

TESTIMONY OF TEAMSTERS UNION LOCAL 237
MARY E. SHERIDAN, ESQ., DIRECTOR OF LOCAL 237 LEGAL SERVICES PLAN
FOR PRESIDENT GREGORY FLOYD

RE: Res. No. 1308 - Resolution calling upon the New York City Housing Authority to allow the City-Wide Task Force on Housing Court to set up an assistance table for the benefit of unrepresented residents outside NYCHA housing administrative tribunal hearings.

My name is Mary Sheridan. I am the Director of Teamsters Local 237 Legal Services Plan. Teamsters Local 237 represents over 20,000 NYCHA and other City-wide agency employees and has over 4,000 retirees in the New York City area. Additionally, approximately thirty percent (30%) of our membership resides in NYCHA housing.

I thank the committee for allowing me to testify and I am happy to be here today to express Teamsters Local 237 President Gregory Floyd's unconditional support for Resolution No. 1308. Furthermore, Local 237 strongly encourages NYCHA to allow the City-Wide Task Force on Housing Court to have an information table outside of NYCHA administrative tribunal hearings.

Citywide Task Force has provided a similar service in Housing Court for over twenty years. They are an excellent organization that tens of thousands of New Yorkers rely on every year. Although we represent our members in Housing Court, we are not able to represent our members who are NYCHA tenants due to our relationship with NYCHA. Most tenants in NYCHA hearings, as in Housing Court in general, are unrepresented. These tenants would greatly benefit from access to information about their rights. The goal is not who wins or loses the hearings, rather the goal is to provide as close to an equal playing field as possible and thus, providing fairness when one is threatened with eviction from their home.

Knowledge of due process and other rights will help prevent wrongful evictions and serve also to maintain affordable housing in New York City. Teamsters Local 237 is committed to this goal.

Thank you for your time.

**Testimony of Jacqueline Burger
Community Service Society (CSS)**

**Before the New York City Council Subcommittee on Public Housing
on Re. No. 1308—Resolution calling upon the New York City Housing Authority to
allow the City-Wide Task Force on Housing Court to set up an assistance table for
the benefit of unrepresented residents outside NYCHA housing administrative
tribunal hearings**

January 22, 2009

My thanks to the members of the subcommittee for the opportunity to speak on this issue. My name is Jacqueline Burger and I am testifying on behalf of the Community Service Society of New York.

The Community Service Society is an informed, independent, and unwavering voice for positive action that serves the needs of working poor New Yorkers. We work for change by convening, connecting, and influencing diverse leaders and decision makers from the public and private sectors and across the political spectrum. Through applied research, advocacy, litigation, and innovative program models, our Urban Agenda creates more opportunity for sustainable wages, career mobility, and the elimination of barriers, so that work is an effective pathway out of poverty.

I am the Director of Tenant Advocacy at CSS's Center for Benefits and Services. We help low-income New Yorkers take fuller advantage of federal housing aid, including public housing and Section 8. We assist tenants to navigate the application process and to resolve problems before they lead to eviction and homelessness. We do this through a combination of individual client advocacy and representation; the production of simple written guides for tenants on common issues and problems; training and technical assistance to a network of community-based organizations; and advocacy for improvements in government housing programs to address systemic problems. Among other things, we operate a "help line" which the public can call to get advice and referrals regarding problems with NYCHA or Section 8 housing. Prior to coming to CSS, I was a legal services attorney for sixteen years and handled dozens of Housing Authority cases.

The New York City Housing Authority provides decent, safe affordable housing to more than 500,000 New Yorkers. In a city in which 59 percent of poor renters pay more than half of their income in rent, public housing is an invaluable asset.¹ Tenants in

¹ *Waters, Tom, with Victor Bach, "Housing Court in New York and Beyond: A Report from the Community Service Society of New York" (PDF), December 2006. By Tom Waters, Housing Policy Analyst, and Victor Bach, Senior Housing Policy Analyst*

NYCHA housing therefore have a very important property interest in this housing. When NYCHA seeks to terminate their leases, NYCHA must make sure that they do not violate the tenants' due process rights. In fact the courts recognized the importance of these rights more than thirty five years ago in Escalera, et al v. New York City Housing Authority, 425 F.2d 853, certiorari denied, 400 U.S. 853 (1970), and reaffirmed that principal in the consent judgments of January 26, 1976 in the United States District Court for the Southern District of New York cases of Joseph Tyson Sr. v. New York City Housing Authority and Myrdes Randolph v. New York City Housing Authority, 73 C 859, 74 C 1856, 74 C 2556, 74 C 2617 (S.D.N.Y. 1976, Metzner, J.). Unfortunately, the Housing Authority has failed to follow the spirit of the law as well as the letter in many instances.

The termination proceedings were created in order for a neutral decision maker to hear the evidence presented by both the Housing Authority and the tenant, and reach a decision based on the facts and on the applicable law. In reality, the proceedings do not operate in this manner. Many tenants never see the Hearing Officer. Instead, they meet with an attorney or other representative of the Housing Authority. Most are then asked to sign a stipulation settling the proceeding. No neutral arbiter ever advises them of their rights or whether it is in their interest to accept or reject the settlement offer. The attorney for the Authority informs the tenant of the possible outcomes if he or she declines to sign the stipulation.

The vast majority of tenants, who appear at the hearings, are poor or near poor. They understand that if they lose their NYCHA homes, they will more likely than not become homeless. In addition to being terrified by this possibility, they are often not very sophisticated. They believe that they must do whatever the NYCHA employee they are meeting with asks of them. Many do not understand that the NYCHA attorney with whom they are meeting is not the Hearing Officer, or that the meeting is not "a hearing".

In some Housing Authority attorneys inform the tenants that they can adjourn the case, but if they do so, the attorney may not be able to offer them as favorable a settlement. On other occasions, I have heard attorneys inform tenants that if they do not sign the agreement, they will seek termination of the tenancy. Often this threat is made even in situations in which there is irrefutable proof that the offending family member is no longer in the household. Under the termination proceedings, the Hearing Officer does not have the authority to terminate the tenancy in those circumstances. The tenants are ignorant of this fact and sign the settlement agreements because of the misguided fear that they will be evicted if they fail to sign.

This procedure contrasts drastically from the procedure used in the New York City Housing Court. There, a court attorney mediates the settlement process between the tenant and the landlord's attorney. That neutral arbiter gives an objective explanation of the way in which the law applies to the tenant's case. Even after the tenant signs the agreement, the judge allocates the stipulation of settlement to ensure that the tenant understands the consequences of what he or she is signing. Also, the tenant is free to

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January 22, 2009

bring a motion in Housing Court to vacate a stipulation which was inadvertently entered into.

NYCHA's procedures for settling termination hearings clearly violate the intent of the Escalera and Tyson-Randolph consent decrees. Although having the Hearing Officers involved in the settlement process would be a better solution to this problem, allowing the City-Wide Task Force on Housing Court to set up information tables is an important and positive step. The City-Wide Task Force has a long and distinguished track record of providing accurate and helpful information to tenants appearing in Housing Court. Their counselors are knowledgeable and resourceful. They provide helpful written information and accurate referrals to legal services offices. Their presence in a prominent spot in or near the NYCHA hearing waiting room will ensure that many more tenants obtain a rudimentary understanding of the termination process and of the roles of the various people involved. Tenants will have the opportunity to make informed decisions and to be referred to legal services or Legal Aid when necessary. They will be less likely to sign an agreement which they may later regret.

Thank you for the opportunity to testify. CSS strongly urges you to support Res. No. 1308.

Respectfully Submitted,

Jacqueline Burger
Center for Benefits and Services
Community Service Society
105 East 22nd Street
New York, NY 10010

**Testimony Before the Subcommittee on Public Housing of the New
York City Council on Res. No. 1308
January 22, 2009
By Louise Seeley, Executive Director,
The City-Wide Task Force on Housing Court
125 Maiden Lane, New York, NY 10038; 212-962-4266**

Thank you for giving me this opportunity to testify today. My name is Louise Seeley and I am the Executive Director of the City-Wide Task Force on Housing Court. I am here today in support of resolution 1308 and urge the council to pass the resolution calling upon the New York City Housing Authority to permit us to have an information table for pro se tenants with administrative tribunal hearings at 250 Broadway.

Every year over a thousand people are summoned by NYCHA to 250 Broadway for administrative hearing. At stake for most of these people is their home -- either their right to stay in their home or the ability to get affordable housing. An overwhelming majority of these people come to these hearings alone and without legal counsel. They are unaware of their rights and often agree to settlements which are not to their advantage. They do not know how to defend themselves at hearings. These tenants are also unaware of the resources available to them for assistance. We believe that these tenants should have access to information about their rights and community resources and believe an information table at 250 Broadway is the best way to provide this information.

We currently have information tables in each of the city's seven housing courts. At these tables we assist tens of thousand of New Yorkers with Housing Court problems by providing information and referral to legal service providers and community groups. Through our work we encounter many NYCHA tenants who are in court on holdover proceedings. NYCHA is seeking to evict these people from their homes for reasons other than non-payment of rent.

Unfortunately, by the time we see them there is almost nothing we can do to assist them. This is because the matter has already been resolved at the administrative hearing. Some of these tenants are being evicted for good reasons – they were never on the family composition form and have no right to stay in the apartment or they are a danger to their neighbors and the community. But many have good reasons why they should be allowed to stay and had they had adequate information at the time of the administrative hearing they might not be in Housing Court at all.

Providing information about rights and resources to unrepresented tenants at administrative hearing is the right thing to do. These hearings deal with matters that are crucial to people's lives. They decide whether a tenant can stay in their apartment, maintain or receive a section 8 voucher, get approval to add a family member to a lease or be granted a transfer. People faced with defending such crucial matters should have access to information about their rights and know about resources available to help them.

As in Housing Court, most administrative hearings are settled by stipulation. The negotiations are usually between the NYCHA representative and an unrepresented litigant. The horrors of hallway settlements in Housing Court are well known and documented. What happens in the cubicles at 250 Broadway is less known but just as damaging. For some tenants settling the case is right thing to do. They are given a chance to correct an error on their part. But in some cases tenants sign agreements which give up substantial rights, including the right to remain in the apartment. Some of the terms in these agreements are more severe than an ALJ would impose after hearing. We have seen tenants who agreed to terminate their tenancy, consented to exclude minor children from their home even though they are legally responsible to house the child, or agreed to incredibly onerous and lengthy probation periods. Tenants should know what their rights and options are before they enter into a stipulation. Tenants should know that they can ask

for an adjournment to seek further assistance. Tenants should know their rights if they chose to defend their case in front of the Administrative Law Judge. Providing us access to set up a table at 250 Broadway will enable us to provide this information.

The CWTFHC has been providing information to pro se litigants in Housing Court for over twenty years. We know that the power of information and the importance of empowering unrepresented litigants. While information is not a substitute for an attorney, we realize that a right to counsel in administrative hearings or housing court is a distant goal. Until that goal is met providing information is the least we, as a city, can do for unrepresented litigants. Our experience has also taught us that one of the most effective ways to inform pro se litigants is to have the information available close in proximity and time to the proceedings. Most people do not seek out information until they need it. Very few people do research before they come to Housing Court or 250 Broadway. Also, the information needed is often complicated and fact specific. Having a live person who can inquire about the facts of the case and provide specific information is invaluable. This is why we believe there must be an information table at NYCHA administrative hearings.

TESTIMONY OF TEAMSTERS UNION LOCAL 237
MARY E. SHERIDAN, ESQ., DIRECTOR OF LOCAL 237 LEGAL SERVICES PLAN
FOR PRESIDENT GREGORY FLOYD

RE: Res. No. 1308 - Resolution calling upon the New York City Housing Authority to allow the City-Wide Task Force on Housing Court to set up an assistance table for the benefit of unrepresented residents outside NYCHA housing administrative tribunal hearings.

My name is Mary Sheridan. I am the Director of Teamsters Local 237 Legal Services Plan. Teamsters Local 237 represents over 20,000 NYCHA and other City-wide agency employees and has over 4,000 retirees in the New York City area. Additionally, approximately thirty percent (30%) of our membership resides in NYCHA housing.

I thank the committee for allowing me to testify and I am happy to be here today to express Teamsters Local 237 President Gregory Floyd's unconditional support for Resolution No. 1308. Furthermore, Local 237 strongly encourages NYCHA to allow the City-Wide Task Force on Housing Court to have an information table outside of NYCHA administrative tribunal hearings.

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Knowledge of due process and other rights will help prevent wrongful evictions and serve also to maintain affordable housing in New York City. Teamsters Local 237 is committed to this goal.

Thank you for your time.

Testimony by The Legal Aid Society and Legal Services NYC before the Sub Committee on Public Housing and the Committee on Re. No. 1308—Resolution calling upon the New York City Housing Authority to allow the City-Wide Task Force on Housing Court to set up an assistance table for the benefit of unrepresented residents outside NYCHA housing administrative tribunal hearings

January 22, 2009

Legal Services NYC and The Legal Aid Society are New York City's two leading organizations in the provision of high-quality legal services and advocacy on behalf of low income New Yorkers — as well as in the creation of innovative programs to address crisis circumstances throughout New York City on a broad range of issues.

Legal Services NYC

Along with our partner The Legal Aid Society, Legal Services NYC is one of the two powerhouse frontline law firms for low income people throughout New York City. With 18 community-based offices and numerous outreach sites located throughout each of the city's five boroughs, Legal Services NYC has a singular overriding mission: to provide expert legal assistance that improves the lives and communities of low income New Yorkers.

Legal Services NYC annually provides legal assistance to thousands of low income clients throughout New York City. Our services include a strategic combination of specialized law units, legal helplines, impact litigation, and pro bono private attorney efforts. These services are bolstered by Legal Services NYC's central office, which provides expert litigation and advocacy support and training; leadership in the development and management of innovative city-wide projects and Task Forces; and essential financial and administrative services.

Historically, Legal Services NYC's key priority areas have included housing, government benefits and family law; in recent years, Legal Services NYC has vastly expanded services in areas of need critical to our client base, including unemployment, language access, disability, education, immigration, bankruptcy, consumer issues and foreclosure prevention. A hallmark of Legal Services NYC is its ability to create innovative projects and community based initiatives that provide essential services for clients, critical resources for lawyers, advocates and lawmakers throughout New York City and State, that serve as models for legal services programs across the country.

The Legal Aid Society

The Legal Aid Society is one of the oldest and largest programs in the nation providing direct legal services to low income families and individuals. The mission of the Society's Civil Practice is to improve the lives of low income New Yorkers by helping vulnerable families and individuals to obtain and maintain the basic necessities of life — housing, health care, food and subsistence income or self-sufficiency. The Society's legal assistance focuses on enhancing individual, family and community stability by resolving a full range of legal problems in the areas of immigration, domestic violence and family law, employment, housing and public benefits, foreclosure prevention, elder law, tax, community economic development, health law and consumer law.

The Society achieves its mission in a number of ways. Through a network of 10 neighborhood and courthouse-based offices in all five boroughs and 23 city-wide and special projects, the Civil Practice provides free direct legal assistance in thousands of matters annually. Overall, combining individual representation with law reform litigation, advocacy and neighborhood initiatives, the Society successfully provides as many low-income New Yorkers as possible with access to justice. In addition to direct legal services, the Society provides extensive back-up support and technical assistance for community organizations in all five boroughs of the City providing services in low-income communities, "know your rights" trainings for community residents, and community education sessions on complex legal issues affecting low-income communities. When it is the most efficient and cost-effective way to help clients, the Society provides legal representation to groups of clients with common legal problems, including those referred by elected officials. Finally, the Society also operates an extensive pro bono program through which over 1,000 volunteers participate to provide more than 50,000 hours of legal assistance to low income New Yorkers annually.

The Society is counsel on numerous class-action cases concerning the rights of public housing residents and is counsel to the New York City Public Housing Resident Alliance. We

work closely with the Community Service Society and Public Housing Residents of the Lower East Side on public housing issues. The New York City Public Housing Resident Alliance seeks to inform and network with residents, so that they can have a strong and effective voice and secure greater accountability in local, state and federal policy decisions that affect public housing in New York City.

We appreciate the opportunity to testify before the Subcommittee on Public Housing and strongly support Res. No. 1308, which calls upon the New York City Housing Authority (NYCHA) to allow the City-Wide Task Force on Housing Court to set up a table at 250 Broadway, the site of NYCHA's administrative hearings, to provide assistance to unrepresented residents. We welcome the leadership of Chair Rosie Mendez on this issue.

When we testified before the Subcommittee on Public Housing a year ago, we stated a number of major concerns regarding the Housing Authority's Administrative Hearing Process and recommended changes to make the administrative hearing process more fair for low-income tenants living in NYCHA housing. We attach those recommendations to this testimony.

The Problem: The Abusive Stipulation Process

The overwhelming majority of tenants in NYCHA's administrative proceedings are not represented by counsel, yet these tenants must negotiate with, and at times litigate against, NYCHA attorneys. Tenants, uninformed of their rights, always with limited income and terrified of losing an affordable home, often enter into one-sided and unduly harsh stipulations that have probationary periods that are abusive in nature. NYCHA attorneys capitalize on tenants' fears and lack of information concerning their rights and get them agree to stipulations that leave them worse off than they would be if they suffered the worst possible outcome of a full hearing. Tenants agree to probations that are usually all-encompassing of public housing rules and

regulations, meaning that a tenant who has made exhaustive efforts to rectify one situation might then be evicted for defaulting on an entirely separate issue. For example, a tenant who harbors a pet without permission is placed on general probation; so that if she falls behind in paying rent during the probationary period, she risks losing her home, even though the original offense was for harboring an animal, a violation unrelated to paying rent. Finally, NYCHA attorneys usually refuse to negotiate the terms of a stipulation and will only use boilerplate language that allows no room for lessening its harsh terms.

Res. No. 1308: A Step Toward a Solution

Providing NYCHA tenants with a right to counsel in administrative proceedings that involve the loss of their homes would be the most effective way of remedying the abuses that occur in the hearing process. However, since providing lawyers for all who need them is not possible at this time, Res. 1308 supports a useful step forward that would begin the process of addressing the problem. An information table at 250 Broadway in Manhattan, the site of New York City Housing Authority hearings, would allow tenants to obtain information from an outside third party before entering into a stipulation or going to their hearing. While not providing legal advice, staff members of the City-Wide Task Force on Housing Court could make tenants aware of the availability of legal services offices, translation assistance, assistance in dealing with disabilities, including the possibility of the appointment of a guardian *ad litem*, as well as provide them with fact sheets explaining the administrative hearing process and the consequences of agreeing to a stipulation of settlement. City-Wide Task Force has staffed tables at the housing courts throughout New York City for more than twenty years, and has, despite not providing technical legal advice, helped thousands of unrepresented tenants and landlords

navigate the complex system that is New York City Housing Court. They are perfectly-equipped to perform a similar function for NYCHA administrative hearings. .

Conclusion

Thank you again for the opportunity to testify before the Subcommittee on Public Housing. We enthusiastically urge you to support Res. No. 1308.

Respectfully Submitted:

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**Testimony by The Legal Aid Society, Legal Services for New York City, and
The City Wide Task Force on Housing before the Sub Committee on Public
Housing on The New York City Housing Authority's Administrative Hearing
Process and Judicial Proceedings on February 26, 2008**

Interest and Expertise of the Legal Aid Society and Legal Services for New York City

The Legal Aid Society is the oldest and largest providers of legal assistance to the poor in the United States. The Society's Civil Practice operates 14 neighborhood offices and city-wide units serving residents of all five boroughs of New York City, providing comprehensive legal assistance in housing, public assistance, and other civil areas of primary concern to the poor. The Society is counsel on numerous class-action cases concerning the rights of public housing residents and is counsel to the New York City Public Housing Resident Alliance. We work closely with the Community Service Society and Public Housing Residents of the Lower East Side on public housing issues. The New York City Public Housing Resident Alliance seeks to inform and network with residents, so that they can have a strong and effective voice and secure greater accountability in local, state and federal policy decisions that affect public housing in New York City.

Legal Services for New York City (LSNY) is the largest provider of free civil legal services in the country. The nineteen neighborhood offices of LSNY throughout the City represent thousands of low-income tenants annually in disputes involving tenants' rights to remain in their homes. Manhattan Legal Services is the LSNY neighborhood office serving low-income tenants in the borough of Manhattan.

For over 20 years, The City-Wide Task Force on Housing has been the first place New Yorkers turn to for help when facing a housing court problem. We provide personalized, expert help to people who cannot obtain legal representation when they are in housing court. We are the

only agency that solely focuses on housing court. Not only do we provide direct services in the courts we also have a hotline for people to call with questions, and address the various problems in the court that negatively affect the many people who go there without attorneys.

We appreciate the opportunity to testify before the Subcommittee on Public Housing. We have major concerns regarding the Housing Authority's Administrative Hearing Process and Judicial proceedings and some recommendations on how the rights of public housing tenants can be strengthened.

THE PROBLEMS:

Arbitrary Probation Periods/Refusal To Negotiate Stipulations: The majority of tenants in NYCHA's administrative proceedings are not represented by counsel, yet these tenants must negotiate with and at times litigate against NYCHA attorneys. Tenants often have limited income and are terrified of losing an affordable home so they enter into one-sided unduly harsh stipulations that many times have probationary periods that are abusive in nature. Tenants enter into long-term probationary stipulations and waive rights that they would not otherwise lose if they had proceeded with a hearing. Moreover tenants are usually placed on general probation even though the alleged offense is in one specific area. For example if a tenant harbors a pet without permission they are placed on general probation whereby if the tenant falls behind in paying rent during the probationary period they risk losing their home even though the original offense was for harboring an animal. NYCHA attorneys often refuse to negotiate the terms of a stipulation and will only use boilerplate language in the stipulation even if they are not relevant to the proceeding at hand.

Frivolous Nonpayment Proceedings: The Legal Aid Society has seen numerous cases where NYCHA tenants are sued in housing court for small amounts of money, many times only one month's rent. We have also seen many non-payment proceedings which are predicated on alleged rental arrears of paltry amounts such as \$20.00. In some boroughs when tenants do enter into agreements to pay the alleged arrears NYCHA attorneys insist on noting in the stipulation that they reserve their right to attorneys fees even though NYCHA does not have a right to attorneys fees. When tenants are adamant that they do not owe any rent and demand to know what these arrears are from they often learn that they are being sued for "miscellaneous" charges that are not even rent. These frivolous proceedings unduly harm tenants as every time they are brought to court in a housing proceeding, their name appears in a database that is commonly used by landlords to screen potential tenants. People whose names appear in this database are often blacklisted and have an extremely difficult time finding new housing. Moreover tenants are made to lose a day's pay sitting in housing court on frivolous cases and some who

Illegal Lockouts: Extremely troubling are a wave of incidents that the Legal Aid Society has seen where NYCHA is illegally evicting occupants. Without first going to court, NYCHA has summarily evicted housing occupants after the head of household has informed NYCHA that s/he is leaving an apartment. NYCHA employs officers to go to apartments to tell occupants that they must vacate an apartment, even though NYCHA does not have a court order to evict the occupants. NYCHA has also placed notices on the front doors of these applicants that resemble an actual marshal's notice further confusing the tenant making them believe that they are going to be evicted. What is especially alarming about this practice is that the New York County Civil Court in *Alvarado v. NYCHA* has already held that this procedure is improper. A copy of this decision is annexed hereto.

Unhabitable Apartments: Many tenants complain that they are often forced to withhold rent so that NYCHA management will pay attention to complaints made about hazardous conditions.

Failure to Negotiate/Resolve Issues at the Development Level: In testimony given before this very committee on January 23, 2008, NYCHA touted its outreach with tenants at the development level. Although NYCHA espouses a dedication to resolving disputes at the development level, what Legal Aid/Legal Services providers have seen is a pattern of NYCHA's refusal to do anything, other than send matters directly to 250 Broadway for commencement of a termination proceeding. Tenants are often told by staff at the development level that they do not have the authority to resolve matters, and that a proceeding must be commenced at 250 Broadway. For example tenants who are late with rent payments or are making partial rent payments may make these limited payments because of a change in household income. At times they are unable to get NYCHA employees to recalculate the tenants portion to reflect this change in income. Rather tenants are told by employees at the development level that they do not have discretion to settle matters and that the "file" has already being sent to 250 Broadway. Further instead of NYCHA employees attempting to mediate/diffuse minor issues at the development level, such as neighbor disputes where there is no allegation of violence, minor infractions are summarily transferred to 250 Broadway for termination proceedings where the tenants enter into long-term probationary stipulations so that they do not lose their homes.

Failure to accommodate: The failure of the Housing Authority to communicate with its own employees in different departments often causes tenants extreme hardship when trying to navigate the arduous administrative hearing process. Suggestions made by the Social Services Unit of NYCHA in order to resolve a matter are ignored by NYCHA staff at the development

level. Accordingly the matter is not resolved and termination proceeding is commenced at 250 Broadway.

Use of Abusive Notices: NYCHA staff use fabricated court notices to threaten and intimidate tenants. We have seen numerous occasions where NYCHA staff has made a fake marshal's notice indicating that a marshal will evict a tenant on short notice unless the rent was paid. These are especially egregious because the tenant has not yet been sued in court for the alleged arrears. A copy of NYCHA's fabricated marshal notice is annexed hereto.

Illustrative Examples:

Maulana R. Maulana lives in the Wagner Houses in Manhattan. She has lived in the apartment with her three children for more than a decade. Her elderly mother, Georgia Rae suffers from alzheimers. Georgia Rae lived in the Roosevelt houses in Brooklyn for more than thirty (30) years. While alone in her home in the Roosevelt houses, Georgia Rae fell down and broke her hip. After speaking with doctors it became clear that Georgia Rae could no longer live alone, and Maulana decided to have her mother move in with her. Maulana tendered her mothers' keys to the management at the Roosevelt houses, and filled out a request to have Georgia Rae added to Maulana's household composition. The housing assistant at the Wagner houses refused the request noting that a copy of the birth certificate and social security for Georgia Rae were not included in the application. Maulana explained to the housing assistant that her mother at 96 years old did not know where her birth records were, and Georgia Rae was not born in a hospital but in her childhood home by mid-wife in South Carolina. Maulana further informed the housing assistant that it would be extremely difficult to get copies of her mother's

birth records. Maulana requested that the housing assistant get copies of birth records and social security card from Georgia Rae's Roosevelt Houses file. The housing assistant refused this request, and sent Maulana's tenant file to 250 Broadway for a termination hearing alleging that Maulana was harboring an unauthorized occupant. The housing assistant did this even though Maulana informed housing that her elderly mother was moving into her home and included her mother's social security income in her recertification and was paying a higher rent because of this extra income in her home. It was not until The Legal Aid Society was retained that NYCHA agreed to simply request Georgia Rae's original tenant file for the missing documents. However, NYCHA attorneys still want Maulana to enter into a stipulation agreeing to be on probation for three years.

Lucille H. and Prudence S. Lucille and Prudence are two senior citizens who live in the LaGuardia Houses. The two are dear friends who have lived on the same floor for 23 and 27 years respectively. In 2007 Prudence became seriously ill and her friend Lucille moved into Prudence's apartment and cared for her full time for six months. During this six month period Lucille timely paid the rent in her own apartment and made sure that Prudence's rent and other bills were paid. When Prudence went to a nursing home, Lucille dutifully stayed in Prudence's apartment preparing it for her return. NYCHA, noting that Lucille was not staying in her apartment, refused to accept Lucille's rent, and then commenced a non-payment proceeding in housing court for the very rent they had initially refused. NYCHA then brought a termination proceeding against both seniors at 250 Broadway for breach of rules. The Legal Aid Society was retained for Lucille and counsel was able to request that both women receive a guardian. NYCHA social services also became involved in the proceeding, and all parties agreed that Lucille should go back to her apartment as it was unlikely that her friend would return from the

nursing home. As Lucille is confined to a wheelchair, counsel informed both NYCHA's counsel and NYCHA social services that Lucille would need assistance moving back to her home. NYCHA social services informed Lucille and her counsel that they do not provide those services, and that it was the tenant's responsibility to move on her own. Moreover the housing authority is insisting that Lucille enter into a stipulation agreeing to general probation for five (5) years.

Ms. X. Ms. X and her minor daughter has lived in the Soundview Houses in the Bronx for two years. She was transferred to this complex from a previous apartment because of hazardous conditions in her previous home. For the damages to Ms. X's home she was able to secure a judgment of \$4,273 against the housing authority. In August of 2007 NYCHA commenced a nonpayment proceeding in Bronx Housing Court for less than \$500.00. Ms. X had just left her job and was applying for public assistance. This change in income affected her ability to pay her full rent of \$243.00 each month. When Ms. X requested that her portion be recalculated to reflect her lost income she was told by her housing assistant that they could not change anything about her account as a proceeding had already been commenced against her. When Ms. X bought a copy of her judgment and presented it to the NYCHA attorneys she was told that it did not matter that she had a judgment, that she had to pay all the monies owed, and that her rent would not be changed until the court proceeding was resolved.

Shryle P. Ms. P is confined to a wheel chair and lives in the James Weldon Johnson Houses in Manhattan with her children. Ms. P had several serious conditions in her home and was transferred to a different apartment. In her new apartment she was unable to enter into her bedroom or the bedroom of her minor daughter because the doorway was not wide enough to accommodate her wheelchair. After several requests that she be transferred to another apartment

fell on deaf ears, Ms. P sought counsel. When counsel contacted the Johnson Houses to request either a reasonable accommodation so that Ms. P could wheel into her bedroom and that of her children the NYCHA employee remarked that if Ms. P was not so fat and did not need such a wide wheelchair that she could fit through the door, and that they could not keep moving her to different apartment just because she has not lost weight.

The Solution:

In addition to the suggestions detailed in our written testimony on January 23, 2008, we also request that the Housing Authority adopt as policy the following recommendations for their proceedings in Civil Court:

(a) NYCHA attorneys should meet with housing assistants prior to commencing a nonpayment proceeding to ensure that the alleged arrears sought are in fact rental arrears and not legal fees from past proceedings or other miscellaneous fees which should not be part of a possessory action.

(b) Tenants who are behind in rent and have a monetary judgment against the Housing Authority for damage to their property, etc. should have the option of having any alleged rental arrears deducted from the monetary judgment instead of being taken to court.

(c) If NYCHA employees/attorneys have knowledge of or suspect that a tenant may not be mentally competent, they should immediately advise the presiding judge and request that the tenant be appointed a guardian.

(d) In their termination decisions, NYCHA should advise the tenants of the deadline for filing a 78 and the information for the offices for pro se litigants (individuals who are proceeding without counsel).

(e) NYCHA must bring holdover proceedings in housing court against occupants that they allege are not legal tenants, and not illegally lock out these occupants without obtaining a warrant of eviction from a Civil Court Judge.

Conclusion

Thank you again for the opportunity to testify before the Subcommittee on Public

Housing.

Respectfully Submitted:

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**Testimony of the Center for Family Representation
Before New York City Council Housing Committee
January 22, 2009
By Susan Jacobs, Esq.**

I am Susan Jacobs, Executive Director of the Center for Family Representation. I want to thank the Council Committee on Housing for the opportunity to testify today.

The Center for Family Representation (CFR) is a public interest law and policy organization whose mission is to guarantee that every family that can live safely together has the opportunity to do so. We represent parents throughout the City from the time they are first investigated by the Administration for Children's Services (ACS) and, if a case is filed in family court, throughout the entire court proceeding. Since 2002, CFR has hosted a wide array of training and technical assistance programs and is routinely asked by the court system and child welfare system to work with caseworkers, attorneys and judges, as well as other community based advocates. CFR also responds daily to calls for concrete support (legal resources and referrals) from parents, attorneys and other service providers.

The parents we represent face a number of obstacles to reunification with their children. One of the biggest challenges, and one of the most difficult to overcome, is finding stable housing. Approximately 12% of our current clients are homeless¹, and if trends in New York continue, that number will surely rise. During the month of November, New York City had a record number of homeless families staying in shelters.² The recent economic downturn has increased the nightly census of homeless families by 13%, and has led to the highest number of new homeless families in any time over the past 25 years.³

Our clients' cases can often hinge on their housing situation, which is why CFR has given these issues special attention. Without stable housing, it is almost impossible for our clients to have their children returned to them, and it is even more unlikely for them to resolve their family court case. It is truly unjust when a parent who is on the way to completing all of the

¹ Out of 689 clients as of January 5, 2009, 80 clients were homeless.

² The Coalition for the Homeless reports that a record 9,720 families stayed in shelters in the month of November. This is the highest number of homeless families since the city began keeping track of these numbers in 1983. http://www.coalitionforthehomeless.org/family_homelessness_hits_record_levels.html

³ The Coalition for the Homeless also states that during the past six months, the nightly census of homeless families in municipal shelters increased from 8,607 at the end of May to 9,720 families at the end of November. In addition, from July to November of 2008, more than 1,300 families each month have entered the municipal shelter system, which is the greatest rate since 1983.

http://www.coalitionforthehomeless.org/family_homelessness_hits_record_levels.html

services that the court has required of her is unable to be reunited with her children solely because she is too poor to pay the rent. On top of this, housing problems often hurt a parent's ability to complete other court-mandated services. Being homeless can make it much more difficult to attend parenting classes, make court hearings, and hold down a job. Unfortunately, stable housing is also one of the most difficult elements of a family court case for a parent to secure. The recent economic recession has made the situation even worse. Now, not only are more people losing their housing or having difficulty paying rent, but there are also fewer options open to those who need additional help with housing. A large number of housing programs have either been shut down or scaled back, and there are increased restrictions and requirements for those programs that are still open. One area where our clients have experienced these increased difficulties has been with ACS housing programs. ACS programs have always been a major source of housing assistance for our clients. Recently, however, funding difficulties have made housing vouchers and other forms of aid unavailable when they should be. A family might not be able to obtain the housing supplement they need because ACS cannot afford to supply it.

An example of this is ACS' one shot housing assistance, a useful and important aid to families that is currently very difficult to obtain. Several of our clients were evicted from their homes because they could not get the one shot deal. The requirements for this help have become increasingly restrictive. Jenely, one of our clients, was told she could not get the one shot deal from ACS because the ACS Connections database incorrectly did not list the goal of her case as "return child to parent". She was also told that ACS had to follow these protocols because ACS did not have the funds to supply housing assistance to parents in Jenely's situation. These increased restrictions and demand for written confirmation has created an atmosphere within ACS where it is nearly impossible for a parent to receive housing assistance if it is not court mandated. That means that without CFR's advocacy in Family Court, many of our clients would not be receiving the housing assistance that they are entitled to.

Even if a family does receive ACS assistance, they still might not find an apartment. It is becoming increasingly difficult to find housing that will accept ACS vouchers. This is because many programs, such as the ACS Child Advantage Program, don't pay fair market rent. This leaves little incentive for landlords to accept parents offering ACS vouchers, with the result that it is even more difficult to find an apartment in a city that is notorious for its lack of affordable housing.

Our clients also face difficulties obtaining Public Assistance. Over the past year, and especially during the recent economic downturn, our clients have experienced more and more restrictions on receiving Public Assistance. A parent who has had their children removed will generally receive less public assistance for housing, which creates difficulties paying rent, including rent arrears, which will often lead to more obstacles in becoming reunited with their children.

The final area where our clients have been experiencing housing problems is PATH. Because of the recent financial difficulties, PATH housing help is currently on hold. Homeless shelters have also become stricter over the past year. It is now the case that if you

temporarily stay in another person's apartment, you become ineligible to stay at a shelter. This is even the case if the owner of the apartment is not willing to let you stay longer.

These increased restrictions and lack of aid has led to a common situation in which families have become caught in a distressing Catch-22. Currently in Family Court, it is nearly impossible for parents living in a shelter to have their children returned. Yet it is just as difficult for a parent who is living without her children to receive help in obtaining stable housing. CFR has had numerous clients who could not be reunited with their children because they lacked stable housing, but could not get out of the shelter and into new housing because they were separated from their children. Unfortunately, it can take months or years for an adult without children to receive PATH housing assistance.

With all of these problems taken together, it is incredibly difficult for a parent with a family court case to find housing on her own. Without CFR's advocacy in court through attorneys and outside of court through social workers and parent advocates, most of our homeless clients would not be able to obtain stable housing. Add to this challenges such as making visits and court dates, attending mandatory parenting or drug rehabilitation classes, finding or maintaining steady work, and all of the other court mandates that must be completed in order to be reunited with one's children, and it seems more likely for a parent to lose their apartment than to obtain new housing in this current economic environment.

This lack of housing resources will have many unfortunate consequences for families struggling to stay together and will add to the burdens of New York Family Court. Families will be separated from each other for longer periods of time. The longer parents are unable to obtain stable housing, the longer it will be before the courts will be willing to return their children, and the more traumatic the separation will be for parent and child. Although foster care is always well intentioned, it can have a very detrimental effect on a child's ability to grow into a productive and healthy adult. Children who spend time in foster care are twice as likely to suffer from mental illness and post-traumatic stress disorder as the general public,⁴ and are twice as likely to be pregnant by the age of 19.⁵ Children who enter foster care are 30% more likely to be arrested than children who instead live at home during their family court case.⁶ Limiting their time in foster care should be a point of emphasis.

In addition to this, fewer housing resources can mean more costs for the city. When parents are unable to get stable housing, it can often lead to longer court cases. It also means that more money needs to be put towards financing foster care stays. The lowest annual cost of

⁴ See "Improving Family Foster Care: Findings from the Northwest Foster Care Alumni Study" (2005) Pecora, Peter J. et al Casey Family Programs, Seattle, WA.

⁵ See, "Preparing Youth for Adulthood," ACS, June 2006, p. 3 and see National Coalition for Child Protective Reform at <http://www.nccpr.org/newissues/1.html>.

⁶ See, "Study: Troubled homes better than foster care" (2007) Wendy Koch, USA Today. For corresponding studies see: "Child Protection and Adult Crime: Using Investigator Assignment to Estimate Causal Effects of Foster Care" (2007) Doyle, Joseph. National Bureau of Economic Research Working Paper No. 13291 [http://www.mit.edu/~jjdoyle/doyle_fc_crime_dec07.pdf] and "Child Protection and Child Outcomes: Measuring the Effects of Foster Care" (2007) Doyle, Joseph. *American Economic Review* 97(5). 14% of children who stayed at home with their troubled families (as compared to 44% of children who entered foster care) were arrested at least once.

foster care in New York City is \$21,000 per child,⁷ per year which is far more than most forms of housing assistance.

Dealing with these problems and returning children to their parents are issues that New York must dedicate resources to resolving. Currently in New York City, the average length of stay for children who return home from care within a year is 11.5 months, and is 54.2 months for all children in care.⁸ New York State ranks second in the nation in numbers of children in care, while children in NYC remain in care for an average of just over 4 years. This far exceeds the national average of 2.5 years.⁹ By focusing on these housing problems and the other issues that face New York's indigent families, CFR has been able to help our clients' children spend 84% less time in care than is currently the norm. CFR estimates that this reduction in foster care time has saved the City approximately \$1,016,745 for one year alone and \$13,818,000 for the total life of a case.¹⁰ Adequately dealing with these difficulties will save both taxpayer dollars and families from additional emotional anguish.

I'll close with an example of the ripple effect of lack of affordable housing:

Tina is the mother of a six month old girl. She was having problems paying back rent, so she went to ACS in order to get a one shot deal. ACS said that they would help her with her rent, but for the next two months they were unable to cut her a check. At that point, because of changes in her court case, ACS decided she was ineligible for the one shot deal. Tina got evicted from her apartment, which when combined with the pressures of her court case, put Tina under a great deal of emotional and mental stress. She is currently being hospitalized because of her mental condition. When she is released, she will face the daunting task of trying to get her daughter back home when she doesn't yet have a home of her own.

Thank you for the opportunity to address you today.

⁷ Mayor's Management Report 2008. See: <http://www.nyc.gov/html/ops/downloads/pdf/mmr/acs.pdf>.

⁸ CFR compares its data with the City of New York's annually reported information on the lengths of foster care: ACS reports annual median lengths of stay for the total children entering foster care for the first time who return home, and it reports on length of stay for the total children entering foster care for the first time who return home, and it reports on length of stay in foster care for children who are later determined to be unable to return home. For this latter group, the median length of stay was 54.2 months in 2007. "2008 Preliminary Mayor's Management Report".

⁹ Experts estimate that the average range of foster care stays for children who are not reunited with their parents in New York City are between four and five years. This far exceeds the national average of 31 months and is the second lengthiest in the country. "A Dangerous cycle: A Report by the NYC Public Advocate," p.13. The 2008 New York City Mayor's Management Report cites the median length of stay in foster care before child is adopted as 54.2 months. "2008 Preliminary Mayor's Management Report" p.36. See: <http://www.nyc.gov/html/ops/downloads/pdf/mmr/acs.pdf>.

¹⁰ Mayor's Management Report 2008. \$21,000 per year is currently the lowest annual cost of foster care per child. The total cost of CFR's services over the life of a case (a family with two children) is between \$4,000 and \$6,900. CFR uses the higher of the two costs to maintain conservative savings estimation.



CITYWIDE COUNCIL OF PRESIDENTS

NEW YORK CITY HOUSING AUTHORITY
REPRESENTS OVER 181,000 FAMILIES IN PUBLIC HOUSING IN NEW YORK CITY

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Statement on Resolution No. 1308

The New York City Housing Authority must allow the Citywide Task Force on Housing Court, to set up an assistance table for the benefit of unrepresented residents outside NYCHA Housing Administrative Tribunal Hearings.

Statement presented before the New York City Council Sub-committee on Public Housing on Thursday, January 22, 2009, by Reginald H. Bowman.

My name is Reginald H. Bowman and I am the President of the Citywide Council of Presidents of New York City Housing Authority Resident Associations. I officially represent all the residents that live in the nation's largest housing authority; the details are specified in Resolution 1308. However, for the record, I represent the residents of 345 Developments, 2700 buildings, 181,000 units and close to 500,000 authorized residents.

We who reside in the complexes/developments are regulated by the Federal CFR Regulations, HUD and NYCHA guidelines that often due to no fault of the lease holder, land the resident in a situation where there is a breach of rules and their folder is sent to 250 Broadway for an Administrative Hearing to terminate their tenancy. NYCHA is the only agency that can terminate the lease of a resident and leave the resident with no legal recourse to challenge that decision. Unless the resident can obtain legal counsel they are at the mercy of the Administrative Law Judges of NYCHA.

I applaud and support City Council members Mendez, Jackson, James, Mark-Viverito, Brewer, Fidler, Foster, Kopell, Liu, Martinez, and Gershon for sponsoring this resolution, and the Citywide Task Force on Housing Court for recognizing the plight of residents of public housing, and taking the steps to change the NYCHA policy and practice in the matter of Administrative hearings.

Those of us that are familiar with this part of NYCHA's bureaucracy know that it is primarily designed to protect the interests of NYCHA, and is usually unrepentantly insensitive to the extenuating circumstances that land some residents in these hearings.

THE CITY WIDE COUNCIL OF PRESIDENTS
OF THE NEW YORK CITY HOUSING AUTHORITY
REPRESENTS OVER 181,000 FAMILIES IN PUBLIC HOUSING
718 922-7141 FAX 718 922-7685

The time has come to support resolution No. 1308 as a beginning of a process to secure a permanent policy that compels NYCHA to permanently allow assistance tables with competent legal counsel and information available to residents to protect their due process rights. NYCHA must allow CWTFHC to set up these tables outside their administrative tribunal hearings where resident cases are heard.

I also urge the members of this committee to call on all of their colleagues and the President of the City Council who have significant public housing resident populations in their districts to support this initiative and resolution to protect the rights of their resident constituencies.

Finally, I would also like to take this time to ask the Chair of this sub-committee to put time on your calendar to meet with myself and the members of the Citywide Council of Presidents to discuss our 2009 agenda for full funding of Public Housing and reform of the State Legislation that governs NYCHA as an authority. We want to be at the table as partners to ensure that NYCHA is returned to the City and State budgets as a line item for operational, capital, and social support funds in the 2009 calendar year, and to work to reform the rules that govern NYCHA to make it more accountable to New York City Government and its residents.

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**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1308 Res. No. 1308

in favor in opposition

Date: 1/22/09

(PLEASE PRINT)

Name: Reginald H. Bowman

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Joyce Brown

Address: _____

I represent: Concerned Citizen

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 1/22/09

(PLEASE PRINT)

Name: Lisa Kappa

Address: _____

I represent: _____

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 1/22/09

Name: LISA BURRIS (PLEASE PRINT)

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 1-22-2009

Name: Gloria Bonilla (PLEASE PRINT)

Address: 711 Flushing Ave

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 1308

in favor in opposition

Date: 1/22/08

Name: ELLEN DAVIDSON (PLEASE PRINT)

Address: 199 WATER ST 3RD FL NY 10038

I represent: Legal Aid Society

Address: SAME

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

[]

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: 1/22/2009

(PLEASE PRINT)

Name: Susan Jacobs

Address: 116 John St. New York, NY

I represent: Center for Family Representation

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

[]

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: Jan 22, 2009

(PLEASE PRINT)

Name: Felicita Madera

Address: 15 St. James NYC

I represent: Smith Houses

Address: 15 St. James NYC

**THE COUNCIL
THE CITY OF NEW YORK**

Public HS9

will attend + testify 10:00 AM

Appearance Card

[]

I intend to appear and speak on Int. No. _____ Res. No. 1308
 in favor in opposition

Spoke to Mr. Bowman 1/21/09 12:15 (PK)

Date: 1/22/09

(PLEASE PRINT)

Name: Mr. B. Bowman

Address: _____

I represent: Chairman of NYCHA

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

unable
to
attend

public
H99

10:00 AM

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

Spoke
Yolanda
Copez

in favor in opposition

11/22/09 10:25 (11)

Date: 1/22/09

(PLEASE PRINT)

Name: Ronnie Lowenstein

Address: _____

I represent: TBO

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

1

I intend to appear and speak on Int. No. _____ Res. No. 1308

in favor in opposition

Date: 1/22/09

(PLEASE PRINT)

Name: Louise Seeley CWTFAC

Address: 66 Harvard Ave SE NY

I represent: CWTFAC
Lab 125 Maiden Ln, 318 NY NY

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 1308

in favor in opposition

Date: 1/22/09

(PLEASE PRINT)

Name: Mary E. Sheridan, ESQ.

Address: 216 W. 143rd St, NY, NY 10011

I represent: Teamsters Local 237

Address: 216 W. 143rd St, NY, NY 10011