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Testimony before the DC Council Committee on the Judiciary Bill 21-0879, the “Expanding Access to Justice Act of 2016”

Presented by Nancy A. Lopez
Washington Council of Lawyers

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Nancy A. Lopez

Good morning Councilmember McDuffie and members of the Committee. My name is Nancy Lopez and I am the Executive Director of the Washington Council of Lawyers, a voluntary bar association comprised of legal professionals in private practice, government service, and non-profit organizations in the District of Columbia. I am here today to express our support for the Expanding Access to Justice Act. We applaud this important next step toward bridging the access to justice gap for D.C.’s most vulnerable residents, and thank you for holding this public hearing.

Since its founding in 1971, Washington Council of Lawyers has been the only voluntary bar association in the District of Columbia dedicated to promoting *pro bono* service and the public-interest practice of law. We have over 350 dues-paying members, and connect with nearly two thousand other individuals through our communications and programs. Our ability to bring together and speak on behalf of legal professionals from every sector of the Washington legal community makes us unique. Our unifying mission is to ensure that our justice system serves everyone, including those who are poor or marginalized. We promote *pro bono* and public-interest law—by volunteering our time to provide legal services to those who need them; training and mentoring the next generation of public-interest advocates; and supporting policies that expand access to justice.

Justice Hugo Black wrote in *Gideon v. Wainwright* that “the right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel.” Currently, the District’s most vulnerable residents navigate the civil legal process alone, even when their fundamental human needs, such as shelter, protection from violence, health care, and income are at stake. There are not sufficient *pro bono* or civil legal aid attorneys to help every poor litigant in our city who has a meritorious case.

In the District of Columbia, the vast majority of individuals appearing in the Landlord & Tenant Branch of Superior Court lack the assistance of counsel. But nearly all landlords appearing in that same court have a lawyer speaking on their behalf. We know that litigants appearing *pro se* in landlord-tenant court have a lot to lose, as an adverse decision may result in eviction, which in turn may lead to displacement and possibly homelessness.

There can be no doubt that adequate housing is a fundamental human need. Countless children and adults in D.C. struggle to breathe the moment they cross the threshold of their rental unit when it is riddled with mold. Children struggle to learn when they cannot sleep at night due to insects or rodents literally walking across their bed. Yet - for many DC families - continuing to live in these inhumane conditions is a more realistic choice than struggling to access their legal right to remedy these violations without the benefit of a lawyer. Similarly, the termination of rental subsidies – also addressed by this legislation – often leads to life-changing outcomes. In a jurisdiction where affordable housing is at a premium and the waiting list for subsidized housing is daunting, the loss of housing subsidies is, for many families, the first step on a dispiriting path to displacement and poverty.

Because of their inability to navigate the justice system, unrepresented litigants are at a disadvantage. The American Bar Association's Coalition on Justice surveyed trial judges across the country and reported that litigants who are unrepresented in civil cases present ineffective arguments, fail to offer necessary evidence, and fail to properly object to evidence. Housing laws in the District of Columbia require specific steps be taken and particular language used to preserve the rights of the litigants. Without the assistance of an attorney, individuals risk unknowingly waiving their rights and forfeiting the protections afforded them by law.

Washington Council of Lawyers supports the Expanding Access to Justice Act because it puts the District on a path toward a more level playing field for individuals appearing in landlord-tenant court, and will ensure a better quality of life for needy families. We speak on behalf of legal services providers who labor in the trenches each day, as well as government and private law firms who realize that their *pro bono* contributions will never be sufficient to meet the need that exists. This bill demonstrates a commitment to ensuring meaningful access to the courts for vulnerable District residents, and is a noble and worthwhile endeavor.

It is imperative that the District of Columbia Council provide adequate funding to support the programs outlined in this bill; without funding, this legislation, although well-intentioned, will fail to bring about the much-needed legal services it outlines.

Currently, legal services providers in DC struggle to meet the civil legal services needs of low-income residents. As a result, these programs must prioritize services and deny legal services to some needy individuals, due to lack of funding. And *pro bono* service, while critical, cannot fill the access to justice gap that exists in the District. There simply is no "volunteer substitute" for well-funded civil legal services programs. Consequently, the District of Columbia Council's identification of appropriate funding streams is an essential part of this legislative process.

We applaud the D.C. Council's work in identifying the fundamental human need for housing and putting forth this exciting new initiative. We hope the bill will be funded so that full representation of indigent individuals in the landlord-tenant branch of the Superior Court for the District of Columbia will become a reality.

Thank you for the opportunity to testify today. I am happy to answer any questions.