

## **Saving DC's Rental Housing Market Strike Force**

**Friday, March 19<sup>th</sup>, 2021 | 3:00 pm to 5:00 pm**

### **Draft Summary Notes**

Strike Force Members Present: Alex Baca, Josh Berstein, Buwa Binitie, Tom Borger, Councilmember Anita Bonds, Ralph Boyd, Christopher Donald, Polly Donaldson, Judge Todd Edelman, Tyrone Garrett, Steve Glaude, Michele Hagans, Dean Hunter, AJ Jackson, Ramon Jackson, Randi Marshall, Aurélie Mathieu, Sarosh Olpadwala, Councilmember Brooke Pinto, Eva Rosen, Johanna Shreve, Marian Siegel, Councilmember Elissa Silverman, Yesim Taylor, Andrew Trueblood, Monica Warren Jones, Tonia Wellons, Laura Zeilinger

Strike Force Members Absent: Kristy Greenwalt, Kay Pierson

Strike Force Members' Associated Staff Attendees: Tsega Bekele, Jennifer Berger, Maya Brennan, Scott Bruton, Liz DeBarros, Irene Kang, Richard Livingstone, Ana Lopez Van Balen, Danilo Pelletiere, Rachel Pierre, Ram Uppuluri, Barry Weise, Chris White

Consultant Attendees: Josh Babb, Mencer "Don" Edwards, Kayla Elson, Gabrielle Jackson

Members of the Public: Carissa Aranda, Alex Bako, Anita Ballantyne, Melissa Bondi, Joseph Borger, Tony Bruno, Cathie, Tracy Cecil, Martha D, DC for Democracy, DCAR Staff, Larissa Etwaroo, Tom Gregory, Ryan Hand, Elinor Hart, Reshma Holla, Zachary Huke, Kelly Hunt, Jamie, Adam Kent, Amanda Korber, Carren Kraston, Frederick Lawrence, Sarra M, Beth Mellen, Sheila Miller, Kevin O'Malley, Cynthia Pols, Sam Rosen-Amy, Leslie Steen, Sam Stephens, Rob TENAC, Moha Thakur, Trayci, Joey Trimboli, Denise Washington

**Next Meeting Date: Friday, March 26th from 3:00pm-5:00pm**

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#### **Call to Order**

Don Edwards, Justice and Sustainability Associates (JSA), called the meeting to order at 3:00pm and reviewed the agenda.

#### **Welcome**

Director Polly Donaldson (Chairperson) expressed gratitude for the level of participation from Strike Force members. She noted that today's meeting will look for consensus, not necessarily agreement. She encouraged members to speak up and actively participate in the process by raising their hands and utilizing the chat function.

#### **Open Meeting Process Review**

Laura Gramling, JSA, recognized the ground rules of the Strike Force and reviewed several public meeting regulations, including advanced notice of scheduled meetings and the availability of meeting summaries. She noted that the meeting is being recorded for public record. Public observers will also have the opportunity to comment via chat at the end of every meeting. All comments will be documented as part of the public record.

#### **March 12th Meeting Summary**

Members adopted by acclamation the March 12th meeting summary. Meeting summaries will be part of the public record.

### **Consensus-Building Process**

Laura Gramling, JSA reiterated the overview of consensus-building processes from last week. She reminded the group that consensus-based decisions represent and prioritize a “meeting of the minds” as the most desired outcome. It places a higher value on the group staying in the process. She highlighted that consensus-based decision making is highly deliberative, with a lot of give and take. The process may take longer and be difficult, but it has a positive social and political effect.

### **Strike Force Recommendations**

Another iteration of draft recommendations were disseminated to Strike Force members earlier in the week for additional review prior to the large group meeting. Draft recommendations were grouped according to near-term, mid-term, and long-term priority. Recommendations were read aloud and followed by a discussion period. Please see the slide deck to reference the draft recommendations that were presented.

### **Discussion (Q&A)**

*(Q=Question, A=Answer, C=Comment)*

#### *Discussion related to Near-Term Recommendations*

- **C:** Within the rec #1: “target rental assistance,” under the “access” bullet point, there was consensus around adding “easy access for both tenants and landlords, with **minimal documentation required.**”
- **Q:** For rec #1, is there a difference between stated “District” and “local” funds? Can someone also clarify the meaning of “begin this process before the eviction moratorium,” also in the introductory statement.
- **Q:** What is the definition of highest eviction risk in the first recommendation?
- **C:** For rec #2, “allow notices to cure,” I advocate for removing the phrase “quality of life,” as the phrase is too broad and does not speak to the intention of the recommendation, which is safety. Additionally, there was another bullet point to ensure that this exception is not used as an opportunity to carry out older writs that weren't specifically related to threats of health and safety.
  - **C:** I agree, the original intent was to focus on a much narrower wording of health, safety and welfare, particularly when it comes to the public safety exception. We feel that this is narrow enough to where it will help housing providers, but also continue to do what the eviction moratorium was meant to do, which was to offer some level of relief and protections for tenants.
  - **C:** The Office of the Attorney General will remain neutral on this recommendation.
  - **Q:** In the interest of brevity, can this recommendation be re-organized as a bullet point under draft rec #3, “phase in the end of the eviction moratorium?”
- **C:** For rec #2, there is an issue about limited notice to cure only for “violent acts”. Those that jeopardize the health and safety of others ought to be a high enough standard. What about the actual case, where a resident's child started fires in their apartment, forcing 40 other residents

to vacate from the damage? We just want to be careful that we're not so narrow that we would tie landlords' hands from actually taking action against a resident like that and that there are other ways to jeopardize safety other than just violent acts.

- **C:** Destruction of property has been deemed to be a violent act under case law that applies to various contexts, depending on the nature/purpose of the conduct. The conduct described (arson) would likely be deemed violent/dangerous in criminal cases (see DC Code 23-1331(3)(D) & 1331(4)) as well as in domestic violence cases.
- **C:** Rec #2 was originally proposed and supported with a narrow set of conditions. If those conditions are removed, we will lose consensus from many of the members of the subgroup who proposed it.
  - **C:** I cannot support any carve out unless it is very narrow and specifically related to safety related to violence and high risk situations as the moratorium is based on public health issues. We should be concerned that allowing notices to cure, if broadly distributed without review, can result in self evictions out of fear.
    - **A:** Yes, there is substantial evidence that even notices to cure can result in pre-emptive self evictions due to a false understanding that there is no opportunity to cure. This is worrisome
- **C:** For rec #2, let's ensure that there's a sub-bullet with consideration for assistance to families who may be impacted, particularly those with young and school aged children that should be considered and included as part of their criteria to ensure families have coordinated support in light of an eviction and its potential impact to disrupt access to critical services like child's education or other social services that may be underway.
- **Q:** For rec #3, when are we proposing the start of the phase out of the eviction moratorium--September?
- **C:** In regards to rec #4, "create an eviction diversion program," I think it would make sense when thinking about creating funding, implementing an eviction diversion program, to have it not just be in partnership with landlords in the district judiciary, but also in partnership with tenants and legal service providers, to make sure that all groups included have a voice in each each step of this diversion program.
  - **C:** I agree that adding tenant voices is important.
- **C:** In regards to rec #4, I want to emphasize that the diversion program is actually essential to dealing with how the Court will get back on its feet processing cases. Once the moratorium ends, I don't think we can look at this as a pilot project that we're working on sometime down the road. If we want to be able to manage what is already anticipated as an avalanche of cases, we do need to have some kind of program that links the rental assistance and mediation so we can reserve the court for where serious action is needed. I think this is an area of fairly broad consensus.
- **C:** I fully support the language drafted by CNHED in regards to rec #4, that was circulated prior to this meeting.
- **C:** Just want to note that although the recommendation is no longer included, TOPA tolling is presenting a serious issue for nonprofit providers and particularly harmful for small landlords (i.e. 3-4 units). It's impacting tax dollars.
  - **C:** The TOPA tolling provision was decided based on the context of the early stages of the pandemic. Tenants were under the impression that they would not be able to move forward with their planning because of social distancing requirements. Quite honestly,

things have changed and we have lifted various aspects of the tolling. And I foresee more to be done.

- **C:** TOPA technical assistance is difficult when so many tenants do not have the technology to engage in services....without the tolling they will lose their opportunities which are vital if we are to preserve housing options for the tenants who live here.
- **C:** We have put on hold the sale of any apartment building in Washington DC since March of 2020 and those sales will be delayed another year--I'm not sure what the public benefit is for that. We don't want to stop tenant groups from trying to form and I think if they had legitimate reasons, during a COVID pandemic that they can't form, we should give them more time. But again, we've come up with this blanket tolling of all of that by tolling TOPA, we've effectively blocked the sale of any apartment building unless the tenants affirmatively assign that right to a purchaser for which they usually want to be paid.
  - **C:** Agreed, I would also support technical assistants and advocates to help residents meet virtually.

#### *Discussion related to Mid-term Recommendations*

- **C:** In regards to rec #1, "convene a commission on rent control," this is not something that should be part of the Strike Force. This is a process that should be engaged with public involvement and full voices, rather than a selected commission.
  - **C:** Agreed.
- **C:** I think we should rephrase rec #1 by emphasizing the need for information that only the government can provide us. For example, as commissioners, we can request that the CFO does an analysis of the incomes of households in rent controlled units, and what those incomes could be if rent control is expanded to different parts of the city. That piece of information is important for the policy debate. And I hope that we as commissioners can agree on its importance. I think that if we are going to talk about shared values, those shared values should not be left to future commission. If we don't have shared values within this Strike Force, then we should skip them.
  - **C:** I agree. It's really a legislative policy decision, and one that's been there for the last 10 years, and continues to be discussed by the whole community. I don't think it is a Strikeforce issue.
- **C:** In the introductory statement in rec #1, I would suggest replacing the word 'inclusion' with 'racial equity'.
- **C:** I think it is critical that we take a systemic look at how rent control operates in the District of Columbia, but the Strikeforce was too short of a time period to give it the justice it deserves. There should be a re-examination, but it should be conducted by the executive branch, not an independent commission.
- **C:** Ultimately, housing providers are looking for data and how rent control impacts housing providers and tenants. A commission would be a great platform for this data to emerge.
- **C:** I would be supportive of a commission on rent control. As a legislator, I need more grounding and understanding of rent control, who is impacted, and possible reforms. The current police reform commission has changed my mind on the efficacy of commissions, as they produced concrete recommendations that MPD is already considering.

- **C:** I think having a well-rounded commission (tenants, landlords, and perhaps those interested in the housing industry) that is a fact finding, makes a lot of sense. It certainly has to provide the data that we would find useful to legislators, like myself, in order to move forward. We have studied this issue for years and it is a tough one because in theory, we do not see rent control as an affordable housing issue. We say it's stabilization. But what better way to make sure that you are in an affordable unit then to do it through this process.
- **C:** In terms of a commission, it seems like there is a key to focus on administrative efficiency, transparency, and base level workability. It's hard to have a commission that's going to talk about the future when you're not sure where you're where you're starting from.
  - **C:** I agree that we should understand the impacts and effects of rent control and TOPA with actual data. In my experience over the past 30 years, these are poor tools to accomplish their intended goals. They generate limited results with many unintended consequences.
  - **C:** When NY did a study, they found that rent control benefited White/affluent renters; not sure what a good audit of rent control in DC would reveal but would be helpful to know.
- **C:** For rec #2, "review the existing Nuisance Abatement Fund," it would be helpful to ensure that a fund for temporary housing for tenants and distressed properties whose housing providers become insolvent, is added.
  - **C:** I agree and look forward to revised language.
- **C:** Note that relying on the Nuisance Abatement fund is in some ways relying on how the DCRA implements that program. And that can be problematic from time to time.
- **C:** For rec #3, I am interested in a TOPA process that results in more affordable housing and is also more efficient in cases where tenant ownership, significant capital investments, or long-term affordability will not be the outcome. Hopefully we can find some common ground.
- **C:** In regards to rec #3, TOPA is about TENANTS voices in their own housing, not controlled by others about what happens to housing. Therefore there should be no payment in lieu of TOPA as it eliminates the entire purpose of TOPA.
  - **C:** The payment in lieu option is not consistent with housing preservation, from a policy perspective. More importantly, if we were to entertain it, that payment in lieu would have to reflect the actual market value, which is to say, oftentimes, folks want to make a payment in lieu and it's only a fraction of what it would cost to replace that land.
    - **C:** Agreed, the devil is in the details when it comes to payment in lieu.
- **C:** There's no mention of TOPA tolling in this round of draft recommendations.
  - **C:** TOPA tolling should be an immediate reform matter.
- **C:** I'd like to see a DOPA reform recommendation reinserted. Previous comments spoke to allowing DOPA to apply for more buildings and loosening up some of the requirements for the district to acquire land and property.
  - **C:** I agree on reinserting DOPA language, given its ability to be a tool in advancing affordable supply.
  - **C:** I supported the previous recommendation on recasting DOPA as well as the recommendation focusing on small buildings.
- **C:** There should be an objective to identify and deploy significant government resources to support technical assistance, subsidy for permanent affordable units at or below 30% MFI and

vouchers for the most vulnerable residents who cannot be served by the private market alone. The Treasury ERA money (where up to 10%, \$20,000,000, can be used to support stability through counseling, case management and technical assistance) and other relief resources provide a unique opportunity to focus on the needs of high risk tenants both in the short run, during recovery and in the long run. I would like to see the strikeforce make a recommendation for a firm commitment to providing housing stability opportunities for this population as a mayoral priority.

- **C:** This is a really good point. It's important to make an affirmative recommendation around housing subsidies for the lowest income renters as suggested.
- **C:** I concur the government's continuing, if not enhanced, responsibility to provide, grow and sustain the full complement of material support for the most vulnerable tenants, with respect to development, operating subsidies, and rental assistance.
- **C:** I want to note the lack of recommendations from housing providers that have made it to this round. I would hope we all agree that the current legislative approaches of TOPA and rent control have not solved this city's housing problems. Housing providers on this task force have practical experience and have seen this and it just seems like all of those suggestions have been ignored.
  - **C:** Agreed. Turnover was never incorporated into any of these agreements and yet, it's a simple fix that only impacted housing providers. I think we made a lot of plausible arguments of why tolling wasn't in anyone's interest and that didn't make the light of day. Consensus prevents us from ever making any bold, revolutionary documents. That's why I think you have to end up with an independent commission to look at rent control, where they don't need to develop a consensus, but they need to use facts and figures and come up with something that works.
  - **C:** I share the concern regarding recommendations from housing providers not making it to the list. However, I am encouraged by the fact that a number of great ideas were brought up. and by the fact that we're not limited to pursuing these policies just within the Strike Force. This group was limited by time.
- **C:** The recommendation with a proposal to address property tax valuations based on actual income and expenses rather than OTR's current approach, is missing.

#### *Discussion related to Long-term Recommendations*

- **C:** Rec #1, "leverage federal funding to create more rent-and-income-restricted housing..." is a great place to include expanding DOPA to apply to literally anything more than it applies to right now, but preferably to all multifamily buildings, hotels, etc.
- **C:** For rec #1, can there be more specificity on how we can better leverage our private capital?
- **C:** In regards to rec #1, small NOAH properties are a major source of affordable housing for families throughout dc. These units are being lost to conversion and sale at an alarming pace and result in significant displacement, often pushing tenants outside of DC. Support that includes technical assistance and subsidy is absolutely necessary to preserve this important asset.
  - **C:** Agreed. It's also much easier from a feasibility standpoint for residents to make a capital ask for acquisition for a smaller rather than larger building.
  - **C:** Agree with the point regarding small buildings and suggest that the second bullet point include the following language: "add by tenant organizations and/or developers exercising TOPA or DOPA rights to create or preserve affordable rental or ownership

housing protected by long-term covenants.nonprofit and for-profit housing providers and layer in affordability covenant.”

- **C:** If it is lower income tenants who live in the NOAH properties, once there is the high purchase cost based upon market expectations that do not include affordability, the cost of needed repairs and rehab, subsidy is needed to support the units for the current tenants and to prevent massive displacement.
  - **A:** To this point, I submitted some early language that suggested a public acquisition and maintenance fund for NOAH properties, given the cost of purchase and cost of rehab.
- **C:** It’s important to address how the NOAH stock can be repaired because it’s an older stock with many residents living in those units. I hope that as we move forward, whether individually or if this body is reincarnated, that we will spend some really dealing with that aspect of housing in the city. Landlords cannot do it all and tenants certainly cannot.
  - **C:** A lot of those units are controlled by rent control. So I’m not exactly sure how we focus on NOAH housing, without addressing a lot of the rent control issues that we know need to be addressed.
- **C:** For the sub-bullet under rec #2, “pass the Comp Plan..” I have to object as a member of the legislature and ask that the portion be removed.
  - **C:** I think it’s OK to strike “pass the Comp Plan” because realistically that should be done really, really soon. There’s language in the second point about a rewrite, which is much more important.
  - **C:** It may be fine to remove, but that recommendation should still retain reference to the comp plan while not advocating for passage.
- **C:** For rec #2, I would expand support to any project that agrees to provide long-term affordability without regard to ownership.
- **C:** For the sub-bullet under rec #2, “...spur the creation of Accessory Dwelling Units (ADUs),” it’s important for us to think about having a revolving financial facility that allows financing for landlords who commit to turning their ADUs into rental property for 10 years or five years, etc. Right now we fund ADUs as if their bathroom improvements, and they should be funded as if they’re income generating properties.
  - **C:** Here is an [ADU model from our LA LISC program](#)
- **C:** In regards to rec #3, “incentivise providers of moderate rate housing convert and perpetuate units in long-term affordability...” it’s important to also pay attention to short term rentals. In 2018, there were 2500 to 3500 units, condos or single family homes exclusively available for short term rentals and trying to convince our incentivize housing providers of those particular dwellings to put their homes on the market for permanent rental housing. It’s something that should be looked at further.
  - **C:** I support looking at short-term rentals to try to incentivize getting them into the long-term rental market.
- **C:** For rec #3, I noticed that the language says currently rent restricted. If rent controlled buildings are to be excluded from this, essentially, this proposal reduces down to 5000 units. I really encourage us to include rent control unit buildings into this particular group.
- **C:** For rec #3, I’m confused about this pilot program and how that came about. The long-term working group spent a lot of time talking about the NOAH properties, and addressing the missing middle, particularly folks in the 60% to 80% of ami range.
  - **C:** I also would like clarity on how this pilot program would work.

- **C:** For rec #3, I think there's some question about conversion to IZ, which is a little confusing, because IZ is based on zoning. Certainly there is a structure around rents and implementation, but I think having more clarity about what you're converting to may be helpful there. And then we can figure out the regulatory structure on the backend.
  - **C:** Agreed, it's not the IZ program that the covenant would fall under.
- **C:** The mayor charged us with making sure that we're meeting our housing goals. The HAND study showed that the District is not on track with housing goals when it comes to deeply affordable housing. These are essential workers: grocery store workers, phlebotomists, home health care aides, for example. I think we should be focusing on what we can do in this budget to help with zero to 30% AMI goals?
  - **C:** The [HAND Housing Indicator Tool](#) also noted that the area where DC is furthest behind in housing production is 65%--120% AMI. Let's not neglect additional essential workers who make \$60,000 a year (i.e. District police officers) and cannot currently afford to live in a tax-credited property.

### **Public Comment**

Don Edwards, JSA, initiated the public comment period and public observers were able to make verbal comments upon their written request in the chat. Strike Force members were invited to respond to the public comments via the chat or verbally. See Attachment A for a record of the public comments.

### **Closing Comments**

Director Donaldson noted how the group's discussion moved towards consensus on certain recommendations and asked members to review the chat comments. She was encouraged by the coalescing around several recommendations. She affirmed that the final Strike Force recommendations will provide a foundation for individuals who will be budgeting, legislating, and advocating, especially over the next three months.

Don Edwards, JSA, affirmed that Strike Force members would receive a copy of the chat as well as the draft recommendations following the meeting. He reminded members to submit their additional feedback on the draft recommendations by Monday close of business.



## Attachment A: Public Comments

- **Q:** Are you making recommendations on when the Mayor should allow eviction filing to start? I believe the moratorium ends at the end of May.
  - **A:** The eviction filing moratorium ends 60 days after the expiration of the public health emergency, which is May 20th. So claims for possession can not be filed in DC Court until July 19th.
- **Q:** How many units are purchased by tenants every year through TOPA? How many tenants are paid for their TOPA rights each year?
  - **A:** I don't know the exact answer but it's important for the record and public that we get a sense of that which is why I put your question in the public space. I would like to know as well and DHCD is in best position to get that.
- **C:** We are tolling TOPA because tenant associations are unable to meet due to the pandemic. Virtual TOPA meetings do not work for tenants, especially elderly tenants, who are not comfortable with or do not have access to the necessary technology
- **C:** My apologies for repeating something similar to what I said last week, but I want to note again the lack of tenant representation on the strike force. I heard Dean Hunter and Tom Boger voicing their frustration, and we all should keep in mind that landlord are at the table and able to speak and tenants are not.
- **C:** Thank you for raising the issue with organizing tenants around TOPA during a pandemic. We cannot form tenant associations virtually and would never put community members at risk.
- **C:** Please discuss whether or not your report should include a listing of the group's members with a designation beside each name of (a) the person's relationship to landlords, real estate, or developers --or-- (b) whether the person is a tenant or an advocate for tenants.
- **C:** If there is to be a rent control commission, special attention should be given to the appointment of members to ensure proper tenant representation on the commission
- **C:** Rental assistance will leave people behind inevitably. We have the money to Cancel Rent- the only thing holding us back is allegiance to developer and landlord pockets! We need your help to CANCEL RENT and protect our people
- **C:** This group claims to have renters best interests in mind. You must Cancel Rent and do right by working Washingtonians.
- **Q:** Will the task force consider canceling the rent?