

Saving DC's Rental Housing Market

*A report of recommendations from Mayor Bowser's Strike Force
to Save DC's Rental Housing Market*

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Introduction: The Year Everything Changed

In the fall of 2020, the District's rental housing looked to be at a precipice.

At the beginning of that year, however, the District's economy was strong and demand to live in the District remained high. As a result, rents were generally high, and despite a historically significant increase in rental housing produced, increasing numbers of District renters were housing cost burdened, with the greatest impact falling on lower income households, primarily people of color. Housing affordability, and racial disparities in rental housing, have been a longtime challenge in the District, but in recent years it had become even more pronounced.¹

As a result, in November 2019 Mayor Bowser committed the District to the *Housing Framework for Equity and Growth*, a plan to build 36,000 new homes in the District of Columbia and add 12,000 units of affordable housing across all eight wards of the city. The big question to be answered in 2020 appeared to be how much progress would be made toward this goal. And then, in February everything changed. It became clear that COVID-19 would be different from any other virus we had experienced in decades. On March 11, 2020 Mayor Bowser declared a public health emergency and on March 24 the mayor issued the first stay-at-home order and day-to-day commerce and the economy in the District contracted quickly.²

Many observers expected rent defaults and a real estate crash to follow quickly in the District and across the country. Contrary to expectations, federal unemployment benefits, stimulus checks and other federal and local emergency measures, such as additional emergency rental programs, along with a surprisingly smooth transition to work-at-home for many workers, delayed the worst-case scenario that had seemed inevitable.

The immediate impact was not as bad as some had feared, and an eviction moratorium passed with the first emergency legislation kept most who were struggling in their homes in the District. Still, COVID-19 greatly increased the number of households struggling to pay rent and that number only grew with each passing month, the unpaid rent compounding at the start of each month. And in addition to current tenants unable to pay rent, increasingly units that were vacated remained vacant, particularly in the city's higher end, "Class A" rental stock. Tenants and housing providers were getting deeper into trouble.

With these growing problems and many of the assistance programs enacted at the start of the crisis, such as enhanced unemployment benefits coming to an end in the fall of 2020, it seemed the District had not so much avoided the worst as postponed it and would be facing an unprecedented rental housing crisis that winter. With the end of the public health crisis far

¹ As an indication of this growing divide, according to the Census, from the year 2000 to 2010 the proportion of white renters who were severely housing cost burdened, paying half or more of their income for housing, in the city rose three percentage points from 16% to 19%. For non-white households, however, the increase was 8 percentage points from 20% to 28%. According to estimates from the Census Bureau's American Community Survey, used between censuses, by 2017 severe cost burden among white renter households had fallen back to 16% but for non-white renter households the percentage facing severe cost burden rose further to 30%. (National Equity Atlas, Retrieved May 4, 2021 from

https://nationalequityatlas.org/indicators/Housing_burden#/?geo=02000000000011000&houseburdo1=2.)

² Mayor's Order 2020-046 March 11, 2020 retrieved April 23, 2021 from

https://mayor.dc.gov/sites/default/files/dc/sites/mayormb/release_content/attachments/MO.DeclarationofPublicHealthEmergency03.11.20.pdf

from certain, the scale of the potential need for rental assistance and other interventions clearly dwarfed the resources committed thus far.

While there were also rays of hope in the fall as the vaccine news improved, even an end to the pandemic would not mean an end to the problems of tenants and housing providers. There was a significant possibility of a surge of evictions when the public health emergency was no longer declared, and the clock started counting down to the end of the eviction moratorium. Jobs and income would not necessarily return right away, and rental arrears could be expected to grow for some time. Housing providers still would have mortgages in default and a backlog of deferred maintenance to catch up on. To many, the question of how to help rental housing recover appeared a zero-sum game, either tenants or housing providers would end up at the short end of the stick.

Thus, a year that started with significant housing challenges but also with optimism for the positive path forward to create more housing opportunity and reduce displacement and housing burden across the District through the *Housing Framework for Equity and Growth*, ended with a much more uncertain and bleaker outlook for rental housing in the District.

Faced by this uncertainty and growing discord among housing providers and tenants seeking relief, Mayor Bowser turned to an approach she had applied early in her first term to address tough questions about how to preserve affordable housing³ and established a “Strike Force,” tapping the knowledge of leaders in organizations representing the District’s housing sector, District housing providers, nonprofit organizations, and tenant advocates in charting a new path forward and an equitable recovery.

³ See “DC Housing Preservation Strike Force” Retrieved March 9, 2021 from <https://dhcd.dc.gov/page/dc-housing-preservation-strike-force>.

The Strike Force

Mayor Bowser established the Saving the District's Rental Housing Strike Force with Mayor's Order 2020-129 on December 29, 2020.⁴

The Charge

Along with establishing the Strike Force, the order tasked the members with coming together to pool their knowledge and expertise to develop balanced solutions to address the current crisis and issue a report of recommendations to be submitted to the District's housing agency partners via the Office of the Deputy Mayor for Planning and Economic Development.

The Strike Force was explicitly tasked to make recommendations that:

- expedite and increase the effectiveness of emergency measures coming from both the government and the private sector to stabilize District tenants and housing providers.
- anticipate and minimize the challenges the District will face as it transitions from addressing a rental housing emergency to a recovery.
- ensure that the District rental market builds back better to provide vibrant, affordable and equitable rental housing for decades to come.

The Mayor further directed the Strike Force with three distinct charges:

- Charge 1: Develop balanced solutions together with housing providers and tenants, that take a proactive approach in anticipation of dramatic changes in the District's rental market, with a focus on expected higher vacancy rates; higher eviction rates, calls for an extension of the eviction moratorium; rental assistance programs expiring due to exhaustion of existing funding; and a lack of additional local or federal funding.
- Charge 2: Advise on how to handle immediate, emergency issues like eviction and distressed properties in a way that puts the District in a good position to meet the Mayor's housing goals during a recovery period and beyond.
- Charge 3: Provide specific recommendations on programs and policies to:
 - Maintain the tenancies of low-income tenants and the financial feasibility of the buildings in which they reside after the end of the eviction moratorium,
 - Add income- and rent-restricted affordable units to the inventory of housing units in the District in a way that furthers the Mayor's affordable housing goals,
 - Assist the recovery of a vibrant private rental housing market and keep the District on course to meet the Mayor's goal for new housing within the context of the Housing Framework for Equity and Growth, and

⁴ See Mayor's Order 2020-219 December 20, 2020 retrieved March 9, 2021 from https://dhcd.dc.gov/sites/default/files/dc/sites/dhcd/page_content/attachments/2020129%20Establishment%20%20Saving%20DCs%20Rental%20Housing%20Market%20Strike%20Force%20%281%29_O.pdf

- Provide economic and wealth-building opportunities for District residents in the expansion of the residential rental market.

Membership

Along with specifying members of her cabinet who would participate and the Chair the Strike Force, the order also specified the strike force would have members from the Council of the District of Columbia and at least one representative from each of the following categories:

- membership organizations that support the housing and economic development industries,
- housing providers,
- housing counseling organizations, tenant advocates, or tenants,
- financial services industry,
- the judicial branch and legal services organizations,
- housing policy research organization(s), and
- philanthropy.

The final list of Strike Force members included:

Polly Donaldson, Director, Department of Housing and Community Development, Strike Force Chair

AJ Jackson, Executive Vice President, JBG Smith Properties

Alex Baca, Housing Program Organization, Greater Greater Washington

Andrew Trueblood, Director, Office of Planning

Honorable Anita Bonds, At-Large Councilmember, Council of the District of Columbia

Aurelie Mathiéu, Assistant Attorney General for Policy and Legislative Affairs, Attorney General of the District of Columbia

Honorable Brooke Pinto, Ward 2 Councilmember, Council of the District of Columbia

Buwa Binitie, Managing Principal, Dantes Partners

Christopher Donald, Acting Executive Director, District of Columbia Housing Finance Agency

Dean Hunter, CEO, Small Multifamily Owners Association

Eva Rosen, Assistant Professor - McCourt School, Georgetown University

Honorable Elissa Silverman, At-Large Councilmember, Council of the District of Columbia

Evelyn Harrison, Resident, Worthington Woods Tenant Association⁵

Johanna Shreve, Chief Tenant Advocate, Office of the Tenant Advocate

Josh Bernstein, CEO, Bernstein Management Company

⁵ Evelyn Harrison Worthington Woods was duly appointed by MMB but was never sworn in and did not attend meetings of the Strike Force.

Kay Pierson, Director, Community Reinvestment Division, United Planning Organization

Kristy Greenwalt, Executive Director, District of Columbia Interagency Council on Homelessness

Laura Zeilinger, Director, Department of Human Services

Marian Siegel, Executive Director, Housing Counseling Services

Michelle Hagans, Board President, District of Columbia Building and Industry Association

Monica Warren Jones, Board President, Housing Association of Nonprofit Developers

Ralph Boyd, CEO, So Others Might Eat

Ramon Jacobson, Executive Director, LISC-DC

Randi Marshall, Vice President for Government Affairs, Apartment & Office Building Association of Greater Metropolitan Washington

Sarosh Olpadwala, Director of Real Estate, Office of the Deputy Mayor for Planning and Economic Development

Stephen Glaude, President, Coalition for Nonprofit Housing & Economic Development

Honorable Todd Edelman, Associate Judge, Superior Court of the District of Columbia

Tonia Wellons, CEO, Greater Washington Community Foundation

Tom Borger, CEO, Borger Management

Tyrone Garret, CEO and Executive Director, District of Columbia Housing Authority

Yesim Taylor, Executive Director, D.C. Policy Center

Timeline

A defining characteristic of the previous Housing Preservation Strike Force had been its short duration, only meeting for eight months, from September 2015 to May 2016. Due to the impending and potential scale of the current crisis, however, the Mayor's order provided the Saving Rental Housing Strike Force with only three months to complete its work, also timed to inform her fiscal year 2022 budget. Moreover, since the Strike Force's work took place during the declared public health emergency and as the spread of COVID-19 remained a significant risk, this Strike Force's deliberations took place entirely virtually with no opportunity for the members to get into an actual room together to work through the difficult task they were presented with. To assist in meeting this difficult timeline in a virtual world, the services of a facilitation and mediation consultant, Justice and Sustainability Associates (JSA) were procured and relied on from the very beginning.

The Strike Force followed the following formal schedule of meetings and presentations:

January Onboarding and Orientation meetings

[February 5, 2021](#) - First official meeting and discussion of the Housing Framework for Equity and Growth presented by Andrew Trueblood

[February 12, 2021](#) - Second meeting DC Rental Housing, Affordability and Rent Control presented by Yesim Sayin Taylor; a review of Housing Programs and the City's Housing

Budget by Polly Donaldson and a review of the Housing Preservation Fund and Efforts to Assist Small Buildings by Ramon Jacobson

[February 19, 2021](#) - Current Market Conditions Randi Marshall, and Research on Eviction Process, Eva Rosen

[February 26, 2021](#) - Overview of the Tenant Opportunity to Purchase Act (TOPA) & the District Opportunity to Purchase Act (DOPA) Ana van Balen, DHCD; Housing Stabilization Grants: Provider Needs and Lessons Learned Christopher Donald; Housing; and Commercial Conversion to Residential, Andrew Trueblood.

[March 12, 2021](#) - Discussion of Recommendations

[March 19, 2021](#) - Discussion of Recommendations

[March 26, 2021](#) - Extra Meeting - Discussion of Recommendations - Final Deliberative Meeting

In addition to the nearly weekly public meetings, the Strike Force members engaged in formal deliberations in two other forums: smaller work groups to consider specific recommendations, discussed further below, and in sharing written reactions, comments and suggestions with other members, as well as JSA and to the Strike Force Chair, Polly Donaldson, Director of DHCD.

A Changing Federal Landscape

One of the key motivations of the Mayor's Order, presented above, was contained in the phrase "rental assistance programs expiring due to exhaustion of existing funding; and a lack of additional local or federal funding." It seemed the District was facing the impending rental market collapse with little help to be expected from the federal government and with its own tax collections expected to decline. And as the Mayor's order was being prepared, this appeared to be particularly true. Then-President Donald Trump appeared unwilling to sign the Consolidated Appropriations Act of 2020 that contained additional federal rental assistance before he left office, and with a new congress and administration taking office it was uncertain if, and when, additional federal assistance would be available. That changed on December 27, 2020 when President Trump reversed course and signed the Consolidated Appropriations Act, which made available up to \$200 million in emergency rental and utility assistance to the District, as well as a variety of other unanticipated resources. And then, on March 11, 2021 as the Strike Force was attempting to wrap up its work, the American Rescue Plan was signed into law by President Joseph Biden. This provided access to up to \$152 million in additional emergency rental assistance and a variety of other types of housing and homeless assistance over the next few years. As a result, the Strike Force was less limited in the funding and new programs that it could consider and recommend than was initially anticipated, making it harder for members to remove proposals from consideration based on available funding alone.

The Strike Force Process

Following the charge in the Mayor's Order, the Strike Force members were initially asked to organize their recommendations and their work around three topic areas to answer some specific questions:

- 1) *The Transition from Emergency and Remaking Landlord-Tenant Policies and Practices*
 - a. How do we climb-down from this emergency stance and transition to a non-emergency set of protections? Including the eviction moratorium and TOPA tolling.
 - b. Which of these protections (current or improved) need to be retained after the emergency and initial recovery? What have we learned about what works and doesn't work during the pandemic?
 - c. How can non-emergency rent assistance be improved to help tenants maintain their homes and reduce the uncertainty of renting for tenants and housing providers alike? What other programs and reforms do we need?
- 2) *21st Century Rental Housing Reform*
 - a. Are there efforts we should consider for adding rent and income restricted affordable housing units within existing properties?
 - b. Under what conditions and for what properties might rent control exemptions be reduced? Under what conditions should exemptions from rent control be expanded?
 - c. What is the number one regulatory change that will unlock additional housing in the District during the recovery and what steps can we take in the short and medium term to make rent control in the city easier to understand, comply with, and administer?
- 3) *Rental Housing Market Recovery and Growth*
 - a. What are new initiatives that can optimize the federal investments in relief, recovery, and housing infrastructure? What should be the top priorities?
 - b. What factors should we consider when weighing whether to use tenant-based or project-based strategies for increasing District resident's access to affordable housing in the next 5 years?
 - c. What steps can the District take beyond tax cuts and additional subsidy to reduce the total cost of providing affordable housing for very low-income households in the District?

After the first couple of meetings, the Chair, Polly Donaldson, and the facilitator, JSA, split the Strike Force members into three roughly equal groups with representation across government and the non-government members. These groups were asked to suggest and vet recommendations in one of the three topic areas listed above.

Members of each of the groups were interested in all three topics, however, and as a result, the initial recommendations each group generated for the full Strike Force's consideration were not limited to the topic assigned their group.

The Chair and the facilitator, distilled and consolidated this first round of suggested recommendations, reorganized them by topic and reassigned them to what seemed to be the appropriate topic group. The Chair also suggested additional recommendations related to areas in the Mayor's charge that had yet to be addressed to spur consideration of these topics, and the process necessarily moved to a more general discussion within and across groups and at the full Strike Force public meetings of all recommendations and edits by all members across all three topics. The facilitator collected three rounds of edits and worked with the Chair to generate a revised a set of recommendations each time for consensus building.

Consensus Building

The Strike Force was tasked with reaching practical recommendations that could be implemented quickly to address the crisis. Given the breadth and the depth of the different perspectives on the Strike Force and among District residents, the Chair and JSA determined that the Strike Force would seek consensus recommendations rather than using voting or unanimous endorsement for selecting recommendations.

As defined by JSA, consensus-based decision-making processes are used to produce solutions that are broadly acceptable. Strike Force members were often reminded that reaching consensus does not mean every participant is 100% satisfied.

The task of the Strike Force as described above under the Mayor's charge, was to generate recommendations actions that are actionable. Seeking a consensus decision, while often a more time-consuming process than voting or other means of reaching a decision, places a higher value on the members of the group staying in the process and being willing to help implement the decision. Thus, seeking consensus can improve the chances that the recommendations will be put into action.

After the last public meeting of the Strike Force, there was a short list of recommendations that had generated significant interest and where the facilitator saw the potential for consensus.

The Chair used this final facilitator's list to draft a report that was distributed to members for additional input and final consensus building. Responses to the draft report were to be returned to the Chair of the Strike Force by April 16, 2021. The Chair revised the report and recommendations based on the comments received and prepared it for submission to the Deputy Mayor.

Strike Force Recommendations

Near-Term Recommendations

- 1) Prioritize rental assistance for those with the highest eviction risk, supplemented by distinct outreach strategies of rent relief programs for low, moderate, and middle-income residents as well as traditionally marginalized population subgroups.
- 2) Allow notices to cure, new eviction case filings, and evictions against residents who present current and substantial threats to health and safety to tenants, on-site agents or employees of the housing provider, or household members or guests of other tenants because of unlawful possession of firearms, serious threats, or acts of violence.

- 3) Determine ways to phase in the end of the eviction moratorium to manage the immediate impact of its end on the courts and service providers and to provide safeguards for vulnerable populations.
- 4) Seek ways to address the challenges pandemic-related emergency measures put on housing providers in ways that do not harm vulnerable residents.

Mid-Term Recommendations

- 1) Convene a Commission to re-examine rent stabilization goals, outcomes, and policy recommendations.
- 2) Review the requirements, limitations, and prioritizations of the existing Nuisance Abatement Fund and explore how to better target funds to quickly address housing violations without displacing residents.
- 3) Support TOPA by increasing funding to target the creation of affordable housing and tenant ownership and strengthen the use of DOPA to preserve existing affordable housing.

Long-Term Recommendations

- 1) Leverage federal funding to create more rent-and-income-restricted housing to meet the Mayor's Housing and Homeward DC Goals through improved acquisition programs for land, commercial buildings, and unassisted, naturally occurring affordable housing (NOAH) buildings.
- 2) Support increased density to produce more housing across all types of land use and explore procedural improvements to advance equity by spurring affordable housing production.
- 3) Create incentives to produce or preserve extremely- low to middle income affordable housing High-Opportunity Neighborhoods.

Discussion of Recommendations

The summary list of recommendation above is useful in highlighting the policy areas and approaches the Strike Force considered and specifically those where there was consensus as to their importance. But underlying each recommendation is a much broader conversation and significant details - points of agreement and disagreement - that need to be addressed.

Short-term: Emergency Assistance

The first recommendation on the structure of emergency rental assistance received considerable attention from Strike Force members from the beginning. Across the work groups and in the full Strike Force there was a high degree of agreement on the priorities for emergency rental assistance from the start. As raised above, this focus and agreement were facilitated by the recently announced availability of significant new federal resources in the Consolidated Appropriations Act of 2021 passed in December, immediately before the Strike Force began their work, and later, as the Strike Force deliberated, the American Rescue Plan added additional resources to the District's budget. The Strike Force recommends that we use these federal and additional District funds to stabilize renters, especially renters with the highest eviction risk.

The Strike Force felt that to support recovery across the city it was important that the District develop emergency rental assistance strategies for distinct subgroups and their different needs and economic prospects. Additionally, it was important to ensure equitable access by race, age, and immigration status to programs to address rent arrears accrued during the pandemic and to support future stability - before the eviction moratorium on nonpayment cases ends. The Strike Force recommends the following framework.

- **Plan:** Begin by quantifying the scope of the eviction cliff problem and ensuring methods and systems for efficiently channeling city resources and effectively tracking the use of funds in real time. Develop strategies for addressing barriers of access to information and resources. Within the constraints of federal funding, build upon recent experience with housing assistance programs, such as Housing Stabilization Grants, that have effectively distributed funds during the public health emergency.
- **Access:** All program components should ensure equitable and easy access for both tenants and housing providers, with an eye on minimizing the documentation burden for tenants and housing provider and a single portal for fund access, and should be integrated with District resources to ensure tenants and housing providers are efficiently served throughout the application process.
- **Outreach:** Strategic communication, outreach, and programming should be focused on renters who have received unemployment assistance or excluded workers' assistance, and renters who live in the highest eviction zip codes or in properties in the DC Rental Preservation Catalog. Outreach strategies should include collaboration among District agencies and trusted community partners.
- **Supplement:** Federal emergency rental assistance should be supplemented with local resources, if needed, to serve non-traditional workers, other populations who may not be eligible for federal emergency rental assistance, and tenants who require additional rent relief to sufficiently address rent arrears.
- **Connect:** Facilitate connections to other beneficial services by providing information on additional rental and related assistance support to applicants at the time of initial assistance through post-assistance follow up, including options for future relief if an eviction risk recurs.

Short-term: Planning for the End of the Eviction Moratorium

While there was significant agreement on the need and targeting of emergency rental assistance, and that effective emergency assistance with as few barriers to receipt as possible was a prerequisite for any more general liberalization of the universal moratorium, established as part of the District's initial response to the pandemic, there was significant disagreement regarding the next steps.

The Strike Force spent considerable energy on this topic as an express charge in the Mayor's Order and a general recognition that the current eviction moratorium would come to an end at some point.

Central to the Strike Force’s deliberations was whether there was a need to establish a “health and safety carve out” to allow some evictions ahead of the sunset the general eviction moratorium. As proposed by its proponents, this policy would allow an eviction to proceed in cases where the health and safety of other residents was threatened. Members generally were sympathetic to this idea that situations could occur where an eviction was necessary to protect other tenants, but the discussion centered on what constituted such a threat.

This discussion persisted until the final Strike Force meeting when the facilitator asked a small group of four strike force members Josh Bernstein, Ralph Boyd, Randi Marshall, Marian Siegel to develop compromise language to be considered by the group. Though concerns remained on both sides of the issue, the group was able to agree to present the following text to the Strike Force⁶:

Allow notices to cure, new eviction case filings, and evictions against residents who present current and substantial threats to health and safety to tenants, on-site agents or employees of the landlord, or household members or guests of other tenants because of unlawful possession of firearms, serious threats, or acts of violence.

Allow the eviction process to begin, under a narrow set of defined causes, when necessary to ensure health and safety in residential communities while respecting the public and individual health goals of the eviction moratorium.

- The legislative language should specify the meaning of key terms using definitions already found in DC law. “Threat” should be based on the definition of “threats to do bodily harm,” DC Code § 22-407, “crimes of violence” should be as defined in DC Code § 22-1331(D)(4), “unlawful possession of a firearm” should reference DC Code § 22-4503. Assault, as defined in DC Code § 22-404, also should be included.
- Notices to cure and eviction filing language should be reviewed to clarify that tenants do not have to move immediately and may correct or dispute the issue and to provide information about access to free legal services.
- Funds for legal assistance should be increased and the rules about program eligibility updated in conjunction with the change in the eviction moratorium to ensure tenants can easily get assistance to correct or dispute the issue.
- In cases of eviction, families should also be connected to assistance and resources that support the coordination and continuation of youth education, social services, and other critical resources.
- Property owners should be held harmless under District laws if they do not pursue nuisance act evictions during the eviction moratorium.

⁶ A bill utilizing a similar approach, B24-0163, Eviction Moratorium Public Safety Exception Emergency Amendment Act of 2021 was introduced by Strike Force member Councilmember Anita Bonds on April 1, 2021 and was passed by the Council on April 6, 2021 and transmitted to Mayor on April 20, 2021 Mayor Bowser signed the bill into law on May 3, 2021.

- Clarify that this exception only applies to new cases, where the landlord provides the tenant with a notice and then files an eviction case after this law goes into effect.

Beyond health and safety measures, the Strike Force recommends that the District plan a phased end to the eviction moratorium that supports the courts and service providers and provides safeguards for vulnerable populations beyond connecting them to rental assistance.

The phase-out of the eviction moratorium beyond the current 60 days at the end of the public health emergency should be based on measurable indicators of readiness such as metrics on public health, court capacity, and the availability and sufficiency of eviction prevention programs and emergency rental assistance.

To be ready, the Strike Force recommends the District improve tenants' connection to financial resources and problem-solving tools including mediation, legal, financial, and social services that support effective alternative resolutions to eviction cases. Specifically, the Strike Force recommends that District utilize federal funding and resources for the courts to support actions that alleviate the pressure on the court system. On that note, the Strike Force also recommends that the plan include the development and evaluation of an eviction diversion program pilot, in partnership with housing providers, tenants, legal service providers, and the judiciary. The program would facilitate pre-filing access for tenants and housing providers to a range of eviction prevention services to resolve disputes that can lead to eviction. The Strike Force recommends that the District base the program on nationwide research and emerging best practices and collaborate with community-based organizations that are currently implementing diversion programs in the District.

Short-term: Housing Provider Concerns

The housing providers and their representatives on the Strike Force presented proposals to address the challenges of the pandemic-related emergency measures for housing providers.

The challenges they cited included the inability to increase rents on vacant units, the desire for the District to change its laws to temporarily allow rent concessions for rent stabilized units during the public health emergency, and difficulties moving ahead on property sales due to TOPA timelines being stalled. These proposals generated considerable discussion and modifications similar to what occurred in the case of evictions in an effort to find a recommendation that could achieve real and timely relief to housing providers and stabilize housing markets without harming vulnerable residents. Ultimately there was not the basis for a consensus on a way forward by the time the Strike Force ended its formal deliberations. Some members were concerned that public health restrictions on in-person meetings would limit the ability of tenants to be informed and advocate for their own protections and lives. Therefore, the Strike Force recognized these housing provider concerns and recommends continuing this effort to find ways of relieving the destabilizing effects of the emergency measures while continuing to prioritize the health, safety, and housing stability of residents during the public health emergency.

Mid-term: Next Generation Rent Control

For Work Group Two, the question of next steps for rent control was the most controversial. The closest the group came to common ground were a provision to severely limit or abolish voluntary agreements, where there was widespread concern that this process in the current rent control statute to allow tenants and housing providers to negotiate over rents has been abused, and proposals to allow the conversion of rent controlled housing to rent-and-income restricted affordable units. Ultimately, however, the group concluded the time was too short to make meaningful progress or reach consensus on meaningful proposals and instead proposed to the full Strike Force a time-limited multi-stakeholder commission to examine rent stabilization.

The Strike Force recommends the rent control commission have the following objective: creating a set of shared values with respect to rent stabilization, assessing rent stabilization policies current success in achieving these shared values and goals, and identifying policy recommendations that can improve rent stabilization's ability to achieve the desired outcomes. The desired program outcomes would include, at minimum, price stability for renters, the stability of modest and moderately priced rental housing, and racial equity.

To consider and, if possible, to test any proposals, the work of the Commission would include an examination of the rent-controlled stock, current financing of housing providers, characteristics of households who live in rent-controlled units, voluntary agreements and petitions focused on building improvements, and multifamily property tax assessments.

In this vein, the Strike Force also recommends the District fund an in-depth study of the District's current rent stabilization policies and outcomes including a summary of the income levels of tenants in rent controlled buildings (at the ward or neighborhood level) to inform the work of the Commission. The study should be publicly funded and conducted by an independent, non-governmental organization and utilize existing data, the new Rent Control Database⁷, tax records and information on best practices and policies in comparable U.S. cities.

Of almost equal importance for the Strike Force was that the eventual commission have a balanced membership of rent stabilization experts, tenant advocates, housing providers, legal services providers, elected leaders, and government program administrators. The Commission would also accept broad community input in a variety of forms and forums.

Mid-term: Stabilizing Nuisance and Unsafe Properties without Displacement.

Work Group two also spent some time considering how to address poor living conditions and nuisance properties. The group noted that the District already had a statutory Nuisance Abatement Fund and sought to understand its role and potential better. Again, limited time meant the work group proposed a review the requirements, limitations, and prioritizations of

⁷ The revisions to the report text from Strike Force members noted it is critical to understand that all previous studies on rent control have been extrapolated from known building characteristics and not from a direct observation of the properties rent controlled status. DHCD does have an existing index of filings with the Rent Administrator related to rent control but those have not yet been utilized to date and the new Rent Control Database is only scheduled to be on-line by the end of 2021, but it may be some time until there is sufficient data to conduct such a study.

the existing Nuisance Abatement Fund. The purpose of the review would be to explore how to better target funds to quickly address housing violations without displacing residents.

The review would be of the Fund's use over the last five years and of similar efforts in other cities. This would be the basis for recommending changes to the existing Nuisance Abatement Fund to on preventing the displacement of tenants. This effort would also publish guidance for the public to the current Nuisance Abatement Fund that specifies how the fund is utilized and explains the priorities for abatement through the Fund.

Mid-term: Improving TOPA Outcomes

Rounding out the group of most controversial topics the Strike Force discussed, along with evictions and rent control, was the question of how TOPA could be improved to increase the efficiency of the District's housing market and its capacity to deliver more-affordable housing, both market rate and subsidized.

The discussion focused on two areas. The first was proposals to reform TOPA itself or provide shortcuts or exemptions for preferred projects. The second was financial and technical support for tenants and preferred projects going through the TOPA process.

In the first area, a specific proposal was made to provide an option for a payment-in-lieu of TOPA that could be made when a building was too new, too big and too expensive to be a likely target for affordable housing, specifically meeting all three of the following characteristics, 1) larger than 125 units, 2) over \$50 million and 3) less than 10 years old at the time of the contract. This proposal targeted the additional transfer tax to fund TOPA transactions and technical assistance for other properties or to provide additional affordability and assist tenants stay in place within the affected buildings.

Other ideas in this category were to exempt from TOPA all buildings that committed to creating or maintaining significant affordable housing or properties that are acquired by pre-approved developers for affordable housing through a first-right-of-refusal process that superseded the tenant's right to purchase.

While there was considerable energy around developing these ideas, within the full Strike Force none gained significant traction and they are not among the consensus recommendations. Many of the Strike Force members felt skepticism that the proposals would not weaken TOPA and some pointed out that as it currently exists, TOPA has a broader set of objectives than simply providing affordable or owner-occupied housing. In this vein, there was considerable interest in data on outcomes from the TOPA process as the foundation for an assessment of the law's effectiveness in meeting its objectives.

Related to the proposed changes to TOPA itself, the Strike Force does recommend that the Mayor explore with the Council and the Courts the opportunity to establish a right-of-first-refusal for the District, similar to DOPA, for any TOPA-eligible property that could be utilized expeditiously during TOPA-exempt court ordered sales such as bankruptcy, foreclosure, and receivership. The topic of extending TOPA (and DOPA) to court ordered sales was originally proposed and Strike Force members had varied views of the legality and efficacy of this more general approach but this narrower suggestion gained some support and was recommended for study.

The recommendations from the Strike Force related to TOPA and DOPA focused on the second area of reform, financial and technical support for tenants and preferred projects going through the TOPA process. The recommendations also call for the strengthening of the District Opportunity Act (DOPA), a companion to TOPA that allows the District to step in if tenants do not complete a TOPA transaction.

The first element of this recommendation was to increase funding to Community Based Organizations that provide TOPA technical assistance. But as part of this, many members the Strike Force felt it was imperative that such support include a mandate to hire and train additional specialized staff to educate tenants about their TOPA rights, to connect tenants with professional resources, and to assist them in exercising their rights. The specialized staff should include those well versed in the District's development process and real estate finance in addition to organizing and legal assistance so that properties were well prepared to complete necessary repairs and desired rehabilitation and remain financially stable. In particular, the Strike Force called out the need for an improved understanding of the operating cost requirements of properties when they go through TOPA and to meet the affordable housing needs of households at 30 percent of MFI or below.

The second element was an increase in funding for the Housing Production Trust Fund, DC Housing Preservation Fund, First Right Purchase Program, and Local Rent Supplement Program to preserve or create affordable housing through the TOPA process, with an emphasis on units serving households with incomes at 0-30 percent and 31-50 percent of MFI.

In addition to funding these existing and historical programs, the Strike Force recommends developing a new program or increase the capacity within an existing program to support the acquisition of small multi-family buildings (under 50 units) by tenant organizations and developers exercising TOPA or DOPA rights to create or preserve affordable rental or ownership housing protected by long-term covenants.

Long-term: Increase Affordable Housing Funding

The recommendation for increased funding in a variety of programs to facilitate TOPA transactions was discussed above. The Strike Force also recommends increasing funding generally to produce more rent-and-income-restricted housing to meet the Mayor's Housing and Homeward DC Goals through improved acquisition programs for land, commercial buildings, and unassisted, naturally occurring affordable housing (NOAH) properties of all sizes, including single-family homes.

The Strike Force also recommends increasing tenant-based assistance such as the Local Rent Supplement Program and reviewing its operations to ensure it is efficiently utilizing its resources and is being paired with appropriate tenant and housing provider services and technical assistance in ways that maximize the number of most vulnerable residents it serves. This recommendation will help the District serve the needs of the lowest income, most vulnerable households below 30 percent of MFI.

To assist working households, the Strike Force also recommends the District establish a permanent DC Flex program⁸ or explore similar longer-term shallow rental assistance for very low-income households with initial incomes below 50 percent of MFI who are in training for or

⁸ See <https://greaterdc.urban.org/blog/new-flexible-rent-subsidy-program-aims-help-working-families-afford-housing> [HUD analysis forthcoming]

employed within the District. The program should be designed to reduce any disincentive to increase earnings to afford housing in DC without assistance.

Paired with the support for those in the workforce, the Strike Force recommends support for programs to assist otherwise unassisted seniors, such as the Rental Assistance for Unsubsidized Seniors Program,⁹ a shallow rental support, and expanding coverage to include individuals with disabilities who rely on federal insurance and benefits programs and are at risk of being displaced from the District and increase funding to assist more households on a fixed income with this program.

Long term: Increased housing density across all types of land use.

The Strike Force recommends the District create mechanisms for stakeholders to be aware of and proactively support zoning changes and Planned Unit Developments (PUDs) that produce more housing with a focus on affordable housing, especially in high opportunity areas. Explore the use of new racial equity offices in District government to provide racial equity impact assessments of zoning changes and PUDs, with an analysis of racial equity implications of the affordability levels offered in PUDs.

In addition, the District should prioritize and provide technical assistance for projects on land owned by faith-based institutions, nonprofits, and other community-driven organizations. The District also should evaluate the opportunity of by-right designations for land proposing affordable housing developments, especially in high opportunity areas.

Following the recommendations of OP's "Single-Family Housing Report," change land-use designations to enable "gentle density," or, a variety of housing types and affordability levels in single-family zones in a targeted manner that prioritizes neighborhoods that are high-opportunity, high-cost, or near high-capacity transit.

Long term: Create Incentives to Produce or Preserve Extremely-low to Middle Income Affordable Housing.

In addition to providing zoning and planning relief and technical assistance, the Strike Force recommends the District study and implement innovative incentives for housing providers to provide housing for middle-income households that does not diminish or deprioritize support for the District's most vulnerable populations.

In particular, the Strike Force recommends that the District incentivize the preservation of NOAH by the District, for-profit, and non-profit entities to acquire land and/or naturally occurring affordable housing (NOAH) units, particularly in high-opportunity neighborhoods, and layer in long term affordability covenants.

- Provide financing, tax, and regulatory and other non-financial incentives in exchange for affordability covenants and opportunities for converting properties to long-term affordability.
- Run a pilot program, testing the opportunities for the District to set compensation standards for placing long-term affordability covenants on units without transfer of

⁹ <https://code.dccouncil.us/dc/council/code/sections/6-230.html>

ownership in properties that currently are not assisted with a District funding source and do not contain covenanted units.

Review HPTF statute to consider aligning its income limits with federal LIHTC guidelines and revise HPTF statute to maximize efficient use of federal resources while maintaining the statutory target of 50% of funding for 30% MFI.

- Utilize the District's authority to acquire IZ units to provide housing for households at or below 30% MFI.

Next Steps

This report was issued on May 21, 2021 and transmitted to the Housing Agency Partners coordinated by the Office of the Deputy Mayor for Planning and Economic Development.

Additional Information

A full record of the Strike Force's meetings including agendas, presentations, and minutes (including public comments), as well as the Mayor's Order establishing the Strike Force are available online at <https://dhcd.dc.gov/page/strikeforce> and upon request to dhcd@dc.gov.