

**Testimony of Steven Banks, Commissioner
Department of Social Services**

**Before the New York City Council General Welfare and Mental Health, Disability and Addiction
Committees**

Shelter Accommodations and Services for those with Disabilities

September 20, 2018

Good afternoon. I would like to thank the City Council's General Welfare and Mental Health, Disability and Addiction Committees as well as Chairs Levin and Ayala for giving us this opportunity to testify today about the Department of Homeless Services' work to ensure all applicants and clients, including those with disabilities, have meaningful access to shelter. My name is Steven Banks and I am the Commissioner of the New York City Department of Social Services (DSS). In this capacity I oversee the Human Resources Administration (HRA) and the Department of Homeless Services (DHS). I am joined today by our DSS General Counsel, Martha Calhoun. And I am also joined by my colleagues from the Mayor's Office for People with Disabilities, Commissioner Victor Calise and Deputy Commissioner and General Counsel Kleo King.

We have worked together on numerous projects together including ensuring the kiosks in HRA service centers are accessible to individuals who have vision disabilities, those who have limited reach ranges, and those with hearing disabilities.

Operating since 1973, the Mayor's Office for People with Disabilities (MOPD) is the liaison between New York City government and the disability community. MOPD, with the assistance of the New York City Department of Information Technology & Telecommunications (DoITT), launched a Call Service Platform (named ASL Direct) to assist Deaf constituents in New York City. Callers who are Deaf and who communicate in American Sign Language (ASL) will be connected to a MOPD staff member who is fluent in ASL, facilitating direct communication without the need of an interpreter. A second ASL Direct platform is being created at HRA.

One of MOPD's principal functions is being a resource to the disability community and to its City Agency partners. Relevant to the focus of this hearing, HRA and DHS worked with MOPD on housing-related issues with 1,280 constituents from June 27, 2017 through September 12, 2018.

In this testimony, I will begin by providing an update on the Mayor's *Turning the Tide* plan to transform the City's approach to providing shelter and homeless services, particularly focusing on the way in which we are creating an accessible system as part of our reform of the haphazard system that developed over nearly four decades. I will then describe how this new approach incorporates two recent settlements of long-standing federal litigation about accessibility, *Lovely H and Butler*, and our work both within and beyond these settlements aimed at improving shelter accessibility for people with disabilities.

Progress in Context: Turning the Tide

As you know, last year Mayor de Blasio announced *Turning the Tide on Homelessness in New York City*, a new approach to addressing the challenges of homelessness that is grounded on four core pillars: preventing homelessness whenever we can; rehousing families and individuals so they can move out of shelter or avoid homelessness altogether; addressing street homelessness; and transforming the City's haphazard approach to providing shelter and services that has built up over the last four decades.

While we know we have more work to do, we are headed in the right direction and we can report the following measures of progress so far:

Through our prevention first initiatives, including increasing funding for tenant legal assistance from \$6 million in 2013 to \$93 million in FY19 as part of the implementation of the first in the nation initiative for universal access to counsel in eviction cases, we provided over 264,000 rent arrears grants from FY14 through FY18, helping an average of 53,000 households each year. Since 2013, evictions by City Marshals have decreased by 27% and more than 70,000 New Yorkers have remained in their homes.

Because of the DSS rental assistance and rehousing initiatives, from 2014 through July 2018, 97,479 children and adults have relocated from shelter to permanent housing or averted homelessness altogether, with most benefiting from our new programs by moving out of shelter.

By doubling the number of street homeless outreach workers across the five boroughs and in the subways and doubling and soon tripling the number of safe haven beds, with an increased investment from \$44.6 million in FY14 to \$97.7 million this year, we have brought in 1,815 individuals from the streets and subways since we launched HOME-STAT in 2016 and these individuals have continued to remain off the streets and subways in transitional programs or permanent housing.

We have eliminated use of more than 1,800 individual units in the Giuliani-era cluster program – half the units in this 18-year program – as part of our plan to phase out clusters completely.

In fact, over the past year, we have reduced the DHS shelter footprint by getting out of 179 shelter sites, going from the 647 buildings we reported in the *Turning the Tide* plan 18 months ago to our current use of 468 buildings – which is about 30% of our goal to get out of 360 shelter locations and thereby shrink the overall DHS shelter footprint by 45% as we implement our multi-year transformation plan.

And beginning last year, we have already sited 21 new high-quality, borough-based shelter facilities, with 15 already operating fully.

As we continue to phase out 360 shelter location and replace them with the smaller number of 90 new borough-based shelters, we are committed to siting shelters that increase and enhance the shelter system's ability to provide meaningful access to DHS shelter and services for applicants and clients with disabilities, as well as increase our capacity to place children and adults as close as possible to their anchors of life – schools, jobs, healthcare, houses of worship, and family.

And as we develop new purpose-built shelters, of which we anticipate to be 25 of the 90 shelters under *Turning the Tide*, as well as implement various capital improvements and design and construction projects in the shelter pipeline, which are required to be compliant with all applicable building codes, including requirements concerning accommodating people with disability challenges or other reasonable accommodation needs, the shelter system will further develop to meet the needs of clients with disabilities. Indeed, with a Capital budget of over \$300 million for shelter development and improvement, we are increasing the proportion of existing shelter units that are accessible for people with disabilities.

Both through the Agency's work on the *Butler* Settlement and in general, we are working to improve the client experience by updating intake processes to ensure they are comprehensive, understandable, and properly implemented. This includes addressing client inquiries, training, robust technology supports, and creating back-end quality assurance measures. At intake and assessment, DHS asks clients a series of questions regarding their physical and mental health, disabilities, and/or functional needs. Self-reported answers to these questions assist DHS in determining client placement and the answers are stored in DHS's system of record. In addition, DHS allows reasonable accommodation requests to be made at any time, not only at intake. The agency will be revising and updating these intake forms through the *Butler* process, including updates to its system of record, which will also include ensuring that shelter eligibility investigations take disabilities into account when looking at potential viable non-shelter housing options.

In the DHS system, families are placed in private rooms, with either private or shared bathrooms, and these units can accommodate home health aides and/or visiting nurse services, for persons in need of such services, such as those who cannot independently complete their Activities and Daily Living (ADL). Shelter for single adults, being congregate settings under State regulation, cannot provide space and services to meet these needs.

To more effectively respond to these New Yorkers who turn to DHS for help, DHS has an Institutional Referral Discharge Procedure, which applies when, for example, a health care facility discharges a patient to shelter. This procedure was recently revised and updated with comments from Health and Hospitals, the Greater New York Health Association, and hospitals around the city, as well the Coalition for the Homeless. Through this revised procedure, DHS created templates for discharging institutions to complete so that DHS can evaluate a patient's appropriateness for shelter in accordance with State regulation. If a person is not medically appropriate for shelter pursuant to State regulation, this procedure enables DHS to collaborate with the health care facility to identify other options for the facility's patient, including supportive housing, nursing homes, or permanent housing with rental assistance and medical supports.

However, the settlements in the *Lovely H.* and *Butler* cases exemplify the reforms we are putting in place to provide clients with disabilities with meaningful access to our services, after many years when there have been barriers to obtaining essential services. In recognition of the major reform efforts that are involved, federal district court judges approved both settlements with multi-year implementation plans and milestones.

Lovely H.

The *Lovely H.* case, brought against HRA in 2005, and settled by the de Blasio Administration in 2015, highlighted the problems persons with disabilities in need of public benefits experienced in obtaining and maintaining the benefits and services to which they were entitled, including reasonable accommodations (RA). DSS is committed to ensuring that people with disabilities get the help they need, and therefore we settled the case to make public benefits more accessible to people with disabilities. Pursuant to the milestones in the federal court approved settlement, we are improving our ability to screen clients in need of reasonable accommodation as the result of physical and/or mental health disabilities, as well as providing case management. For example, we have:

- Issued an agency-wide reasonable accommodation/modification policy.
- Created a reasonable accommodation request, review, determination, and appeals process.
- Assisted clients in obtaining clinical documentation to support their reasonable accommodation requests.
- Developed a Client Services Screen that informs staff of all active reasonable accommodations for clients.
- Sent clients pre- and post-appointment reminders to assist them in meeting program requirements.
- Created a direct contact number specifically to serve clients with homebound/home visit needed status.
- Formed a Disability Advisory Panel to share information with and gather expertise, input, and feedback from the disability community.
- Implemented a full day *Introduction to Disabilities* training that is mandatory for all employees.
- Developed and are implementing a Supervisory Training that supports front-line supervisors in their ability to oversee the implementation of reasonable accommodations at their sites.
- Trained staff and developed reasonable accommodation processing and notification services in HRA central call centers such as Infoline.
- Created an "Office Hours" partnership between HRA staff and Street Homeless outreach teams to expedite homebound status services to street homeless clients.
- Issued a plain language and clear design policy to create client notices that are easier to read for clients with cognitive or visual disabilities.
- Worked with Expert Consultants to develop a Disability Screening Tool currently being implemented at five sites throughout the City and in the process of being rolled out to all HRA Job Centers.

Many of the policies and practices implemented at HRA pursuant to the *Lovely H.* settlement also benefit DHS clients as well as DHS service delivery. The integration of DHS and HRA within the shared-services model of DSS allows offices, such as finance, communications, personnel, external affairs and training to serve both agencies and share best practices and experiences. As a result, practices such as improved communications mechanisms, materials for the people who are blind or low vision, and

training of staff working with clients who are deaf or hard of hearing, benefit the clients both agencies serve.

Butler Settlement

DHS has the legal and moral mandate to provide essential shelter on demand to all eligible families and individuals who need it, and on the same day on which they apply. This requires having a system that not only has sufficient capacity and vacancies to be able to appropriately assign persons within the system, but a system that also provides sufficient capacity to accommodate the varying needs of people with disabilities.

Last December, the City of New York reached a federal court settlement of multi-year litigation to enhance access to shelter and its attendant services for applicants and clients with disabilities. This settlement capped years of productive negotiations with the Legal Aid Society (LAS), class counsel for a not only a class of plaintiffs that includes all applicants for and clients of DHS shelter who have disabilities, but also institutional plaintiffs, including the Center for the Independence of the Disabled of New York and the Coalition for the Homeless. The settlement, including a multi-year reform plan, was signed by all parties and approved by a federal court judge in the Southern District of New York, Justice Sweet, after a public comment period. This settlement is monitored by the Legal Aid Society over a period of five years from its effective date, and, pursuant to the terms of the settlement, Legal Aid is able to review and comment on DHS deliverables, including new and revised procedures as well as an accessibility survey tool developed by DHS' expert consultant and proposed remediation plan(s). The communication structure outlined in the settlement provides an avenue through which advocates can provide input on the many ways in which DHS is improving its system to increase shelter access for people with disabilities. At a December 7, 2017 public fairness hearing, Judge Sweet approved the settlement reached between the Agency and Legal Aid Society.

The comprehensive settlement provides that the City of New York will:

- Enhance the DHS's practices to ensure all applicants and clients with disabilities are provided reasonable accommodations to ensure meaningful access to homeless shelters.
- Utilizing the services of an expert consultant, survey intake sites, assessment sites, and selected shelters to identify barriers to access and develop remediation plans to enhance accessible features in existing shelters.
- Modify existing procedures, as needed, to enforce best practices in line with legal standards regarding accessibility, and retrain staff consistent with the federal, state, and city disability rights and DHS's enhanced practices related to disability rights.
- Ensure that shelter evacuation plans recognize the particular needs of people with disabilities.
- Provide communication accommodations for individuals who have vision or hearing disabilities.
- Conduct a population analysis of the DHS system based on available data sets to determine the percentages and types of persons with disabilities seeking or using DHS shelter services.
- Overall, ensure that the Agency has sufficient accessible capacity to meet the needs of homeless applicants and clients with disabilities.

DSS has committed to these reforms in order to improve shelter accessibility for individuals with disabilities. Even before its effective date in December 2017, DHS began work pursuant to the settlement because we recognized the important opportunity to reform our Agency's practices and ensure all applicants and clients with disabilities have meaningful access to the homeless shelter system. Given the magnitude of the reform effort, the parties agreed to, and the federal court approved, a five-year implementation timeline with interim milestones.

One key benchmark we executed is contracting with an expert architectural consulting firm to develop a DHS shelter survey tool consistent with the Department of Justice guidelines and survey existing DHS shelters, including all intake and assessment sites and other shelters already classified as accessible, and provide training such that DHS teams can continue survey work of additional and new shelters, and develop remediation plans to increase accessible shelter capacity, including an Initial Remediation Plan by April 2019. For this expert and comprehensive analysis, in consultation with the Legal Aid Society, DHS contracted with Steven Winter Associates (SWA), an expert architectural and building systems consulting firm with expertise in accessible design and ADA guidelines and construction requirements of federal, state, and local laws. SWA has vast expertise in this area, exemplified by their ongoing work since 2004 with respect to a Consent Decree between the US Department of Justice and the Housing Authority of Baltimore City (HABC) through which SWA has conducted field inspections of thousands of dwelling units and created remediation plans to ensure HABC was in compliance with the Americans with Disabilities Act (ADA). Their expertise working with plaintiffs, government agencies, and housing programs make them uniquely well-suited to assist DHS with its accessibility-based efforts. Moreover, the Department of Justice was one of the references we consulted regarding SWA before we hired them. And pursuant to the Settlement, the Legal Aid Society approved the City's hiring of SWA.

Under the Settlement and in accordance with the terms of the City's hiring SWA, the expert consultant will: survey existing intake and assessment sites as well as a stock of over 60 other shelters to assess accessibility at those shelters pursuant to the ADA Accessibility Guidelines and the Federal Department of Justice ADA Best Practices Toolkit; develop and implement a DHS facility survey tool, as well as attendant training for DHS staff to continue to survey shelters in its system as well as new shelters that are coming online; identify accessible features of facilities and individual units that can be added to DHS's Building Compliance System so as to make better and more accurate placements of clients with disabilities into appropriate shelter locations; and propose remediation of existing shelters to enhance and improve accessibility options for the DHS shelter system.

Our survey work with SWA involves conducting full-day, in-depth surveys at select DHS shelters that evaluate access to every public space in shelter, ranging from the shelter entrance to every common area, library, cafeteria, sleeping unit type, bathroom type, water fountain, and more. This analysis, combined with a population analysis, will provide deep insight into the current and anticipated characteristics of individuals with disabilities in shelter, along with the ways in which we can ameliorate barriers for them to access services. The initial analysis is expected to be completed in the spring of 2019, and we look forward to using the tools as a means to enhance our shelters in a manner that best serves individuals with disabilities. We are already using lessons learned in the early stages of the

architectural analysis to inform our efforts in siting new shelters and shrinking the shelter footprint through *Turning the Tide*.

Our success thus far in meeting this benchmark, as well as many others, is in large part due to the robust working group system we developed to enable staff across DSS/HRA and DHS to work together to implement the various components of the five-year plan. In this framework, staff members from more than 16 different program areas within our agencies collaborate to pool ideas and resources to maximize services for our clients. The working groups consist of teams of agency experts that focus on different components of the work to implement the *Butler* settlement's provisions. Importantly, these working groups are naturally interrelated and this structure enables each team to share ideas and implement changes that complement each aspect of the implementation plan. This dynamic and effective structure is a feature of the integration of DHS and HRA in which there are groups focused on policies, facilities, trainings, and, in this case, reasonable accommodation procedures.

With the *Butler* settlement, we are also expanding on our existing agency-wide goal to develop more enhanced reasonable accommodation processes for clients and applicants with disabilities. As I have testified previously, the DSS Office of Disability Affairs (ODA) ensures that the ability to request reasonable accommodations is readily available and simple, and that staff is properly trained on how to assist and expedite requests. The integrated working group framework to implement the *Butler* settlement has allowed DHS to draw from previous lessons learned from ODA's overall work and the work related to *Lovely H* and collaborate with staff representing adult shelters, family shelters, constituent services, customized assistance services, information technology services, and numerous other offices in our agencies to work out policies and procedures that will best implement reasonable accommodations across systems. A key component of this work is not only revising and retraining on processes and procedures, but also making the process more client-friendly and client-centric, and empowering staff to be able to grant these accommodations on site as much as possible. The DHS Director of Disability Affairs adds additional review and expertise in enhancing these efforts.

Finally, pursuant to the Settlement, to add more resources to this effort, DHS will be developing a team of Disability and Functional Need (DAFN) coordinators, who will work directly and on the ground with DHS clients and program staff at intake and assessment shelters, as well as program shelters, to triage issues pertaining to disabilities and reasonable accommodations, offer specific advice and knowhow, advocate for clients expressing accessibility-based needs, and focus on and identify areas for improvement and training.

In relation to the agreed-upon, five-year implementation timeline stipulated in the *Butler* settlement, which is overseen by the federal court and monitored by the Legal Aid Society, we are in line with the milestone time frame, or have, when needed, received a formal modification.

To date, we completed the following deliverables and milestones:

- As mentioned, we have hired an expert consultant firm SWA. Since that time, we have developed the DHS facility survey tool, which the Legal Aid Society approved, and have begun

surveying our intake and assessments sites. Our shelter survey selection criteria were also shared with the Legal Aid Society.

- We conducted an initial baseline population analysis which we expect to repeat periodically throughout the process, refining it as systems become more refined to track individual's specific requests and needs.
- We instituted an "informal relief mechanism" by which advocates, through LAS, can work with our agency's legal team to triage reasonable accommodation issues.
- A DHS Director of Disabilities Affairs was hired and, as indicated previously, a "DAFN" team is in the process of being hired.
- To ensure continuity of access to shelter and shelter-related services for our clients with disabilities who may be absent from shelter due to hospitalization or institutional placement, or clients entering shelter from such a facility, we developed and provided the Legal Aid Society with DHS's *Referral from Healthcare Facilities Policy* and a staff best practice guide.
- In addition to the reasonable accommodation work described above, we are revising our reasonable accommodations procedures and will be sharing drafts with Legal Aid Society in accordance with the settlement.
- Lastly, we are in negotiations with Legal Aid Society about the details of a monitoring protocol, which includes our progress implementing the settlement terms and performance and outcomes implementing our procedural and architectural changes.

As mentioned, DHS conducted an initial baseline population analysis, pursuant to the settlement, to determine the extent the shelter population may have a functional need and require some form of placement-related reasonable accommodation for a disability. This would include accommodations such as placements in accessible sites for people using wheelchairs, air conditioning, durable medical equipment, or auxiliary aids for communication, and placements in mental health shelters. The Legal Aid Society reviewed, commented upon, and helped improve the initial analysis, which is based on existing data in the DHS CARES system of record, as well as other systems including the Welfare Management System and SDX, and information from the US Census Bureau's American Community Survey, and will continue to be fine-tuned as we enhance our systems throughout the five-year plan to implement the *Butler* settlement and are able to collect more nuanced data. The initial analysis, which represents an analysis of November 2017 shelter residents, showed that 28% of households included one or more people who may have a condition requiring air conditioning; 28% included at least one person who may have a condition requiring specific appliances or medical equipment; and 18% of households included at least one person who may experience some form of mobility disability requiring accommodation, (for example, someone may require wheelchair-based accessibility options). Overall, 61% of households in the DHS shelter system included at least one person who may experience a disabling condition that may require a placement-related reasonable accommodation.

Although this initial analysis represents a specific point in time and the shelter population is not static, this extensive analysis it is still incredibly valuable in developing an initial level of understanding of people living in shelter and we are proceeding to build up our systems in accordance with this understanding. As we continue refining the analysis of the needs of the shelter population and turning

the tide on homelessness, we are prioritizing getting out of cluster sites, which overall tend to provide less access to features such as air conditioning and/or wheelchair accessibility than other types of shelter.

We are confident that the overarching aim of the *Butler* settlement, which is to provide reasonable accommodations, communicate effectively with clients with disabilities, and improve accessibility for people with disabilities who are homeless, will improve on our existing efforts to serve all New Yorkers who need our services.

Office of Disability Affairs

Our commitment to improving the lives of people with disabilities is embodied in our Office of Disability Affairs, which was established in 2015 and is housed in DSS to ensure that New Yorkers with disabilities have access to the full breadth of services that HRA and DHS provide. This Office ensures that the needs of persons with disabilities accessing or applying for HRA and DHS services are addressed. For example, we are doing so:

- By making available request forms for reasonable accommodations and accessible versions of frequently requested HRA information.
- Training public-facing employees on how to assist clients with disabilities.
- Addressing complaints from clients who feel they have been discriminated against or treated unfairly due to a disability.
- Working closely with disability advocates to collaboratively improve services.
- Reviewing and/or assisting with the development of policies and procedures related to serving people with disabilities.
- Providing technical assistance and support to DSS/HRA/DHS staff on serving people with disabilities.
- And hosting informative events, such as the all-day *Homeward Bound* event held last year dedicated to educating staff and DHS vendors about housing options for people with disabilities. This event, attended by 300 staff, including shelter provider staff, served as an opportunity for professionals who serve individuals with disabilities to listen to twelve speakers and presentations and learn about a variety of housing options specifically for people with disabilities such as Home Sharing, HPD Housing Connect Lotteries, Family-Type Homes for Adults, OPWDD-funded housing, Assisted Living Programs, Olmstead funding, Supportive Housing, and more.

To complement these efforts and to use as independent resources, ODA creates guides to help individuals navigate housing opportunities and to help staff learn best practices for serving clients with disabilities. For example, ODA put together a *Housing Reference Guide*, which is a guide of selected resources to help identify appropriate housing placements and subsidies available for people who are aging and/or have disabilities. This guide also includes addenda on Legal Services related to housing issues and a Home Modification Guide so that people with disabilities have the resources to either remain in homes or move into homes, once they are made accessible. The Office also created a *Desk*

Guide to Reasonable Accommodation Requests, which gives staff direction for how to process both informal and formal reasonable accommodation requests and a Desk *Guide to Working with Clients Who are Deaf or Hard-of-Hearing*.

ODA also has developed and conducts a variety of trainings for staff. ODA developed a mandatory full-day *Introduction to Disabilities* training for public-facing DSS and HRA staff that includes modules on history, legislation, disability etiquette and culture, and disability specific techniques that can better help the people we serve; and detailed instruction on the HRA reasonable accommodation process. Supervisors of Center-based staff are then required to take a Supplemental Training entitled: *Access for People with Disabilities – Ensuring Success Through Supervision*, which, as mentioned above, with input from the Mayor’s Office for People with Disabilities. In addition, this past summer, DHS and ODA rolled out the *DHS Auxiliary Aids and Services Training* –launched through iLearn, DHS’s new web-based training platform—to inform staff of strategies and procedures for serving clients who are deaf and hard of hearing.

Further, DSS has been fully committed to encouraging, and in some instances requiring, agency staff to take Mental Health First Aid Training, promoted by NYC DOHMH, which improves our ability to serve our clients with Mental Health conditions. Since 2016, 2,872 HRA staff and 451 DHS staff have been trained to be First Aiders.

The Office of Disability Affairs works to ensure the DHS and HRA internet sites have a page dedicated to providing access information to people with disabilities. The Office also works to ensure the respective agency Intranet sites have readily accessible reference materials for staff related to serving people with disabilities.

This Office includes a Director of Disability Affairs for Homeless Services. This person focuses specifically on supporting DHS and its applicants and clients with disabilities.

These are just some of the examples as to how DSS prioritizes the importance of ensuring clients with disabilities are well served and that needs are adequately addressed.

Transforming Shelter through New Investments and Partnerships

The City has made important progress transforming a haphazard system decades in the making by investing in historically underfunded not-for-profit service provider partners and facilities to ensure those partners are appropriately funded to deliver the services our homeless neighbors depend on as they get back on their feet; addressing conditions that have built up over many years; implementing the NYPD Management Team to oversee shelter security citywide; and raising the bar for services that we provide our homeless neighbors, moving away from a one-size-fits-all strategy towards a people- and community-based system that is response to families’ and individuals’ unique needs.

This includes:

- Addressing shelter conditions built up over decades through comprehensive repairs, renovation, and a new partnership with the NYPD to ensure a safe and secure environment for New Yorkers

in need as they get back on their feet. In 2016 and 2017, the Mayor's Interagency Shelter Repair Squad conducted more than 34,000 inspections and reduced violations that went unaddressed for many years by 84 percent—and we've allocated necessary funding to make further major renovations improving shelter conditions that have built up over decades and will continue making progress restoring our infrastructure.

- Investing in historically underfunded facilities and providers, dedicating unprecedented dollars (more than a quarter-billion new dollars annually) to modernizing the outdated rates that our vital provider partners had been receiving for years to ensure those partners are appropriately funded to deliver the services our homeless neighbors depend on as they get back on their feet, while expanding education-focused programs and increasing our social work staffing and mental health services.

Under the Mayor's *Turning the Tide* plan, DHS has already opened 15 of 21 new sites, and 12 of the first 15 received new Certificates of Occupancy, requiring them to meet all applicable requirements, including those concerning accessibility, under the most recent building codes. The remaining three locations (185th Street, 31st Street and North Star) all were opened under the building's existing Certificates of Occupancy. DHS's ongoing work relating to the *Butler* settlement also means that these, and other, shelter locations are subject to additional inspections for accessibility. The survey tool mentioned above is being used not only to identify remediation for existing shelters, but also to survey new shelters before they come online.

Since the announcement of *Turning the Tide*, we have made it clear in forums, meetings, communications with communities and elected officials, and in the plan itself that we are committed to ongoing engagement, and we invite interested communities to work with us on shelter siting. Shortly before our preliminary budget hearing earlier this year, we sent a letter to all 59 community boards, as well as to local elected officials, reiterating our request for input in site selection by helping to identify viable sites that not-for-profit providers can propose to us through our open-ended Request For Proposal procurement process. This commitment certainly extends to our efforts to improve access to shelter for those with disabilities. As we look to decrease our shelter footprint by getting out of clusters and commercial hotels and siting a smaller number of new shelters instead, we welcome input from communities and elected officials to help locate sites and buildings that are architecturally designed to accommodate individuals with physical and mental health disabilities. With your help to identify new and accessible sites, we can ensure that the next wave of borough-based shelters will provide additional capacity to reasonably accommodate and provide meaningful access for all.

Central to *Turning the Tide*, the Mayor's plan to transform the shelter system ensures that accessible capacity is equitably distributed across all five boroughs. As we turn the tide on homelessness, we will be able to maintain a vacancy rate to ensure the flexibility we need to implement a more equitable, borough-based system that takes into account the individual needs of the children and adults we must shelter, including the needs of New Yorkers with disabilities who are experiencing homelessness.

Conclusion

Overall, this Administration has continually demonstrated its priority of improving our policies, systems, and services to better the lives of low-income New Yorkers, including those with physical and mental disabilities. Beginning with the 90-day review of homeless services, we have focused on implementing measures that reinforce systemic change that will outlive the five-year plan laid out by the *Butler* settlement. We are still less than a year into implementing the reforms set forth in the *Butler* settlement, but the improvements we are making now and over the next few years will set up the City as a leader in implementing ADA-compliant approaches to enhance shelter accessibility. Our work to date has already helped us identify effective practices for how we serve clients with disabilities – and using the integrated working group framework, we have been able to implement procedures that reflect an efficient uniform system even among the programs that contain significant operational differences. Moving forward, the insight gained from this experience will allow us to best connect vulnerable New Yorkers to the services that enable them to thrive.

Thank you again for this opportunity to testify. Commissioner Calise and I welcome your questions.



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Testimony on Shelter Accommodations and Services for Those with Disabilities

Submitted to the Joint Hearing of the New York City Committee on Mental Health, Disabilities and Addiction and the Committee on General Welfare

September 20, 2018

Good afternoon. Thank you for the opportunity to testify today. My name is Elizabeth Lynam and I am the Chief Program Officer at AHRC New York City, a family governed organization providing services to individuals with Intellectual and Developmental Disabilities (I/DD). As you may know, AHRC New York City is one the largest nonprofit organizations in the nation, providing a wide array of services including residential, employment and day supports, recreational programs, educational, and clinical services to about 15,000 individuals each year. AHRC was founded in 1949 and has extensive experience working with New York State and City government partners to identify and address the needs of individuals with I/DD in a comprehensive, person-centered manner.

Over the years we have noted the significant rise in homelessness and its impact on the I/DD community in particular. In 2017, New York City had an average of 63,495 men, women and children sleeping in the City's homeless shelters every night compared to 44,402 just five years ago, an increase of 43 percent.ⁱ Of these individuals, the Coalition for the Homeless estimates 42 percent have a disability compared to 12 percent of the general population.ⁱⁱ This population is extremely vulnerable and requires special consideration, as you well know. We commend this Joint Committee for its commitment to bringing the issue of shelter accommodations and services for those with disabilities to the public agenda.

As you know, *Butler v. City of New York*, stipulates that the Department of Homeless Services (DHS) hire a Director of Disability Affairs to ensure policies are created that give people with disabilities meaningful access to DHS shelter services, educate all staff who interact with shelter applicants or residents about the laws pertaining to disability discrimination and DHS policies implementing disability rights, and hire an independent consultant to identify physical barriers to access and develop a remediation plan, among other recommendations.ⁱⁱⁱ We are aware that the Office of Disability Affairs, within the New York City Human Resources Administration/Department of Social Services, has been working with the I/DD community. However, in addition to the imperative to implement the *Butler* settlement agreement swiftly, we at AHRC New York City also ask you to think about how to address the issues of individuals with I/DD and homelessness more broadly. There are three points I would like you to consider today.

- 1. Prioritize early identification and continuous service provision for children with developmental delays including I/DD**—The New York City Department of Health and Mental Hygiene states that one in four children aged 4 months to 5 years is at risk for a developmental delay, with children from low-income families at higher risk.^{iv} Without proper screening and identification, these children may miss opportunities for treatment. Children within the shelter system have a higher chance of being overlooked for these screenings and treatments, increasing their risk of lifelong difficulty. DHS can play a key role in helping all children within the shelter system be identified early and connect to needed services. Efforts currently underway to provide more comprehensive individual planning in the shelter system should be expanded to include vital developmental screening and referral to evaluation professionals within the appropriate government and nonprofit agencies.

Once children have been identified as needing special education and other services to address I/DD and developmental delays, their services may be interrupted by the transient nature of their shelter accommodations. In 2017

The Institute for Children, Poverty, and Homelessness has estimated that there are 20,000 homeless three and four- year olds citywide, and likely over 4,000 homeless children in need of services through the New York City preschool special education programs not being reached.^v Initiatives to provide for continuous services (e.g., electronic records, dedicated tracking of correspondence with parents, and dedicated care coordinators) should be prioritized and expanded.

2. **Expedite evaluation and support services for adults suspected of I/DD**—Because adults with disabilities are disproportionately represented among the shelter population, it is also critically important to screen adults suspected of having disabilities stemming from a range of causes not limited to physical mobility. Past efforts rested on collaboration with other governmental partners including the New York State Office for People with Developmental Disability (OPWDD), Office of Mental Health (OMH), and the Office for Alcoholism and Substance Abuse Services (OASAS). For example, at one point the Developmental Disabilities Regional Office responsible for the New York City region had a homelessness liaison to expedite evaluation and placement for individuals suspected of and found to have I/DD. In recent years these critical partnerships have deteriorated, making it harder to connect individuals with needed services. Such cooperative efforts to expedite evaluation and placement for homeless adults with I/DD should be reinvigorated and given priority, especially for OPWDD.
3. **Close gaps in the service delivery system**—Some individuals, including many with high-functioning autism and/or those dually diagnosed with I/DD and mental illness may fall through the cracks because they do not meet the eligibility criteria for OPWDD services. These individuals also face difficulty accessing needed supports and services in the mental health system. Targeted initiatives and funding are needed to address the gaps in the

service delivery system for individuals who do not fit perfectly within the scope of either system.

In closing let me say again that AHRC New York City supports the recommendations put forth in the Butler settlement. We further ask for a renewed commitment to government collaboration among State and City government agencies and the nonprofit sector to improve access to services for individuals with I/DD and their families. As always, we stand ready to help.

Thanks again for the opportunity to testify today. I am happy to answer any questions.

ⁱ Routhier, Giselle. (2018, March). State of the Homeless 2018. Retrieved from www.coalitionforthehomeless.org/state-of-the-homeless-2018/.

ⁱⁱ Routhier, Giselle. (2017, September 7). Statement of Coalition for the Homeless in support of the Stipulation of Settlement Butler v. City of New York 15-cv-3783. Retrieved from http://www.coalitionforthehomeless.org/wp-content/uploads/2017/09/Statement_of_CFH_StipulationofSettlement_Butlerv.CityofNewYork-.pdf

ⁱⁱⁱ United States District Court Southern District of New York. (2017, July 7). United States District Court Southern District of New York, Stipulation of Settlement. Retrieved from <https://www1.nyc.gov/assets/dhs/downloads/pdf/butler-settlement-agreement.pdf>

^{iv} The New York City Department of Health and Mental Hygiene (2015). Identifying Developmental Risks and Delays in Young Children. Retrieved from <https://www1.nyc.gov/assets/doh/downloads/pdf/chi/chi-34-4.pdf>

^v Institute for Children, Poverty, and Homelessness. (2017). Missed Opportunity: Under-Identification of Homeless Children in NYC Preschool Special Education. Retrieved from http://www.icphusa.org/new_york_city/missed-opportunity-under-identification-of-homeless-children-in-new-york-citys-preschool-special-education/

**Testimony of
Jenny Veloz, Disability Justice Advocate
On behalf of
New York Lawyers for the Public Interest
Before
The Council of the City of New York
General Welfare Oversight Hearing:
Shelter Accommodations and Services for Those with Disabilities**

Good afternoon. My name is Jenny Veloz and I am an Advocate in the Disability Justice Program at New York Lawyers for the Public Interest (NYLPI). Housing advocacy for people with disabilities is a critical part of our work. Thank you to Chairperson Stephen Levin and the Committee on General Welfare, as well as Chairperson Diana Ayala and the Committee on Mental Health, Disabilities and Addiction, for the opportunity to present testimony today regarding shelter accommodations and services for persons with disabilities.

I. New York Lawyers for the Public Interest

For over 40 years, New York Lawyers for the Public Interest (NYLPI) has been a leading civil rights and legal services advocate for New Yorkers marginalized by race, poverty, disability, and immigration status. Through our community lawyering model, we bridge the gap between traditional civil legal services and civil rights, building strength and capacity for both individual solutions and long-term impact. Our work integrates the power of individual legal services, impact litigation, and comprehensive organizing and policy campaigns. Guided by the priorities of our communities, we strive to achieve equality of opportunity and self-determination for people with disabilities, create equal access to health care, ensure immigrant opportunity, strengthen local nonprofits, and secure environmental justice for low-income communities of color.

II. NYLPI's Disability Justice Program

NYLPI's Disability Justice Program works to advance civil rights and ensure equality of opportunity, self-determination, and independence of New Yorkers with disabilities. NYLPI disability advocates have represented thousands of individuals

and won campaigns improving the lives of hundreds of thousands of New Yorkers. We have long fought for equal access for persons with disabilities to government services, including shelters, and fought disability-based discrimination in housing. NYLPI's landmark housing victories include access to New York City Housing Authority housing for persons with disabilities, as well as ensuring that countless private landlords accommodate their tenants with disabilities.

Through our work, we have witnessed the impact inaccessible shelters have on families, where a member of the family has a disability. A mother living with her 18-year-old daughter, who has cerebral palsy and uses a wheelchair, takes her daughter up and down the stairs every day in her wheelchair – all by herself -- because the shelter does not have an accessible entrance. They have been in the shelter system for years and are having a challenging time finding an apartment because no one will accept their voucher. This mother does not have case management services to assist her in securing permanent housing for herself and her daughter. This is just one of many examples of how the shelter system is failing, not only individuals with disabilities, but their families as well.

III. The NYC Shelter System is Inaccessible to People who have Disabilities

There is an appalling lack of accessibility for people who have disabilities in the New York City shelter system. Individuals with physical, mental and intellectual disabilities are not provided the appropriate services and supports when in homeless shelters. People who use wheelchairs are placed in shelters that are wholly inaccessible. Federal, State and City law mandate equal access for persons with disabilities in shelters. Shelters are safe havens for people who do not have anywhere else to go. Shelters should be a stopgap measure, until permanent housing can be found. As such, accessibility in the shelter system should be the responsible agencies' main priority. Not only would this allow people to go about their lives during their time in shelter, but would also ensure that people with disabilities are given an equal chance at finding permanent housing.

IV. The NYC Shelter System Fails to Assist People with Disabilities to Find Permanent Housing

Accessibility extends beyond physical modifications. Accessibility means providing resources, such as qualified counselors and case managers. Accessibility also means making sure that individuals (especially those with disabilities) are given the tools to maintain permanent housing, for example assisting with finding an apartment,

assuring that individuals are not discriminated against because they have a voucher, and providing post-shelter case management to make sure that individuals remain self-sufficient and do not return to the shelters.

People in shelters are often given vouchers and told to look for apartments within a specified amount of time, usually without any guidance. Their attempts to find housing are unsuccessful because they are told by landlords, realtors, and management companies that vouchers will not be accepted. They are then forced to return to the shelters with no assistance on how to proceed. They have no recourse but to continue to stay in shelters for the unforeseeable future.

V. Recommendations

In order to ensure that New York City meets its obligation to ensure that people with disabilities in shelters are provided with equal access under the law, New York Lawyers for the Public Interest recommends:

Shelter Accessibility

- Contract only with accessible facilities
- Finance and incentivize construction to improve accessibility of current facilities
- Properly screen individuals to ensure that people with disabilities are sent to accessible shelters
- Develop protocols to respond to reasonable accommodation requests within the shelters

Voucher and Case Management Services

- Provide counseling for individuals with mental and intellectual disabilities
- Provide case management services during and after shelter stay (with emphasis on preventing discrimination based on voucher usage)
- Ensure HRA enforcement of vouchers by landlords and management companies
- Create a hotline to report landlords and management companies that do not accept vouchers

VI. Conclusion

Thank you for your efforts to ensure that for persons with disabilities in New York's shelters receive appropriate services. I can be reached at (212) 244-4664 or JVeloz@NYLPI.org, and I look forward to additional opportunities to work with you to ensure that persons with disabilities have equal access to housing in New York City.

September 20, 2018

Testimony of Elizabeth Corallo
On Oversight: Shelter Accommodations and Services for Those with Disabilities
Presented before
New York City Council
Committee on Mental Health, Disabilities, and Addiction
and Committee on General Welfare
September 20, 2018

I've been dealing with the shelter system since the hospital released me to Franklin Women's Shelter. At Franklin, they discriminated against me by denying me shelter more than four times, each time being sent back to the hospital and the hospital sending me back for the reason that my disability is paralysis from the waist down. I have many other problems also involving a daughter that was taken from me after my accident that almost killed me. Since I didn't have Medicaid, the hospital wouldn't send me to a physical rehab center like they were supposed to.

I sought out BRC for advocacy at Penn Station. When I told them that Franklin refused to accept me, they took my case stating that Franklin was the only women's intake shelter with wheelchair access and that it was illegal if I was denied. So BRC drove me to Franklin. At Franklin, they fought with us and would not even give me permission to enter the building. As the director was calling DHS, BRC told them I could not be denied. Eventually after a while that day, BRC left the minute they accepted me at Franklin.

Once inside the shelter, I faced other barriers. I was stuck not being able to even shower or get in my bed. I was denied the right to have a home health aide for my condition because they said those are the rules and stipulations of DHS. When my roommates saw the problems I was having, they offered to help. However, the guards in the shelter said if anyone was caught helping me shower, then they would kick me out. I didn't want to end up on the streets with me in this condition.

Everyday I was there, I begged to be placed in a facility that could fit my needs, but I was ignored constantly. Finally I talked to a lawyer outside the shelter. The shelter staff eventually came in my room later that day and said pack up, you're being moved. I asked to where, they said it was a shelter to suit my needs. I kept asking for information of where I was being placed. They told me I was being sent to a shelter where I could have a home health aide and get physical therapy. I had no choice to sign the transfer slip because in bold writing it said if I didn't sign the transfer slip, I would be kicked out the shelter. So I signed it.

When I got to Van Siclen's Women's shelter, they told me that whoever told me that I could have a home health aide and do the things they promised me was a liar, that this is not allowed in the shelter. I spent days sleeping in my wheelchair because the bed was higher than my chair and I couldn't slide into it. Also I spent days without showering because I needed help with that task.

DHS visited me personally to talk about my needed accommodations and transfer to a more appropriate facility. They told me lies and didn't do anything to help.

Eventually I was hospitalized after an assault by another client, which required stitches around my eye. I then moved from the hospital to Magnolia House shelter. Still same problems arose, I cannot shower because I need an aide. I am held prisoner by staff because I cannot travel alone, constantly going to the hospital because DHS will not help me access my medications and urinary catheter bags. I am in bad condition in DHS's hands. I also was robbed by the staff members of my medications when I came back from the hospital with a bottle paid for by the hospital of my pain medications which was Tylenol with codeine. I have proof that I did not take any, it was locked up in the staff office in the medication room and when I woke up the next morning it went from 20 pills to 9. I called the cops and made a report with the staff, but shelter staff refused to write a statement stating that they were stolen so I could go to the hospital and refill the prescription. There is nothing good coming to my situation here for the things that have happened and the way I was treated and still am treated. I have asked to be put in a physical rehab program. I've been denied even for a transfer to a medical facility. Something must be done because I'm getting worse, not better.

Testimony of Robinson Paolo
On Oversight: Shelter Accommodations and Services for Those with Disabilities
Presented before
New York City Council
Committee on Mental Health, Disabilities, and Addiction
and Committee on General Welfare
September 20, 2018

I am 99% blind, and the truth is I am better able to help myself because my mobility and ability to navigate spaces is good. At my shelter, Schwartz, on Ward's Island, they put blind people in the medical dorm. I am in a dorm of more than 30 of the most frail people in my shelter. Because there are more than 300 people in my shelter, there is a lot of noise which makes it hard to use my ear to navigate. In my dorm, I am always bumping into wheelchairs and walkers.

There are many incontinent people in my medical dorm and people are always soiling the floors, sinks, shower chairs, and toilet seats. I have touched feces several times and I have to tell people when I go to the bathroom so that they look out for filthy conditions. Blind people need to be in much cleaner and smaller facilities.

I am told there are at least 6 blind people on Ward's Island. It's impossible to know where you are here and easy to get lost with no help because the island is big and barren. Outside, it is too quiet and there are no pointers.

My locker is too small, and not very accessible or usable because it has very few shelves. Blind people need a compartmentalized locker where they can know where things are. I need someone to help me organize my belongings and there is no such person at my shelter. To lock it, they provided me with a combination lock and I had to use my own money to buy a lock that uses a key.



Testimony of
Coalition for the Homeless
And
The Legal Aid Society
On
Oversight – Shelter Accommodations and Services for Those with Disabilities

Presented before
New York City Council
Committee on Mental Health, Disabilities & Addiction
And
Committee on General Welfare

Jacquelyn Simone
Policy Analyst
Coalition for the Homeless

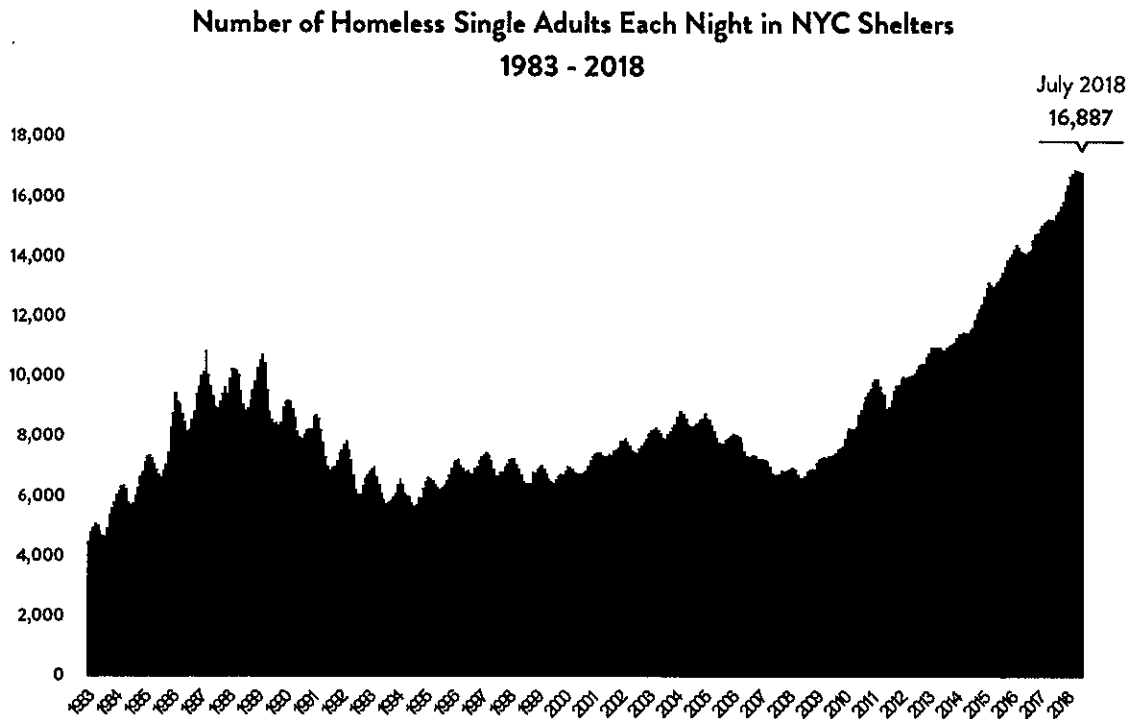
Beth Hofmeister
Staff Attorney
The Legal Aid Society

September 20, 2018

The Coalition for the Homeless and The Legal Aid Society welcome this opportunity to testify before the New York City Council Committees on General Welfare and Mental Health, Disabilities, and Addiction regarding shelter accommodations and services for people living with disabilities.

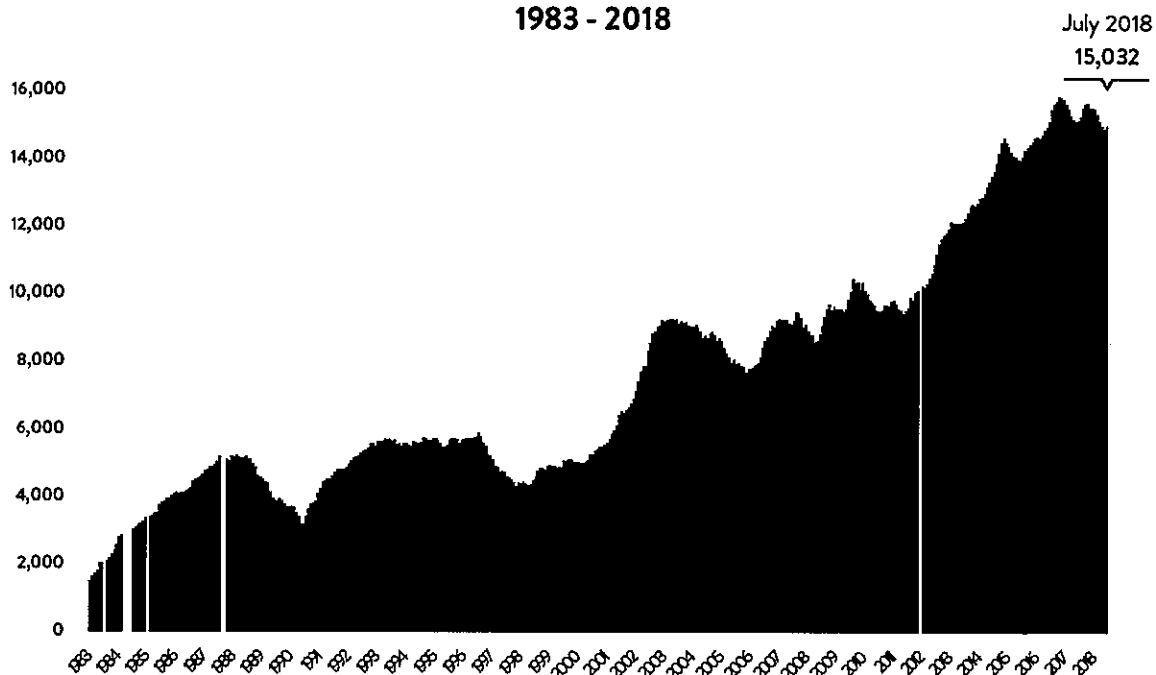
Record Homelessness in NYC

New York City remains in the midst of the worst homelessness crisis since the Great Depression, but recent trends have not impacted homeless families and adults evenly. Even as the number of homeless families in shelters has levelled off, the situation for homeless single adults is dire. The number of homeless single adults in shelters hits new records on a daily and weekly basis. In July 2018, there were 16,887 homeless single adult men and women sleeping in shelters each night, up 11 percent from the year before and 154 percent from a decade ago.



Source: NYC Department of Homeless Services and Human Resource Administration; LL37 Reports

Number of Homeless Families Each Night in NYC Shelters 1983 - 2018



Source: NYC Department of Homeless Services and Human Resource Administration; LL37 Reports

The reasons for the drastic increase in the number of single adults are not well understood, but data from the City and State indicate large increases in the number adults being released from State prisons directly to the shelter system; increases in the number of adults discharged from medical, psychiatric, or other institutions; and increases in the number of adults being forced into homelessness from tenuous housing situations, such as overcrowded or unsafe living environments.¹

The Coalition's ongoing monitoring of and nightly visits to the City's shelters have elicited ample anecdotal evidence suggesting that a significant number of individuals with disabling conditions – medical, psychiatric, and cognitive – currently reside in shelters. Many of these adults have not been properly accommodated in the shelter system for *years*, and some of DHS's current policies and practices actually exacerbate the problems experienced by these vulnerable men and women. While these problems are not limited to the shelter system for single adults – many homeless people in the shelter system for families also have disabilities that are not being accommodated – the Coalition has encountered more widespread and systemic problems in the shelter system for single adults. While the Coalition, The Legal Aid Society, Center for Independence of the Disabled New York (CIDNY), and other advocates have worked for years to ensure that individual clients are accommodated on a case-by-case basis, the need for significant systemic change is imperative.

¹ Source: NYC Department of Homeless Services, via FOIL, and NYS Department of Corrections and Community Supervision.

Butler v. City of New York

In May 2015, The Legal Aid Society sued the City of New York and DHS on behalf of two clients who were attempting to enter an adult family shelter but were unable to do so because DHS did not accommodate their respective disabilities. On August 3, 2016, Legal Aid amended the complaint to include five additional named plaintiffs as well as the Coalition for the Homeless and Center for Independence of the Disabled New York (CIDNY) as institutional plaintiffs.² The case was also converted to a class action on behalf of all disabled New Yorkers who were residing in or had attempted to enter shelters. After extensive settlement negotiations and a Fairness Hearing before Judge Sweet in the Southern District of New York, the Stipulation of Settlement³ was signed and became effective on December 7, 2017, and will remain under the Court's jurisdiction for at least five years.

The *Butler* settlement mandates the City to retrofit existing facilities and include these accommodations at future shelters to ensure accessibility for homeless New Yorkers with disabilities, and to ensure that accessible shelters are not segregated in any one part of the city. In order to comply with the agreement, the City will likely have to replace many older, non-compliant shelters and offices with new facilities, providing a further rationale for Mayor de Blasio's proposed citywide shelter plan. The *Butler* settlement was designed to accommodate the various stages of a complex, large-scale, systemic overhaul of New York City's shelter system. The various stages of the plan build upon one another over a five-year period, and the settlement includes specific milestones and deadlines that dictate how and when the changes are made.

Generally, the settlement requires the City to:

- Provide reasonable accommodations to ensure meaningful access to homeless shelters;
- Survey existing shelters and offices to identify barriers to access;
- Make accessible shelters available where people need them, so that people with disabilities are not segregated from the general population;
- Ensure that emergency plans recognize the particular needs of people with disabilities;
- Develop procedures to secure the shelter placements of residents who are hospitalized;
- Retrain staff consistent with the City's legal obligations;
- Provide communication accommodations for individuals who are seeing- or hearing-impaired;

² The Butler Amended Class Action Complaint can be viewed at http://www.coalitionforthehomeless.org/wp-content/uploads/2017/08/FiledComplaint_Aug2017.pdf.

³ The Butler Stipulation of Settlement can be viewed at <https://www1.nyc.gov/assets/dhs/downloads/pdf/butler-settlement-agreement.pdf>.

- Modify existing procedures to ensure they do not discriminate against people with disabilities; and
- Assess the expected demand for shelter by people with disabilities and develop a plan to provide sufficient shelter to meet that demand.

As Legal Aid continues to monitor the City's compliance with the settlement over the coming years, Plaintiffs have the ability to assist advocates when their clients are unable to access shelters or obtain reasonable accommodations at all, or in a timely manner. Advocates should contact us at ButlerCase@legal-aid.org to receive the form for clients to obtain informal relief as the settlement period continues.

Exclusion from Shelter for Single Adults with ADL Assistance Needs

In the meantime, Coalition and Legal Aid continue to advocate for DHS to meet the needs of people with disabilities. A current pressing concern relates to how DHS accommodates individuals in shelters who require assistance with activities of daily living (ADLs) in order to live independently. This may include assistance transferring from a wheelchair to a bed, or assistance bathing and toileting. There are individuals who may require such assistance, but who do not have such severe or acute medical needs that they require placement in a medicalized setting. They are thus able to live independently with assistance – such as from a home care attendant.

A recent DHS policy issued in June 2018 governing discharges by healthcare facilities explicitly states that any single adult who needs any basic assistance with his or her ADLs is deemed not appropriate for shelter, with no alternative independent setting offered. The policy allows for limited personal assistance of short duration, such as for wound care or injections, but has a strict threshold for ADL independence beyond short-term assistance. It is worth noting that this policy does not apply to families with children or adult families (families with no minor children) – thus, household composition is the only barrier to an individual in need of shelter who also requires assistance with ADLs.

EC is paralyzed from the waist down and uses a wheelchair to ambulate. She is unable to bathe or transfer to bed on her own and, per her doctor's orders, is in need of a home health aide. Coalition for the Homeless monitors have met her on several occasions and have been documenting her needs to DHS since mid-June. DHS has not provided appropriate accommodations to her and maintains that she is inappropriate for shelter, despite her ability to care for herself with assistance.

AP requires a home health aide per her doctor's orders for multiple health-related issues, including a history of stroke and a seizure disorder among other conditions. She is currently living in a DHS shelter without necessary home care, despite Coalition monitors notifying DHS of her needs in mid-June.

Access Control Searches of People who Use Mobility-Assistance Devices

To date, DHS does not have a finalized and comprehensive policy for allowing search procedure accommodations for people who use mobility-assistance devices, such as wheelchairs, motorized

scooters, walkers, or canes. Current search procedures, for which guidance was only sent in April 2018, require all individuals entering a shelter to walk through a magnetometer or be searched with a handheld magnetometer. DHS requires that mobility-assistance devices also be searched and requires the individuals using them to transfer to a separate chair – but has no policy ensuring the appropriateness of the chair made available for transfer, or ensuring that transfers are done without creating discomfort or pain for the individual.

Permanent Housing Needs

The largest underlying and unmet need remains the lack of permanent, affordable housing for homeless individuals and families, particularly for those with disabilities. Without an adequate housing supply or meaningful pathway into permanent housing, individuals living with disabilities will continue to experience challenges within the shelter system. The dearth of permanent affordable housing is evidenced by the increasing amount of time people stay in shelters before finding permanent housing, with single adults staying in shelters for an average of 401 days in fiscal year 2018 – 18 days longer than the prior year’s average length of stay.⁴ Many homeless New Yorkers with disabilities experience even longer stays in the shelter system due to the limited supply of housing that is both accessible and affordable. The City must bring affordable housing solutions to scale. The Coalition and Legal Aid continue to call on the Mayor to allocate at least 10 percent of his *Housing New York 2.0* plan to homeless New Yorkers, including 24,000 units to be created through new construction. Newly built units have a much greater likelihood of appropriately accommodating the needs of individuals with disabilities, particularly those with physical disabilities and mobility-assistance devices. With our recommendations, the Mayor’s housing plan has the potential to make a real and meaningful impact in reducing homelessness and related trauma and suffering.

Conclusion

We thank Chairs Diana Ayala and Stephen Levin, as well as Speaker Corey Johnson, for allowing us to testify regarding these important issues. We welcome the opportunity to answer any questions.

⁴ Source: Fiscal 2018 Mayor’s Management Report.

About The Legal Aid Society and Coalition for the Homeless

The Legal Aid Society: The Legal Aid Society, the nation's oldest and largest not-for-profit legal services organization, is more than a law firm for clients who cannot afford to pay for counsel. It is an indispensable component of the legal, social, and economic fabric of New York City – passionately advocating for low-income individuals and families across a variety of civil, criminal, and juvenile rights matters, while also fighting for legal reform.

The Legal Aid Society has performed this role in City, State and federal courts since 1876. It does so by capitalizing on the diverse expertise, experience, and capabilities of more than 1,100 lawyers, working with some 800 social workers, investigators, paralegals, and support and administrative staff. Through a network of borough, neighborhood, and courthouse offices in 26 locations in New York City, the Society provides comprehensive legal services in all five boroughs of New York City for clients who cannot afford to pay for private counsel.

The Society's legal program operates three major practices — Civil, Criminal, and Juvenile Rights — and receives volunteer help from law firms, corporate law departments and expert consultants that is coordinated by the Society's Pro Bono program. With its annual caseload of more than 300,000 legal matters, The Legal Aid Society takes on more cases for more clients than any other legal services organization in the United States. And it brings a depth and breadth of perspective that is unmatched in the legal profession.

The Legal Aid Society's unique value is an ability to go beyond any one case to create more equitable outcomes for individuals and broader, more powerful systemic change for society as a whole. In addition to the annual caseload of 300,000 individual cases and legal matters, the Society's law reform representation for clients benefits more than 1.7 million low-income families and individuals in New York City and the landmark rulings in many of these cases have a State-wide and national impact.

The Legal Aid Society is uniquely positioned to speak on issues of law and policy as they relate to homeless New Yorkers. The Legal Aid Society is counsel to the Coalition for the Homeless and for homeless women and men in the *Callahan* and *Eldredge* cases. The Legal Aid Society is also counsel in the *McCain/Boston* litigation in which a final judgment requires the provision of lawful shelter to homeless families. The Society, in collaboration with Patterson Belknap Webb & Tyler, LLC, filed *C.W. v. The City of New York*, a federal class action lawsuit on behalf of RHY in New York City. Our goal in litigation is to ensure that the City creates and maintains enough youth-specific beds to meet the needs of *all* youth seeking shelter. The Society, along with institutional plaintiffs Coalition for the Homeless and Center for Independence of the Disabled – NY, settled *Butler v. City of New York* on behalf of all disabled New Yorkers experiencing homelessness.

Coalition for the Homeless: Coalition for the Homeless, founded in 1981, is a not-for-profit advocacy and direct services organization that assists more than 3,500 homeless New Yorkers each day. The Coalition advocates for proven, cost-effective solutions to the crisis of modern homelessness, which is now in its fourth decade. The Coalition also protects the rights of

homeless people through litigation involving the right to emergency shelter, the right to vote, the right to reasonable accommodations for those with disabilities, and life-saving housing and services for homeless people living with mental illness and HIV/AIDS.

The Coalition operates 11 direct-services programs that offer vital services to homeless, at-risk, and low-income New Yorkers. These programs also demonstrate effective, long-term solutions and include: Supportive housing for families and individuals living with AIDS; job-training for homeless and formerly homeless women; and permanent housing for formerly homeless families and individuals. Our summer sleep-away camp and after-school program help hundreds of homeless children each year. The Coalition's mobile soup kitchen distributes over 900 nutritious hot meals each night to homeless and hungry New Yorkers on the streets of Manhattan and the Bronx. Finally, our Crisis Intervention Department assists more than 1,000 homeless and at-risk households each month with eviction prevention, individual advocacy, referrals for shelter and emergency food programs, and assistance with public benefits as well as basic necessities such as diapers, formula, work uniforms, and money for medications and groceries.

The Coalition was founded in concert with landmark right to shelter litigation filed on behalf of homeless men and women (*Callahan v. Carey* and *Eldredge v. Koch*) and remains a plaintiff in these now consolidated cases. In 1981, the City and State entered into a consent decree in *Callahan* through which they agreed: "The City defendants shall provide shelter and board to each homeless man who applies for it provided that (a) the man meets the need standard to qualify for the home relief program established in New York State; or (b) the man by reason of physical, mental or social dysfunction is in need of temporary shelter." The *Eldredge* case extended this legal requirement to homeless single women. The *Callahan* consent decree and the *Eldredge* case also guarantee basic standards for shelters for homeless men and women. Pursuant to the decree, the Coalition serves as court-appointed monitor of municipal shelters for homeless adults, and the City has also authorized the Coalition to monitor other facilities serving homeless families. In 2017, the Coalition, fellow institutional plaintiff Center for Independence of the Disabled – New York, and homeless New Yorkers with disabilities were represented by The Legal Aid Society and pro-bono counsel White & Case in the settlement of *Butler v. City of New York*, which is designed to ensure that the right to shelter includes accessible accommodations for those with disabilities, consistent with Federal, State, and local laws.

Kenneth Dukes
Keener

FOR THE RECORD

I have been in the same shelter for four and a half years and have had the LINC housing voucher for the entire duration, but only one housing visit two years ago. I have edema in my legs and am wheelchair-bound because when I had back surgery to repair a back injury, they had to move some nerves to install titanium to secure discs in my back that allow my legs to move. Moving the nerves messed up the circulation in my legs.

I am not complaining about my body, but that the shelter staff are not helping me and as such I have been deteriorating. When I came into the shelter system, they said the shelter would afford me all the services I need, but this is not the case where I live. I have to pay other clients to help me access my legs to put on socks and shoes or to elevate my legs on my bed. I have had doctor's letters about the need for medical accommodations refused by administrative staff. Gravity pulls the water down in my legs, and what I need is a bed that elevates them. When I brought in a medical note that I need a wedge – paid for by my health insurance – to elevate my legs, this was denied. In the past 9 months, my condition has worsened.

People with my condition need a bath tub to soak my edema and my back. There is no such service in my shelter of more than 300 men. The shower chairs in the accessible bathrooms are too small compared to doctor recommendations. Also, the shower chairs are always in demand because in my shelter there are more than 20 wheelchair-bound clients plus many with walkers. In fact, these first-floor bathrooms that are on the medical floor are used by everyone in the shelter because of convenience, so they are always filthy and have mold and I find it hard to sit in them. Plus, people are always drying clothes on the accessible shower chairs.

I don't eat in the shelter because the cafeteria benches are not accessible with a wheelchair as they don't allow you to roll up on them, and people are always sleeping on benches. Even the inconvenient long ends of tables are always occupied by someone on a wheelchair.

On Ward's Island, there are close to 60 men in wheelchairs. Public transportation is either inaccessible for us or there are long waits.



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Center for Independence of the Disabled, NY

September 20, 2018

Testimony before the Mental Health, Disabilities
and Addiction Committee and the General
Welfare Committee of the New York City
Council

Regarding Shelter Accommodations and
Services for Those with Disabilities

Susan M. Dooha, J.D.

Executive Director

Center for Independence of the Disabled, NY

Thank you for this opportunity to appear before you today. It is an honor to appear with Mr. Jones, a member of our Board of Directors, who can speak first hand about the experience of being in a New York City shelter.

Together with the Legal Aid Society and Coalition for the Homeless, we participated in a class action lawsuit in 2016 seeking to bring the Department for Homeless Services (DHS) into compliance with the Americans with Disabilities Act.

The signing the Stipulation of Settlement, the City agreed to accomplish a number of things within 5 years (by May 2022), including:

- Retrofit existing facilities to make them accessible and ensure accessibility in future shelters;
- Ensure that people with disabilities are not segregated in any one shelter or part of the city;
- Provide reasonable accommodations to ensure meaningful access to homeless shelters;
- Ensure that emergency plans include the particular needs of people with disabilities;

However, since then we have noticed a number of persistent and emerging issues:

Shelter accessibility in existing facilities and future shelters.

It appears that DHS has stated that capital improvement design and construction in the pipeline and newly opened sites that are privately owned will all *meet building codes* and that this is sufficient to assure that there will be no concerns about accessibility. However, this is incorrect. According to the Fair Housing Justice Center, the State *Building Code is not deemed to be a "safe harbor"* and while builders must follow the state building codes, they must *also follow the Fair Housing Act Accessibility Requirements*. The homeless shelters, whether owned and operated by the City or by a non-City entity under contract must comply with requirements related to service animals, modifications, wheelchair access, accessible entrances on accessible routes,

access to public use and common areas, doors, routes through dwellings, bathrooms, etc. The Americans with Disabilities Act applies to public areas. If it were the case that all new buildings comply, then there would not be so much successful litigation against building owners, managers and architects.

People with disabilities have a right to live in the most integrated setting.

In the past, DHS provided services for people with disabilities who need assistance performing activities of daily living by providing a small number of beds at a shelter called Barrier Free Living. This facility had an excellent reputation. It has been closed and the City's actions played a role in its closure. Although it was a wonderful program, it was segregated. People with disabilities must be able to participate in the program in an integrated setting. They may not be refused housing in any shelter because they need assistance with activities of daily living. They may not be excluded altogether because of requiring this assistance.

Therefore, we are alarmed about the new policy to stop serving people with who need assistance with any activity of daily living (meaning disabilities) who are referred from nursing facilities. In our view, this violates the Stipulation of Settlement in the Butler case which requires that shelters permit individuals to have personal assistance or a home health aide in shelter. Further, the State Constitution provides that people--including people with disabilities--have a right to shelter. There is no reason that such individuals or families cannot be accommodated with single or double rooms. It is not a fundamental alteration of the program or an undue burden to do this.

Reasonable accommodations must be provided

Mr. Jones' experiences are indicative of the failure of DHS to comply with the most basic provisions of civil rights law. DHS staff are not trained and are not equipped with guidance to ensure that individuals with all disabilities may self-identify, know that they have a right to an accommodation, and are accommodated in a timely way. They do not know that such accommodations are to be individualized and may not be read off a list or offered on a "take it or leave it" basis. They do not know that people with disabilities

must be placed in the most integrated setting and not segregated because of their disability. No notice is given to individuals at the time of intake or in shelters that they have rights to reasonable accommodations, with examples of what these might be, and how to obtain them in specific terms (with assistance if required) and how to complain if they are not granted accommodations.

Mr. Jones has not been able to obtain assistance with obtaining housing. He was shown an inaccessible building that could never be his residence. Despite the fact that he does not need drug treatment, he was offered a drug treatment residence. Like others with disabilities in his shelter, he is likely to be left behind while housing is located for others. The shelter does not appear to be equipped to locate accessible and affordable housing, something that it is charged with doing.

Emergency preparedness

Mr. Jones account of fire drills and a power outage at his shelter raise life and death questions about whether DHS emergency preparedness plans, training and drills for each shelter includes people with disabilities. A recent court decision in *BCID v. Butler* well describes the requirements of the Americans with Disabilities Act regarding inclusion of people with disabilities in emergency preparedness and response. The decision elaborates on requirements related to communication, procedures for providing evacuation assistance for individuals with their equipment and service animals, transportation to a safe and accessible site, requirements for sheltering those who are no longer able to remain in the residence, and canvassing for those left behind. The fact that a fellow resident whose mobility device was without power was left to sit in an evacuated building is alarming. The fact that there have been no drills involving evacuation of residents from the building is alarming. It is common wisdom that drills are particularly important so that staff and residents with disabilities who need assistance will know what to do. It appears that DHS does not know its obligations.

The Center for Independence of the Disabled, NY (CIDNY) reached nearly 40,000 people last year with individual assistance, education and advocacy. Virtually all of those we serve are living in poverty on a long-term basis as the poverty rate for people with

disabilities in New York City is 35%, that is higher than it is at a State or federal level and much higher than it is for people with no disability. Many of those we see live in homeless shelters and come for help in getting out and into integrated housing in the community. It is estimated that more than 60 percent of shelter residents have disabilities and sadly we know many individuals who have had experiences of being denied their civil rights.

We seek assistance from the City Council as we seek to resolve these matters. Further inquiries and persistent attention by the Council will be required to bring DHS into compliance with civil rights law.

September 20, 2018

Testimony of Dustin Jones before the Mental Health, Disabilities and Addiction Committee and
the General Welfare Committee regarding

Shelter Accommodations and Services for Those with Disabilities

Thank you for this invitation to appear before the New York City Council to describe my experiences in the New York City shelter system, focusing on the shelter system's inaccessibility.

My name is Dustin Jones, I have a physical disability and I am a long-time disability advocate. I have been a member of the Board of Directors of the Center for Independence of the Disabled, New York (CIDNY) for three years. Until July 2017, I lived in an apartment in the Bronx. My roommate's behavior caused us to lose the apartment. From July until September 2017, I rented hotel rooms thinking that I would find housing quickly. However that was not the case. I entered the Department of Homeless Services shelter in September, having run out of options.

In September 2017, I began to be housed on Ward's Island. From there I went to a CAMBA shelter for 4 days and then was placed on October 25th in the Clark Thomas shelter on Ward's Island. I am going to be speaking about my experiences in Clark Thomas because that is where I have had the most experience. However, my experiences are not unique and other shelters have the same conditions as well.

As a wheelchair user, my federal, state and local civil rights and human rights have been repeatedly violated. I have faced discrimination in the shelter in a variety of ways for more than a year:

- There is no process in place for me to get a reasonable accommodation. The hospital that discharged me to the shelter wrote in my notes in early February that I needed a special bed because of my wounds. I was told that DHS was working on it. There is one person with disabilities who is severely obese and has a wider bed provided. This is the only exception I have seen that is made for a person because of disability. Residents are not advised that they can obtain reasonable accommodations and how to do so. They are not told how to complain if they do not get reasonable accommodations.

- I do not have a bed that I can get in and out of. The bed is lower than my wheelchair seat. This means that I could easily fall and become injured while attempting to transfer into the bed. It also means that once I am in the bed, I can't transfer safely up into my wheelchair seat. This has led to the necessity of sleeping in my chair. As a result, I have been hospitalized for infected Stage 3 pressure sores three times since I've been at Clark Thomas. These sores, which risk my health were obtained at Clark Thomas and so was the infection. The sores are not getting better because I am unable to lie down. I need a bed that raises or lowers or is at the height of my wheelchair seat so that I can transfer safely. There are not enough outlets next to the beds for people who have power chairs cannot charge their chairs at night next to them. For those who attempt to charge during the day, they need to be able to charge long enough to have a full eight hours of battery.
- People with physical disabilities (approximately 25 of us) are housed on the first floor because there are stairs to the upper floors and while there is an elevator, we are not allowed to use it. The first floor has a single "accessible" rest room stall for all 25 of us. When you enter the supposedly accessible toilet stall, you cannot get into the cubicle enough to be able to close the door and lock it. You are required to toilet with the door fully open. Further, in the bathroom, the shower cubicle does not have grab bars. It has a backless shower bench, however I cannot transfer to it or from it. The sinks have pipes that are not wrapped with insulation. Therefore I have burned my knees in the so-called accessible bathroom trying to get close enough to the sink to wash my hands. The restroom is slippery and filthy. This is a particular problem for me as I must use my hands to turn the wheels of my chair and the wheels are resting on filth on the floor of the bathroom.
- I have had two appointments with shelter housing specialists. The first encounter was to show me an apartment that was physically inaccessible. There was an elevator, but I would have had to climb two flights of stairs, dragging my wheelchair along, to get up the stairs. The second encounter was to invite me to a meeting, telling me that I could be moved out immediately. However, when I attended the meeting along with 25 other

people, including individuals using wheelchairs, it was a meeting with a drug treatment program called Miracle House. Miracle House is a drug treatment program that was involved in a scandal in 2015. The representative of the program advised us that we could be moved into a room with a roommate and then if we “proved ourselves” we could move to a one bedroom unit in a drug rehab facility. The problem is I don’t use drugs or alcohol and I do not have a history of doing so. Shoveling people with ambulatory disabilities into drug treatment housing programs to “prove themselves” is outrageous. I don’t need this treatment, I need a place to live. Housing workers come and go, the last one was formerly the building janitor. I am unaware of what specific training housing workers have regarding finding accessible housing. Others with physical disabilities have been there longer than I have. One person who uses a wheelchair, Rudy, has been in the shelter for 11 years. I have only met one person who is a wheelchair user who has been placed into housing in over one year.

- The cubicles for case workers are not large enough to permit wheelchair access. Therefore, when I meet with a caseworker, my chair is partially in the walkway. Another two residents who have scooters—which are longer—cannot get into the cubicle. There is no turning radius for wheelchair users in this space.
- At the front entrance, there is a staffed booth that we are supposed to go to if we need help. However, the booth window is not at chair height. Therefore someone in a chair would have to stand or shout to get attention from someone inside the booth. To meet requirements, the booth should have a window at chair height.
- I am unable to do my laundry without assistance because while the washer and dryer are front-loaded, the place to put in soap is on the top of the machine and I cannot reach it from my chair. Workers are not interested in helping and need to be yelled at or threatened to get them to assist.
- Recently, there was a power outage at the Clark Thomas shelter. A man who uses a motorized scooter was trapped in the cafeteria during this 7-hour blackout. His chair was not charged. He could not get food and water on his own. It was an extremely hot day

and given the power outage he had no air conditioning. There are fire drills in the morning, but residents are not brought out of the building nor given instruction on what to do if there is a fire. When there was a gas leak in the building, we were not told to evacuate the building and were sent to the cafeteria. It is not clear that there are any policies and procedures that address how people with disabilities are to be evacuated with their equipment in an emergency. We have a door to the loading dock, however they are using the area for storage. If this door was the only means of evacuation, then while people with no ambulatory disability could leave by climbing over, people in wheelchairs would not be able to evacuate. If one could leave through this door, one would be on a dock above ground level, with no way to evacuate due to stairs.

Thank you again for permitting me to speak. I am available for your questions.

**THE COUNCIL
THE CITY OF NEW YORK**

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I represent: myself

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(PLEASE PRINT)

Name: Dustin Jones

Address: CLARK THOMAS SHEETER

I represent: SELF

Address: WARDS ISLAND

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Name: Paul Feuerstein
Address: 437 East 138 St Bronx
I represent: Barrion Tree Housing
Address: 437 E 138 St.

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Name: Roland Braxton
Address: 121 Hell Gate Ct
I represent: MV Self Aid Homeless
Address: _____

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(PLEASE PRINT)
Name: Beth Hofmeister Jacquie Simone
Address: _____
I represent: The Legal Aid Society + Coalition for the Homeless
Address: 199 Water Street 129 Fulton Street

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Name: Jenny Veloz

Address: _____

I represent: New York Lawyers for the Public Interest

Address: 151 West 30th Street 11th floor

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Name: Ada Colon

Address: _____

I represent: Barrier Free Living - Freedom House

Address: _____

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Name: Aaron Goodman

Address: _____

I represent: NYC DSS

Address: 4WTC

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Name: Martha Calhoun

Address: _____

I represent: NYC DSS

Address: 4 WTC

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Date: _____

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Name: Commissioner Steven Banks

Address: _____

I represent: NYC Department of Social Services

Address: 4 WTC

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in favor in opposition

Date: 20 September 2018

(PLEASE PRINT)

Name: Elizabeth "Betsy" Lynam

Address: _____

I represent: A-IRC New York (Executive Dir-)

Address: 83 Market Lane, 11th Floor, NY, NY 10013

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Name: Touaki Komatsu

Address: Private

I represent: Self & veterans

Address: _____

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in favor in opposition

Date: 9-20-18

(PLEASE PRINT)

Name: Susan M Dooka

Address: 841 BROADWAY #301 NYC 10003

I represent: CID NY

Address: 841 BROADWAY # 301 NYC 10003

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in favor in opposition

Date: 9/20/18

(PLEASE PRINT)

Name: SAFIYA ZENOBIAN MANN

Address: 2541 7th AVE 12 DNY, NY 10018

I represent: myself / advocate for Pwd

Address: _____

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