



TZEDEK DC

Legal Help for People in Debt

Board of Directors

Irvin Nathan, *Member*
Courtney Weiner, *Vice Chair*
A. Robert Bloom, *Treasurer*
Rahsaan Bernard, *Member*
Rachel Kronowitz, *Chair*
Willard Tom, *Member*
Peter Edelman, *Honorary Director*
Paul Berger, *Honorary Director*
Ariel Levinson-Waldman, *Founding
President & Director-Counsel*
Ronald Glancz, z"l, *Permanent Member*

Advisory Council

Anthony Alexis
Roy Austin, Jr.
Nicole Austin-Hillery
Claude Bailey
Allyson Baker
Michael Baratz
Vivian Bass
Mathew Bruckner
Barry Coburn
Stephen Danzansky
Daniel Edelman
Andrew Eskin
Vicki Fishman
Marc Fleischaker
John Freedman
Shana Glickfield
Sally Greenberg
Andrew Herman
Mark Kahan
June Kress
Karen Ann Lash
Richard Lawch
Joshua Levy
Nancy Liebermann
Susan Liss
Stephen Marcus
Lorelie Masters
Carol Mates
Christopher McCannell
Dan Neustadt
Michael Nilsson
Kathryn Oberly
Ellen Oberwetter
BB Otero
Thorn Pozen
Harvey Reiter
Thomas Riesenber
Seth Rosenthal
Robert Rozen
James Sandman
Nina Simon
John Sturc
Kenneth Trombly
Rebecca Vallas
Roger Zuckerman

Statement for the DC Tax Revision Commission from Ariel Levinson-Waldman,
Founding President and Director-Counsel, Tzedek DC

May 3, 2023

Good afternoon. Thank you, Mayor Williams, for chairing this important Commission and for the invitation to testify and thank you to the entire Tax Revision Commission for your critical work. I'm Ariel Levinson-Waldman, President of Tzedek DC. Tzedek DC is a nonprofit organization with a Hebrew name meaning justice for DC. We are proudly headquartered at the UDC David A. Clarke School of Law. Tzedek DC's public interest mission is to safeguard the legal rights and financial health of DC residents with lower incomes facing predatory lending and abusive debt collection targeted disproportionately at Black and Latino residents—with the goal of addressing racial gaps in wealth.

Our strategic approach combines three programs: (i) free direct services—legal advice and representation and financial counseling; (ii) systemic change through coalition advocacy; and (iii) bilingual community education and outreach on debt collection, identity theft, and credit management. Tzedek DC serves adult DC residents with low-incomes and debt-related problems that impair residents' access to credit, ability to build wealth, and overall economic stability, impeding their access to health care, housing and food. Of those DC residents we provide direct services, 79% self-identify as Black, 9% as Latino, and 4% as multi-racial; 60% are women, and 25% have a disability—with race, gender, and disability often creating intersectional barriers to opportunity, economic stability, and healthy lives. Most live in Wards 5, 7, and 8. Since 2017, Tzedek DC has served over 3,000 client households in legal and financial matters, saving client families over \$3.5 Million, and with coalition partners has catalyzed systemic reforms benefiting hundreds of thousands of DC residents.

A significant aspect of this work involves advocacy to reform DC's fines and fees system for DC residents with low incomes. Critical thinking about fines and fees policy, which are sometimes referred to as regressive taxes, fits within what we believe is the Commission's scope, properly framed. The issues arising out of fines and fees presents an opportunity for the District and public to understand that just as taxes are revenue for the government, fines and fees similarly generate revenue and do so regressively, without regard for household income or the burdens of penalties and their associated

disruptions, and with the burden often falling on those least represented in the political process. Not only can these fines and fees quickly result in compounded debts owed but the collateral consequences current law places on them often create new, harmful obstacles to financial stability by, among other things, disqualifying residents from occupational and small business licenses.

The District has abundant resources among people and companies with high incomes and wealth to avert reductions to essential services. But like the country at large, the District has a legacy of racism and economic exclusion. In DC, Black residents are five times more likely to be poor than white residents, while white households have three times the income and 81 times the wealth of Black households. Conversely, the rate for Black residents having a debt in collections and thus harming their credit report is 5 times that for White residents (35 versus 7 percent).

Consistent with other witness testimonies to the Commission, Tzedek DC supports the Commission's developing recommendations for prioritizing equity in the District's revenue-related code provisions. Our testimony today focuses on the *additional* and closely related problems caused for residents by DC's fines and fees system. We encourage the Commission to focus on three areas for fines and fees reform.

First, the Commission should look at whether the current fines and fees system is more helpful than harmful. DC currently issues fines and fees to residents at an alarmingly high rate. A study published in 2020 showed, as the resulting DCist article aptly put it: "Washington D.C. Fines Its Residents More Than Any Other City In The Country". The Commission should consider, for example, strategies the Council could use to increase transparency in DC's fines and fees system. For example, the OCFO should be required to publish a report detailing the extent of FTE time and expense exhausted in debt collection efforts each quarter, and, for that effort, how many District dollars were used to collect debt each quarter. Quantifying the extent to which DC spends to recover owed funds may help clarify how aggressive its policies are and whether they are financially sound. Quarterly reporting could also provide additional clarification on the demographics of who owed the debt at the time of collections, which will provide additional context on the extent to which the District is owed money by and collecting from residents of lower-income. It should be no answer for OCFO to simply say, when asked the racial composition of those residents it is debt collecting against, "we don't know because we don't track that".

Second, the Commission should recommend that DC reform or abolish the current pay to play system for occupational and small business licenses. The District's fines and fees enforcement scheme has the effect of disqualifying tens of thousands of residents living in or near poverty from obtaining an occupational or small business license. The District does so through the so-called Clean Hands Law, D.C. Code § 47-2861, et seq. This law disqualifies people from renewing or obtaining a professional or small business license as a punishment if they owe the District more than \$100 in parking, traffic, or other fines or fees. The debt's circumstances are irrelevant under this scheme; non-renewal and disqualification are automatic. An individual who was fined in error cannot get, for example, a barbers or cosmetologist or plumber's or nurse's or social worker license renewed. Circumstances do not matter, including, importantly, there being no inquiry into a resident's inability to pay.

For individuals who can afford their outstanding fines, the Clean Hands Law is inconsequential: They typically enter a credit card account number into an online payment portal established by the District, obtain a receipt of payment, and then move on with their lives. But for those unable to pay their outstanding tickets, fines, or taxes, the impact of the Clean Hands Law is severe and often life-altering. The Clean Hands Law bars them from obtaining a professional license and, in many cases, entering the labor force at all. The Clean Hands Law creates a poverty trap, preventing indebted people from securing a license to earn the income they need to pay their debts. It pulls the ladder up and away from the District's most vulnerable residents in need of economic opportunity and advancement.

But DC's current law treats the two groups the same. That is a problem. If DC continues imposing this penalty, there must be an ability to pay inquiry or indigency exception. To avoid imposing unaffordable fines and fees on residents, the OCFO, Task Force, and DC government could analyze existing DC government systems used for benefit eligibility determinations to estimate the number of residents receiving assistance, their median income, and likely ability to pay a given fine or fee. While not all DC residents with low incomes receive government benefits and supports, and thus are captured within existing eligibility systems, reviewing these databases would provide an effective starting point regarding the number of residents and households who may be affirmatively harmed and suffer collateral consequences from receiving one fine or fee from the DC government they are unable to pay on time, let alone for that fine or fee to compound or be sent to collections. The U.S. Department of Justice's (DOJ) April 2023 letter noted the benefit of creating a presumption of indigency for certain classes of defendants, specifically the qualification for and receipt of public benefits or assistance, disability insurance, and food stamps/SNAP.

By barring individuals from attaining an occupational or small business license because of debt, the Clean Hands Law in the name of revenue generation prevents them from paying back that debt and, notably, from generating higher and income-generating income. It also disrupts the city's economy and workforce, harming both workers and employers. The Commission should recommend it be reformed or abolished.

Third, the Commission should examine ways the District can stop trying to balance the books through fines and fees. The planned revenue side of the District's budget raised from residents should come from taxes. Troublingly, the current proposed FY24 budget is poised to double down on the fines and fees revenue strategy. The proposed budget calls for 342 new automated traffic enforcement (ATE) cameras to be installed and projects \$578 Million in revenue from automatic traffic cameras over the course of the four-year financial plan. But as the DOJ noted in its April 2023 letter, unaffordable fines and fees and practices geared toward raising revenue that do not ultimately address public safety can erode public trust. The Commission as part of its holistic review of the tax system and tax rates and loopholes should identify ways DC can move away from this model.

Thank you for considering these recommendations.