhatchet.com/2023/11/13/west-end-property-owners-file-second-lawsuit-to-block-conversion-of-the-aston/](https://gwhatchet.com/2023/11/13/west-end-property-owners-file-second-lawsuit-to-block-conversion-of-the-aston/)

<sup>12</sup> Baskin, Morgan, “D.C. Runs Out Of Down Payment Assistance Funds For First Time Homebuyers”, DCist, June 28, 2023, [dcist.com/story/23/06/28/dc-runs-out-down-payment-assistance-fund/](https://dcist.com/story/23/06/28/dc-runs-out-down-payment-assistance-fund/)

<sup>13</sup> Cuccia, Annemarie, “DC will not reopen rental assistance applications this year despite new funding”, Street Sense Media, June 28, 2023, [streetsensemedia.org/article/dc-rental-assistance-applications/](https://streetsensemedia.org/article/dc-rental-assistance-applications/).

ability to serve District residents eligible for its programs—in many instances the same District residents who are most vulnerable to displacement due to rising housing costs. DCHA clients and local advocates, including the ERC, have been ringing the alarm about a multitude of dire problems at the agency for years. These concerns were reinforced by HUD’s Fall 2022 report about DCHA.<sup>14</sup> Given that over 90% of the District’s housing voucher holders and public housing residents identify as Black, the District’s compliance with Affirmatively Furthering Fair Housing requirements under the Fair Housing Act depends on its ability to improve DCHA performance.<sup>15</sup>

Addressing the scope of the affordable housing crisis in DC requires a massive, creative, but also immediate investment. There are a variety of additional effective strategies that could be utilized to preserve housing affordability in neighborhoods beyond what the District is currently using, and we encourage the District to be more aggressive in exploring them. For example: Permanent subsidized housing for low-income residents could be constructed, purchased from existing housing stock, and preserved. Funds could be invested in targeted outreach campaigns about Tenant Opportunity to Purchase Act (TOPA) rights in neighborhoods slated for infrastructure and amenity improvements. The City could also incentivize permanent affordability through the use of the Community Land Trust (CLT) model.

Again, the ERC appreciates the opportunity to submit this comment regarding the draft CAPER. We also look forward to collaborating with DHCD to promote fair housing in the District. Should you have any questions about our comments on the draft CAPER, I’m happy to discuss our perspective further.

Best regards,

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<sup>14</sup> Department of Housing and Urban Development, *District of Columbia Housing Authority (DC001) Assessment*, Oct. 2022. [oag.dc.gov/sites/default/files/2022-10/DCReview\\_Final%209302022%20%281%29.pdf](https://oag.dc.gov/sites/default/files/2022-10/DCReview_Final%209302022%20%281%29.pdf)

<sup>15</sup> Department of Housing and Urban Development, “Picture of Subsidized Households: 2023”, <https://www.huduser.gov/portal/datasets/assthsg.html#null>