

**TESTIMONY OF CARMEN M. VALENTIN
ON BEHALF OF
GOOD OLD LOWER EAST SIDE INC.,
(GOLES)**

**THE Council of the City of New York
Committee on general welfare
Committee on Public Housing**

**Oversight- How DHS and NYCHA coordinate in determining
eligibility for shelter**

Good morning council members Rosie Mendez & Annabel Palma
My name is Carmen Melagros Valentin. I have been a resident of Public housing for most of my life. I am a Paralegal and housing counselor for Good old lower east side. GOLES is a neighborhood housing and preservation organization that has served the Lower East Side (LES) of Manhattan since 1977 and is dedicated to tenants' rights, homelessness prevention, economic development and community revitalization.

Let me start by thanking you for the opportunity to testify before you all today. It is my hope that my testimony will shed some light on DHS practices in regards to finding homeless people eligible for emergency shelter services. As a housing counselor I have worked with homeless individuals to find adequate shelter. Many of them have relatives who live within the New York City Housing Authority (NYCHA). I would like to share two of my cases that will illustrate the lack of coordination between NYCHA and DHS.

I have a client who resided at the Lillian Wald Houses for all her life. Seven years ago her mother abandoned her apartment and left my client residing in the unit. She removed my client from the lease and threatening to call the police if my client and her family did not leave the apartment. In an attempt to avoid a domestic dispute with her mother, my client applied with DHS for emergency shelter services. As standard procedures DHS conducted a home visit at the mother's place of residence to assess if my client and her family were eligible for DHS services. My client's mother informed the investigator that she refuses to have her daughter and her family reside in the apartment. Even though her mother refused to have her reside in the apartment DHS concluded that my client was not eligible for emergency shelter services. I contacted DHS and informed them that my client was trying to avoid a domestic altercation between her and her mother. Secondly since her mother does not want her there she refuses to add her to the lease as she does

not want her to have an illegal claim to the apartment. Aside from the possibility of domestic dispute this situation poses two additional problems. One, the mother unwillingness (She believes she is protecting her own tenant rights) to add her daughter to the lease puts her own tenancy at risk because her daughter is an unauthorized occupant of the unit. Two, according NYCHA's policy because the daughter and her family are not authorized occupants if the mother leave or becomes deceased the daughter and her family will have no succession rights and ultimately be evicted

I had another client who was seeking emergency shelter services from DHS. Similar to the case I mentioned earlier, A DHS investigator went to my client's mother's one bedroom residence at the Baruch Houses. My client's mother is a non-English speaking senior citizen. The investigator did not speak Spanish and there clearly was a language barrier between the two. Unaware of the questions being asked by the DHS investigator my client's mother simply responded yes to every question not understanding that saying yes would put cause my client and his two year old daughter to be denied emergency shelter by DHS. One, in addition to causing overcrowding, NYCHA policy state that no more than two people can reside in a one bedroom apartment. This means that my client will be denied legal occupancy as NYCHA will not approve him and his daughter being added to the lease; again resulting in the primary tenant who happens to be a senior being at risk for potential eviction for allowing an unauthorized occupant to live with her. Two if the mother leave or becomes deceased my client and his daughter will have no succession rights and will also result in eviction.

I tell you these two stories as an example of how the lack of communication between DHS and NYCHA can increase homelessness. This is contrary to the mission of these two agencies. Luckily in both cases The Legal Aid Society Homeless Family Rights Project was able to help my client successfully obtain services from DHS. However we all know that legal aid is underfunded and will not always be able to meet the need of all family who need of all the homeless family who turn to them for help. Further this increase reliance on legal overburdens them and diminishes their ability to maximize the use of their limited resources to serve other low income families that need their assistance. Therefore it is our recommendations that the following procedures be set in place to insure that adequate support is given to homeless individuals and their families.

Recommendations

- (1) DHS needs to ensure that they have bilingual investigators to speak with residents when English is not their primary language.
- (2) DHS must have adequate training on NYCHA tenancy policies for DHS employees.
- (3) When it is appropriate, DHS should assist NYCHA residents with adding a family member to the lease.
- (4) There is a great need for more affordable housing throughout the city. This has resulted in the shelters lack of ability to adequately provide services to the homeless.

New York City must address this problem by creating more low income housing opportunities to meet the existing and growing demand for shelter.

TESTIMONY FOR NYCHA DGM FOR OPERATIONS GLORIA FINKELMAN
HOW DHS AND NYCHA COORDINATE IN DETERMINING ELIGIBILITY FOR SHELTER/
NYCHA'S OCCUPANCY POLICY
CITY COUNCIL COMMITTEES ON GENERAL WELFARE AND PUBLIC HOUSING
TUESDAY, OCTOBER 26, 2010 – 10:00 AM
250 BROADWAY, CITY COUNCIL HEARING ROOM, 14TH FLOOR

Chairwoman Annabel Palma, Chairwoman Rosie Mendez, distinguished members of their respective Committees, and to all the members of the City Council — it is my pleasure to be with you today. I am Gloria Finkelman, Deputy General Manager for Operations of the New York City Housing Authority (NYCHA). And joining me this morning is Alan Pelikow, Assistant Director for Resident Policy and Administration.

For many years, NYCHA and the Department of Homeless Services (DHS) have maintained a good working relationship, making intra-agency

information available to one another and providing tailored training for DHS employees who would benefit from understanding NYCHA's Occupancy Policy.

Today, I would like to take the Council through that policy, which governs who may lawfully reside in a NYCHA apartment.

Who constitutes a NYCHA family?

For decades, NYCHA has maintained an Occupancy policy. It clearly defines an "original" NYCHA family as the tenant (or tenants) who sign the initial lease and any persons listed on the Housing Application and authorized to reside in the apartment at move-in. In 1988, the Authority updated its procedures to stipulate that no one may be added to an existing

tenant's household unless the tenant requests permission in writing and permission is granted by the development's management. Exceptions are, of course, made for natural "family growth," including births, legal adoptions and court appointed guardian- and custodianships.

Tenants may either request to have an additional person join their household on a permanent basis or temporarily. As I will discuss, the procedure for Permanent Residency Permission requests is more rigorous than requests for temporary occupancy.

Permanent Residency Permission Requests

The criteria for adding a "permanent" household member include the following:

The tenant making the request must currently live in the apartment and be in “good standing” with the Authority—they must be current in all rent payments; he or she may not be in violation of any NYCHA rule or regulation; and they may not be party to current or pending Termination of Tenancy proceedings.

Furthermore, the person who is requested to join the household permanently must be either the tenant’s spouse or registered domestic partner; parent (including stepparents and parents-in-law); grandparent; grandchild; child (including stepchildren and children-in-law); or sibling (including half-siblings). And if he or she is older than 16, the proposed permanent resident must pass a criminal background check.

In addition, if the proposed resident will cause an “overcrowded” situation, based on the Authority’s occupancy standards, NYCHA must deny permission for that person to be added to the household.

I should also mention that the income of the additional permanent household member is not a factor in NYCHA’s deliberation; but if the person officially joins the household, his or her income will be included in the total family income for rent calculation purposes.

Applications for both permanent and temporary residency are reviewed by NYCHA’s Housing Managers. If—after careful review of the application, including all supporting documents and, in some cases, a personal interview—the Housing Manager determines the request should be granted, she or he

does so in writing within 60 days of the application date. If the Housing Manager must deny the request, she or he also does so in writing, indicating the reasons for the denial. If the Housing Manager does not approve a permanent residency permission request, the request is deemed denied. The tenant may commence an administrative grievance to contest the denial.

Once a person has received permission to permanently reside in a NYCHA apartment under an existing lease, she or he must remain in the apartment continuously—in other words, the added occupant must be shown to live in the apartment on each of the tenant's annual Affidavits of Income. If an authorized household member leaves the apartment and seeks to return at some later date, she or he is not

automatically granted permission to rejoin the household—permission on his or her behalf must be requested by the tenant and is subject to the same review process as discussed.

Temporary Residency Permission Requests

Often, tenants will request that a person be allowed to reside in their household temporarily. Unlike permanent residency requests, there are no specific requirements for a familial relationship between the tenant and the proposed temporary occupant, except that boarders and paying guests are prohibited.

The income of the person applying for temporary residency permission is not considered and is not included as part of family income for the purposes of adjusting the tenant's rent.

Furthermore, the Housing Manager may grant temporary residency permission even if the additional person “overcrowds” the apartment, provided that the apartment does not become “extremely overcrowded” per NYCHA’s *Occupancy Standards for Families*.

Housing Managers may approve the length of a temporary stay to a maximum period of one year, except as modified for foster children and home care attendants.

When NYCHA becomes aware that one of our residents may know someone who could benefit from services provided by DHS, we help inform the resident that such services exist.

Keeping Residents Informed

As you can see, NYCHA's Occupancy Policy has several procedural steps, each presenting various responsibilities, as well as rights. NYCHA takes the duty to inform our residents of this, and other, NYCHA policies very seriously. To that end, NYCHA communicates the Occupancy Policy to residents when a family signs a new lease, when a tenant requests permanent permission for a family member to be added to the household, and twice each year—in the annual Affidavit of Income and in the yearly Lease Addendum and Rent Notice, which is issued at the end of the annual review process.

Nonetheless, the Authority is taking steps to improve how we communicate this important policy to NYCHA families, including broadening the languages into

which the policy is translated and making it available on the NYCHA website. Furthermore, residents are encouraged to reach out to the management staff where they live if they have any questions regarding this policy.

Conclusion

NYCHA is committed to safeguarding the City's valuable public housing resource for the families who count on us, and we pledge to continue to work with the City Council and with our residents to ensure that our process is clear, fair and transparent.

Thank you very much and I look forward to your questions.



*Yisroel Schulman, Esq.
President & Attorney-In-Charge*

**Testimony by New York Legal Assistance Group (NYLAG)
before the NYC Council Committee on Public Housing and the Committee
on General Welfare:
Oversight Hearing on How DHS and NYCHA Coordinate in Determining
Eligibility for Shelter**

October 26, 2010

Chair Rosie Mendez, Chair Annabel Palma, Councilmembers, staff, good morning and thank you for the opportunity to speak about how DHS and NYCHA's coordinate in determining eligibility for shelter. My name is Kamilla Sjödin and I am the Supervising Attorney of the Housing Project at the New York Legal Assistance Group, a nonprofit law office dedicated to providing free legal services in civil law matters to low-income New Yorkers. NYLAG serves immigrants, seniors, the homebound, families facing foreclosure, renters facing eviction, low-income consumers, those in need of government assistance, children in need of special education, domestic violence victims, persons with disabilities, patients with chronic illness or disease, low-wage workers, low-income members of the LGBT community, Holocaust survivors, as well as others in need of free legal services. For full disclosure, I am a former employee of the New York City Council where I, at one time, served as counsel to the Subcommittee on Public Housing and the Committee on Housing and Buildings. I would like to thank Shari Morris, a Staff Attorney in my office, for her contributions to the preparation of this testimony.

When a person or family applies to the Department of Homeless Services (“DHS”) for placement in a shelter, it is DHS policy to deny the application if there is any family member with which the individual or family may reside. Often, DHS will deny shelter to those who have family members living in New York City Housing Authority (“NYCHA”) public housing or who are recipients of NYCHA Section 8 vouchers on the theory that the shelter applicant can live with that family member. However, this presents a number of problems, most importantly that it is specifically against NYCHA regulations to have unauthorized persons residing in a NYCHA apartment or an apartment subsidized by NYCHA. The NYCHA Management Manual states, “...no person may join a tenant’s household, unless the tenant requests their inclusion in writing and project management approves the request in writing.” (NYCHA Management Manual, Chapter IV, Subdivision IV, F(1)). Should a NYCHA tenant allow an unauthorized party to live in the NYCHA apartment, the NYCHA tenant will be subject to eviction, as he or she will have been in direct contravention of NYCHA regulations.

If a NYCHA public housing tenant wishes to add someone to the household composition on a temporary basis, he or she must seek permission in writing. (NYCHA Management Manual, Chapter IV, Subdivision IV, F(3)). This is a lengthy process, requiring completion of forms by both the tenant and the proposed temporary occupants, a personal interview with either or both the tenant and the proposed temporary occupants, and an eligibility screening of the proposed occupants. Approval is discretionary at the option of the project Manager, and permission, if granted, may be revoked at any time for almost any reason.

A recipient of a NYCHA Section 8 voucher may not add a party to their household except in very limited circumstances, specifically: a spouse or domestic partner of an authorized family member, a child of a spouse or domestic partner, an adult legally adopted by an authorized family member, or a child under 18 who is born to or adopted by an authorized family member who is not currently living in the household. (2009 NYCHA Section 8 Administrative Plan). Though a Section 8 recipient may make a request to add someone to the household temporarily, this is also discretionary at the option of the Section 8 Manager.

When someone applies for shelter, it is most often an emergency situation. They do not have the time to reach out to the family in NYCHA housing (who may not even want them there), for forms to be completed and filed, and then, potentially weeks later, for the application to be approved. If a shelter application is denied by DHS, he or she would have to request a hearing. Once the hearing is scheduled, the applicant would theoretically have to provide proof of the regulations prohibiting them from simply moving into the subsidized apartment or documentation of the denial of the request to live with someone in a NYCHA apartment. It is well known that it is difficult even for advocates to receive copies of these regulations, let alone a person who is without a stable home and access to resources. For many reasons, it is also difficult or impossible to obtain documentation showing the denial of being allowed to be added to someone else's NYCHA household. This process unnecessarily punishes those in dire need of shelter or sets up those who live in NYCHA for potential eviction.

Currently, there is seemingly no communication between DHS and NYCHA regarding DHS's decision to deny someone shelter based on a theoretically available

space in a relative's NYCHA apartment. DHS, a City agency, cannot unilaterally decide that someone can reside in an apartment administered by NYCHA, a completely separate State agency. As discussed, this opens the NYCHA tenant up to potential eviction. It further has additional consequences for the shelter applicant, including the possibility of being deemed ineligible for NYCHA housing for a number of years due to his or her illegal occupancy of the NYCHA apartment.¹

There must be some coordination between the two agencies to ensure that there are appropriate measures taken to protect both the shelter applicant and the NYCHA tenant with whom DHS has decided that the applicant must live. Should DHS ultimately determine that a shelter applicant must live with a family member residing in NYCHA housing, DHS and NYCHA must work together to ensure that the NYCHA tenant does not get evicted for violation of the rules and that the shelter applicant is appropriately housed. DHS should immediately contact the NYCHA project management office or the Section 8 manager and facilitate an expedited temporary permission request with NYCHA. DHS should place the applicant into an appropriate shelter until a decision is made on the application by NYCHA. Further, DHS should take steps to ensure that the NYCHA apartment will not be overcrowded should the shelter applicant stay in the NYCHA apartment. If approved, NYCHA should work with the shelter applicant, assisting in the completion of an application for public housing or to confirm that he or she has the proper priority if an application had already been submitted.

Should this DHS policy continue unaltered and unchecked, it will ultimately begin to *increase* the number of individuals who are seeking shelter, as those residing in NYCHA housing stand a great chance of being evicted for taking in a family member

¹ This was the topic of a recent hearing held by the Committee on Public Housing on June 28, 2010.

who would otherwise be homeless. We conclude by urging DHS and NYCHA to work together to formulate a plan that would enable those on the brink of homelessness to be safely housed while protecting those that are housing them. We would welcome the opportunity to further discuss or comment on these matters in the future.

Thank you for the opportunity to testify today.

Respectfully submitted,

Kamilla Sjödin, Supervising Attorney

Shari Morris, Staff Attorney



*City Council Hearing
General Welfare Committee jointly with
The Committee on Public Housing
“Oversight: How DHS and NYCHA Coordinate in Determining Eligibility for Shelter”*

Tuesday, October 26, 2010

INTRODUCTION

Good morning Chair Palma, Chair Mendez and members of the General Welfare and Public Housing Committees. I'm Seth Diamond, Commissioner of the Department of Homeless Services. I am here to testify today on the City of New York's efforts to keep families housed in the community whenever possible and how DHS works with NYCHA towards this goal in accordance with State requirements.

In New York City, families with children apply for shelter at the Prevention Assistance for Temporary Housing (PATH) facility, DHS' intake center in the Bronx. At the beginning of the application process, all families are referred to Human Resources Administration staff at PATH for an exploration of diversion options and assistance in obtaining eviction prevention grants and referrals for work supports and child support enforcement.

In addition, PATH's Resource Room social workers meet with all families who are ineligible for shelter. The primary goal of the Resource Room is to provide families with options and to address the underlying issues which led them to seek shelter. Through mediation, counseling, and crisis intervention, social workers help ineligible families realize that shelter is not the only option and work with them to develop an individualized service plan. The Resource Room also helps families to access community-based organizations, including DHS' Homebase prevention program, which provides a range of services, including case management, legal assistance, emergency rental grants and job training, to keep families in their homes. Additionally, Resource Room social workers follow up with clients who accept services.

ELIGIBILITY PROCESS

In the event families are not diverted back to housing in the community, they proceed through the agency's eligibility process which ensures that families in need of shelter receive it and those who are ineligible have alternative housing. DHS' guidelines for determining eligibility are in full conformity with New York State Social Services Law and regulations pursuant to which applicants must demonstrate their need for emergency shelter.

The agency's central task is to determine whether the family is in immediate need of emergency housing and cannot access any other housing even on a temporary basis. PATH staff accomplish this by interviewing each family in depth including investigating prior addresses where the

family lived in the two years prior to seeking shelter, and interviewing primary tenants with whom the family previously resided. In addition, DHS reviews all information gathered in the course of the investigation, including any documents families submit in support of their application.

In determining whether the family can return to housing in the community, DHS considers such factors as the relationship between the applicant and the primary tenant, the prior length of stay, the size and conditions of the home, the reasons for the family's departure, and whether the applicant's return would pose any health or safety issues. DHS also evaluates and determines whether the family can remain in the home even temporarily while they look for other housing.

Before a family is notified that they are ineligible for shelter, a PATH supervisor and attorney review the decision. Families can also request a legal conference with a DHS attorney who has the authority to reverse the ineligibility finding. At the conference, the family can provide new information or documents in support of their application. These safeguards are in addition to the family's right to an expedited State fair hearing to challenge the agency's final determination. Applicants can also challenge a fair hearing decision upholding the agency's determination by pursuing an Article 78 proceeding in New York State Supreme Court. Additionally, throughout the process, DHS' Office of Client Advocacy is available to provide intervention and counsel clients who feel they are not receiving adequate support services.

In calendar year 2009, the agency's ineligible determinations were upheld 96 percent of the time. For this calendar year through August 2010, DHS has been upheld 95 percent of the time. This further confirms the fairness and accuracy of our eligibility process.

NYCHA/DHS COORDINATION

In cases where applicants claim an inability to return to NYCHA housing because they are not on the lease, PATH staff advises them of NYCHA's process for requesting permission to reside permanently or temporarily in a NYCHA unit. For temporary stays, the durational period is up to one year. Additionally, DHS coordinates with NYCHA's Senior Legal Counsel to train PATH staff about the procedures governing temporary and permanent residency requests.

In recognition of the fact that shelter is a costly and limited resource, State law requires DHS to determine whether applicants can return to housing even on a temporary basis. Therefore, we cannot rule out NYCHA housing as a resource unless permission to reside in the NYCHA unit has been sought and denied.

NEXT STEPS

DHS will continue its strong partnership with NYCHA through enhanced communication, staff training and education. In addition to advising applicants how to request NYCHA's permission to live permanently or temporarily in a NYCHA apartment, PATH staff will provide families with NYCHA's application for requesting permission. We believe these efforts will strengthen our ability to assist shelter applicants in securing appropriate housing.



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DHS & NYCHA Coordination

October 26, 2010

Testimony respectfully submitted by

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My name is Christy Parque and I am the Executive Director of Homeless Services United (HSU). HSU is a coalition of 50 non-profit agencies serving homeless and at-risk adults and families in New York City. HSU provides advocacy, information, and training to member agencies to expand their capacity to deliver high-quality services. HSU advocates for expansion of affordable housing and prevention services and for immediate access to safe, decent, emergency and transitional housing, outreach, and drop-in services for homeless New Yorkers.

Homeless Service United's member agencies operate hundreds of programs including shelters, drop-in centers, food pantries, HomeBase, and outreach services. Each day HSU member programs work with thousands of homeless families and individuals, preventing shelter entry whenever possible through counseling, legal services and public benefits assistance among many other supports. Our member agencies provide high quality and compassionate emergency shelter to over 16,000 homeless New Yorkers nightly. Homeless service providers toil at the cross section of many of society's problems. Our clients confront high housing costs, difficulty finding work, mental and physical illness, substance abuse, and domestic violence, and are particularly vulnerable during financially hard times such as these.

On behalf of my membership I would like to thank the Council and the General Welfare and Public Housing Committees for their continued leadership on the behalf of the New Yorkers served by HSU's member agencies.

We share your concern for the alarming numbers of people seeking housing assistance and homeless services. We believe now is the time for New York City to set the standard for creating innovative programs that address the diversity of people and needs seeking assistance. It is time to re-examine and modify NYC's housing and shelter policies ensuring that the agencies that serve these needy New Yorkers are adequately funded and equipped to provide the necessary services to rapidly re-house their clients in long term stable living situations.

To that end we propose:

➤ **Create Permanent Housing Opportunities**

Restore priority for Section 8 vouchers and NYC public housing immediately upon entry into shelter resource to shelter residents so that they may exit quickly and directly from shelter into a long-term housing situation. This will not only serve to stabilize families and communities it will reduce the length of stay and census in shelters which is sound financial and social policy.

➤ **Examine NYCHA lease re-calculation and eviction policies**

Homelessness prevention providers and the New York City Housing Courts are full of NYCHA tenants in the process of eviction, often times for no fault of their own. Cases abound of improperly calculated and fluctuating rent bills as well as poor

communication between NYCHA staff and tenants that are causing thousands of New Yorkers to become at risk for homelessness.

When NYCHA erroneously or unjustly take tenants to court there is about a 90% chance they will be successful in the eviction proceedings unless the tenant is lucky enough to have legal support, which is rare given the cuts to City and State homeless prevention programs budgets. This shifting of the financial burden from one city agency, NYCHA to another, for example DHS, is not only unjust but unconscionable.

The quickest and most effective way to prevent homelessness is through eviction prevention and assisting people to maintain their housing. **We ask for your assistance in helping preventing NYCHA tenants from losing their housing and being forced to turn to the shelter system as a last resort.**

CONCLUSION

Thank you for your time and commitment to addressing the needs and concerns of homeless and at-risk New Yorkers and those who serve them. Homeless Services United looks forward to working with you to realize solutions that will allow our members' vital programs to continue to provide our neediest New Yorkers with services that support and motivate them to thrive in the future.

**Testimony of The Legal Aid Society, Coalition for
the Homeless, and Legal Services NYC**

on

**HOW DHS AND NYCHA COORDINATE IN
DETERMINING ELIGIBILITY FOR SHELTER**

Presented before

The New York City Council

**Jane Sujen Bock and Joshua Goldfein, Senior Staff Attorneys
Homeless Rights Project
The Legal Aid Society**

**Patrick Markee, Senior Policy Analyst
Coalition for the Homeless**

**David Robinson, Senior Staff Attorney
Legal Services NYC**

October 26, 2010

The Legal Aid Society, the Coalition for the Homeless, and Legal Services NYC welcome this opportunity to testify before the New York City Council concerning the impact of the failure of the New York City Department of Homeless Services (DHS) to recognize the rules of other City agencies – including the New York City Housing Authority (NYCHA), the Department of Housing Preservation and Development (HPD), the HIV/AIDS Services Administration (HASA) as well as the Section 8 program -- on our clients.

Although the City has stated a goal of promoting interrelationships between different branches of municipal government, for homeless children and families applying for emergency shelter, it is not “One City.” The City’s Department of Homeless Services routinely denies shelter to families on the basis that they have other housing available to them at particular addresses identified from the family’s housing history, even when the rules of other City agencies would prohibit residents of those apartments from taking in the homeless family. The rules are published and could easily be followed by DHS, but instead DHS requires desperate shelter applicants to re-prove, on a case-by-case basis, that these rules exist and apply to residents of other City-supported housing. It would require virtually no additional effort for DHS staff to ascertain and follow the rules of the other, parallel City agencies whose mandate is to preserve safe and affordable housing for New Yorkers.

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 850 of the brightest legal minds. These 850 Legal Aid Society lawyers work with 600 social workers, investigators, paralegals and support and administrative staff. Through a network of borough, neighborhood, and courthouse offices in 25 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 some 2 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.

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 3,000 homeless New Yorkers each day. The Coalition advocates for proven, cost-effective solutions to the crisis of modern homelessness, which now continues past its third decade. The Coalition also struggles to protect the rights of homeless people through litigation around the right to emergency shelter, the right to vote, and appropriate housing and services for homeless people living with mental illness and HIV/AIDS.

The Coalition operates twelve direct-services programs that both offer vital services to homeless, at-risk, and low-income New Yorkers, and demonstrate effective, long-term solutions. These programs include supportive housing for families and individuals living with AIDS, a job-training program for homeless and formerly-homeless women, a Rental Assistance Program which provides rent subsidies and support services to help working homeless individuals rent private-market apartments, and apartment buildings in Manhattan which provide 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 more than 900 nutritious meals to street homeless and hungry New Yorkers each night. Finally, our Crisis Intervention Department assists more than 1,000 homeless and at-risk households each month with eviction prevention assistance, client advocacy, referrals for shelter and emergency food programs, and assistance with public benefits.

The Coalition also represents homeless men and women as plaintiffs in Callahan v. Carey and Eldredge v. Koch. In 1981 the City and State entered into a consent decree in Callahan in which it was agreed that, "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 to physical, mental or social dysfunction is in need of temporary shelter." The Callahan consent decree and 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.

Legal Services NYC: Legal Services NYC is the nation's largest provider of free legal services to the poor. For nearly 40 years, Legal Services NYC has provided critical legal help to low-income residents of New York City. The nineteen neighborhood offices of Legal Services NYC operate in diverse communities throughout the city, representing thousands of low-income tenants annually in disputes involving their rights to remain in their homes.

DHS failure to consider the rules of other agencies:

As of last Thursday, there were 36,136 New Yorkers living in City shelters, including 14,514 children and 9,649 families. As you know, pursuant to the New York State Constitution,

every New Yorker who has no other place to stay is entitled to decent, habitable shelter. These rights were established in the class actions Callahan v. Carey (for homeless single adults) and McCain v. Koch and Boston v. City New York (for homeless families). The Legal Aid Society is counsel in these actions and also counsel for Coalition for the Homeless, who testifies with us today.

When families apply for shelter, DHS staff interview them about their resources and housing history and evaluate whether they have another place to stay. If they do, and that location is not overcrowded or unsafe, the family is not homeless, and the City has no legal obligation to provide them with shelter. The process DHS uses to assess eligibility is broken, however, and every day the City rejects the applications of families who should have been eligible for shelter. Many of these families are later denied shelter placements when they re-apply. The City's own statistics on the DHS website show that about 40% of the families who are eventually found eligible for shelter have to file between two and six (or even more) applications.

One major flaw in the eligibility process is that DHS routinely erroneously determines that a particular address is available to a family when the primary tenant at the address in question receives a rent subsidy from another City agency. Many of these programs – such as those administered by NYCHA, HPD and HASA, and including the Section 8 program – have rules restricting occupancy of the tenant's apartment. In these programs, rules restrict the number of people who can reside in an apartment, as well as barring people with certain convictions, prior history with the Housing Authority, or, in the case of senior residences, people below a certain age.

Under those rules, the applicant homeless families could not reside in the primary tenant's apartment without jeopardizing that tenancy, potentially creating another homeless household. In such cases, the residence of the primary tenant cannot be considered to be "available" to the applicant family. According the Final Judgment in the Boston case, the City must provide shelter to families with children who "lack adequate housing." Boston v. City of New York, Index No. 402295/08 (Sup. Ct. N.Y. Co), par 3.

As the Department of Homeless Services outlined in a letter to the Legal Aid Society earlier this month, DHS refuses to ask primary tenants if they are willing to request that NYCHA add the applicant family to their leases, taking the position that a primary tenant's statement that the applicant family cannot stay (or is not wanted) is not sufficient to establish that the housing is no longer available.

Furthermore, applicants who say they cannot live with a friend or relative in a NYCHA or Section 8 apartment due to lease restrictions are required to provide documentation from NYCHA or the landlord to that effect. Not only that, those who assert that the primary tenant is in danger of eviction due to the applicant's stay at a residence are instructed to provide proof of imminent eviction, such as a Marshal's Eviction Notice.

As DHS is aware, it is often impossible, for applicant families – the vast majority of whom are unrepresented – to obtain the magic document establishing that their friend or relative asked NYCHA or their Section 8 landlord for permission to add the applicant family to their household and that permission was denied.

First, usually when a homeless family has had to leave a friend or relative's home, the two families are no longer on good terms. Disputes, exacerbated by overcrowding, and even domestic violence are not uncommon among these formerly doubled up families. The last thing the primary tenant family wants to do is request permission for the homeless family to live with them – they just threw the family out, after all.

Second, even in cases where the primary tenant family might be willing to help the applicant family out in other ways, the primary tenant family is typically unwilling to get the required documentation from the NYCHA or HASA management office or the Section 8 landlord because they would be admitting that they previously broke rules or violated their lease by letting the homeless family stay with them. Making the request might therefore jeopardize their Section 8 voucher or put the family at risk of being evicted, especially if they already feel vulnerable because, say, they are behind in their rent or have previously been warned about having too many people in their apartment.

Third, it is often difficult for experienced lawyers to negotiate these documents with housing management offices and landlords, and it is all but impossible for shelter applicants to figure out how to obtain them. For example, last week the Homeless Rights Project advised a four-person family who became homeless after the primary tenant with whom they were living died, so they had to leave the apartment. DHS denied the family – which includes an autistic child as well as a pre-schooler who was receiving home services for learning delays until he became homeless -- on the ground that the family could double up with a relative in a NYCHA apartment. When the primary tenant contacted her management office, she was informed by the Assistant Manager of her project that under no circumstances would NYCHA allow four more people in her apartment because that would cause overcrowding and that she would be in breach of her lease and could lose her apartment if she let them return. The NYCHA manager, however, refused to put this in writing. Obviously, however, DHS staff could obtain the same information by reviewing NYCHA's written policies or by contacting NYCHA directly, which they only do when the applicant presents a NYCHA document.

Finally, as a matter of public policy, it is absurd that DHS requires a Marshal's Eviction Notice in order for an applicant family to prove that a primary tenant family is in danger of eviction due to the applicant's stay. DHS is virtually requiring that two families become homeless in order for the non-lease-holding family to get shelter. Obviously, most primary tenants are going to kick out guest families well in advance of a Marshal's Notice in order to preserve their apartments, but the homeless family has no way to prove that they can't return to the place where they previously doubled up in the absence of a Marshal's Notice.

The City raises the specter that thousands of families who are safely doubled up in NYCHA or Section 8 housing will enter the shelter system if DHS is required to abide by

NYCHA, HPD, HASA, and Section 8 housing restrictions. There is simply no evidence to support that claim. Those restrictions on doubling up are in place for a purpose: because those government agencies have determined that overcrowding those apartments leads to excessive wear and tear on the buildings; increased noise, conflict, and violent incidents; heightened fire hazards as rooms are subdivided and electrical systems overloaded; and a deterioration in community life. Indeed, in a front page article published just yesterday, the *New York Times* reports on the severe backlog of repairs needed for NYCHA's aging housing stock and the impact of funding shortfalls to make those repairs. ("Public Housing Repairs Can't Keep Pace with Need," *New York Times*, October 25, 2010.) And what are the consequences and the costs when families are denied shelter on the ground that they can double up in NYCHA or other government-regulated housing in violation of agency rules?

- DHS found the Doe family ineligible on the ground that they could return to live with Mr. Doe's sister in her two-bedroom NYCHA apartment. The Doe family had slept in the living room, making it eight people in the two-bedroom apartment. Mr. Doe, who is disabled, reported to DHS that his sister would no longer have his family, that the apartment was overcrowded, and that his family was not on the NYCHA lease. A DHS lawyer claimed that "there has not been a request to NYCHA to have the applicants added to the lease, so the applicant not being on the lease is of no consequence in this case." After DHS denied the Doe family "immediate needs" shelter, they attempted to return to their sister's NYCHA apartment, but she slammed the door in their faces. They then spent two nights in a hospital waiting room with their one-year-old child, and Mr. Doe and his wife subsequently slept in parks and on rooftops. Even after the Legal Aid Society submitted documentation to DHS detailing the severe overcrowding, the NYCHA lease restrictions, Mr. Doe's multiple disabilities, the fact that the Doe family had been sleeping in public spaces after being denied "immediate needs" shelter, and severe discord between the primary tenant sister and Mr. Doe's wife, the family was again found ineligible for shelter. Eventually, more than a month after they applied for shelter, the family won a State administrative hearing on the ground a two-bedroom apartment with four children and four adults was overcrowded, a conclusion that DHS would have reached weeks earlier had it considered and abided by NYCHA's occupancy restrictions or the Boston Final Judgment.
- Another family, who we will call the Lees, was found ineligible for shelter over a period of two months on the ground that they could double up in Ms. Lee's mother's NYCHA apartment. Ms. Lee and her two boys, ages 6 and 4, suffer from asthma, and her newborn baby had colic. Ms. Lee presented to DHS a letter from NYCHA that stated:

It would be against housing policy and standards to allow 6 individuals to reside in this dwelling unit causing an overcrowded situation. We would not approve a request of this nature.

Nevertheless, DHS found the family ineligible on the grounds that they could live in Ms. Lee's mother's apartment. A couple weeks later, Ms. Lee was able to get a second letter from NYCHA which stated:

[The primary tenant] requested permission for her daughter [] and **3 children** to reside in her apartment which has been **denied** due to **creating an over crowding situation** which is against housing policy and will cause **immediate lease termination** if found in violation.

(Emphasis in original.) Even with this unequivocal documentation, DHS continued to find this family ineligible for shelter on the ground that they could double up in the NYCHA apartment. Two State administrative hearings did not change that result. During the shelter re-application process, the family was placed in a roach-infested shelter unit. All four family members required emergency room treatment as their health conditions deteriorated, and the four-year-old was admitted to the hospital after suffering a severe asthma attack. Ms. Lee missed work repeatedly and was in danger of losing her job. Her son, previously an excellent student, had to miss days of school while the family applied and re-applied at Path, and his school performance suffered.

Finally, after being found ineligible for shelter for two months, Ms. Lee gave up applying. Because her mother would not take her back into her NYCHA apartment, Ms. Lee had no choice but to double up her family in a single room with two adult relatives. In that room, two adults sleep in one bed, while Ms. Lee shares the other bed with her three children. The family eats their meals in that room, which also contains their refrigerator. Not surprising, Ms. Lee's son's asthma has continued to worsen while living with five other people in a single room, and he has again required hospital treatment. Nevertheless, based on her two-month experience of being denied shelter, Ms. Lee has determined that it is better for her family to live in the severely overcrowded conditions where she is than to subject her family further to the grueling shelter application process.

DHS succeeded in driving this family away. But the City will pay in terms of the increased hospital costs for this family and the foreseeable long-term effects that this traumatic and unsafe experience will have on the medical conditions and developmental and educational outcomes for these children.

These terrible stories are occurring against a backdrop of DHS continuing, in the words of a former DHS Commissioner, to screw the front door of the shelter system tighter. As the graph attached to this testimony shows, based on the City's own data, the percentage of families applying for shelter who are found eligible has steadily dropped from 45.3% in February 2010 to just 34.9% in August 2010. In these difficult economic times, DHS is actually finding a lower percentage of families eligible for shelter than it did two years ago, when the recession began and when Legal Aid entered into the Boston lawsuit settlement with the City, a settlement that was supposed to make real the New York State Constitution's guarantee of aid and care to these needy homeless families.

It would not be unduly burdensome on DHS to incorporate the occupancy rules of other, parallel City agencies into its own decision-making process. Each City agency that administers housing subsidies maintains such rules in writing for its own staff. For example, NYCHA has two sets of rules: one for the developments it owns and manages, and one for Section 8 households whose vouchers it administers. For each program, NYCHA specifies a process for applying to add someone to a household, the rules governing whether such a request can be granted, and the penalties to the primary tenant if such rules are not followed, which may include termination. See NYCHA Management Manual, Chapter IV, Subdivision IV (“Changes in Family Composition”); NYCHA Section 8 Administrative Plan, Addendums 2 and 5. Under NYCHA rules, some applicants are categorically ineligible to join a household, including individuals with certain kinds of criminal records and people who NYCHA believes are in debt to it. See NYCHA Department of Housing Applications Manual, Chapter 5, Subdivision F; NYCHA Section 8 Administrative Plan, Addendum 3. In buildings restricted to senior citizens, no one who is below the minimum age for the building can reside there, even temporarily. See NYCHA Management Manual, Chapter IV, Subdivision IV(F)(4)(a)(1)(a). Other City agencies, such as HPD and HASA, have similar occupancy rules to NYCHA’s. Homeless children and their families, who have a Constitutional right to shelter, should not be denied shelter and left to sleep in parks, on trains and in other public spaces because DHS will not acknowledge the rules of other City agencies.

Recommendations:

1. Pursuant to the Boston Final Judgment, DHS should stop deeming that homeless families applying for shelter have housing available to them in NYCHA, Section 8, HASA, or other subsidized housing where the applicant family’s presence in the home would jeopardize the tenancy of the primary tenants.
2. Consistent with the due process and the Boston Final Judgment, if the addition of the applicant family would jeopardize the primary tenant’s housing, or if the housing would be overcrowded with the addition of the applicant family, DHS must consider and abide by the rules and regulations of parallel government agencies including NYCHA, Section 8, or HASA as well as any lease restrictions.
3. If a primary tenant family refuses to request that an applicant family be granted permission to stay in their apartment as required by their lease or by NYCHA Section 8, HASA or other agency rules, the housing cannot be deemed to be “available” under the Boston Final Judgment, and DHS cannot deem that they can stay there.

We thank the Council for your continuing support for fair and effective treatment of families applying for shelter. We will continue to update you about the needs of homeless New Yorkers so that we can serve clients who depend on the Legal Aid Society to provide access to justice.

Submitted by,

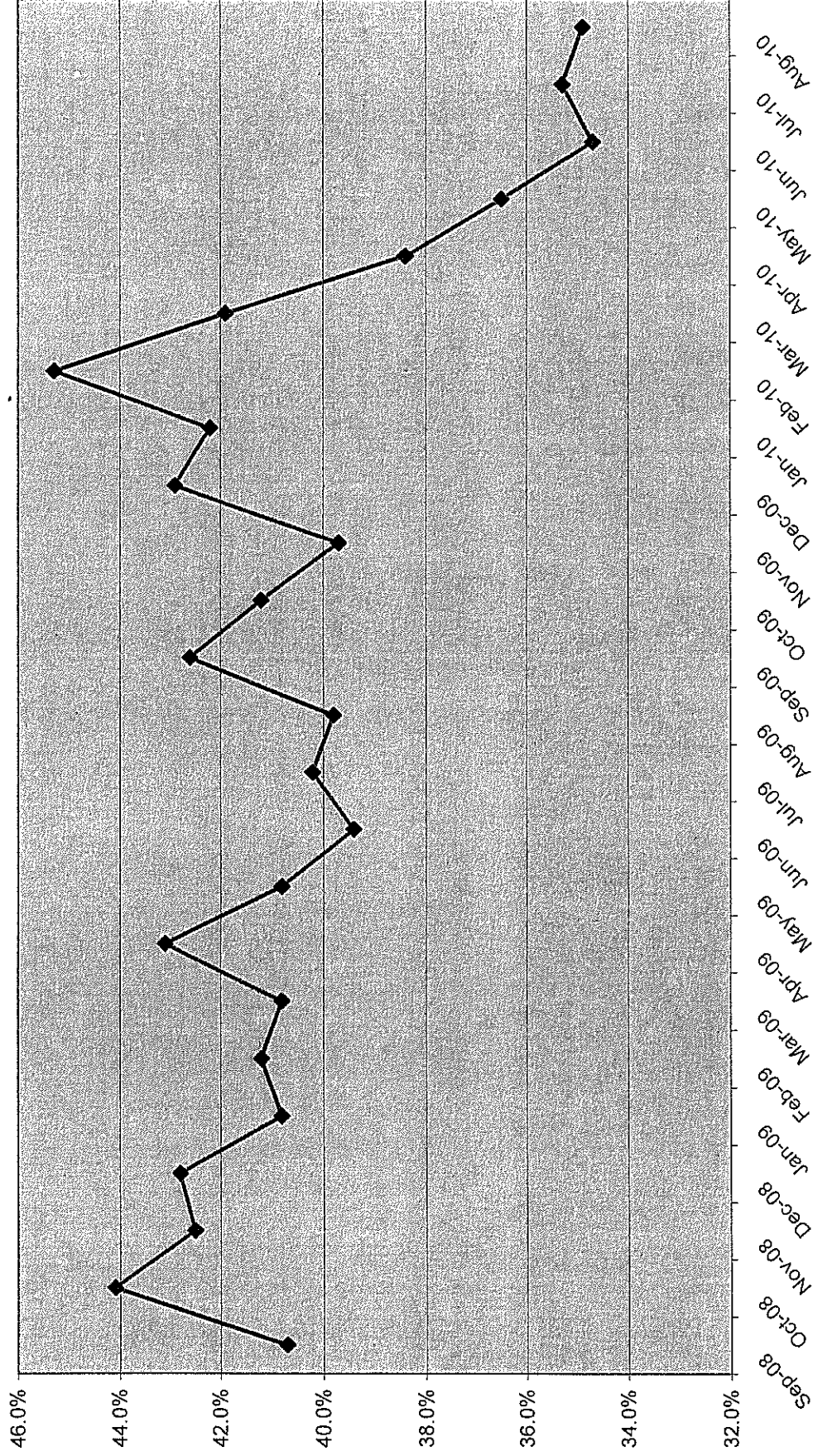
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Eligibility Rate for Homeless Family Applications (Unduplicated) September 2008 - August 2010



Source: DHS/OTDA Monthly Report produced by the New York City Department of Homeless Services

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THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: 10/26/10

Name: Christy PAROLE (PLEASE PRINT)

Address: 1070 E 2nd St NY

I represent: Homeless Services United

Address: _____

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THE CITY OF NEW YORK**

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☐ in favor ☐ in opposition

Date: 10/26/2010

Name: Gloria Firsirotu (PLEASE PRINT)

Address: 250 Broadway 12th Flr

I represent: NYCHA

Address: _____

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☐ in favor ☐ in opposition

Date: 10/26/2010

Name: Alan Pelikow (PLEASE PRINT)

Address: 250 Broadway 12th Flr

I represent: NYCHA

Address: _____

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Date: _____

(PLEASE PRINT)

Name: Carmen Valentin

Address: 171 Ave B 80 Bayuch Drive 8A

I represent: Goles Manh 10062

Address: 171 Ave B, NYC

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☐ in favor ☐ in opposition

Date: 10/26

(PLEASE PRINT)

Name: Seth Diamond, Commissioner

Address: _____

I represent: DHS

Address: _____

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THE CITY OF NEW YORK**

Appearance Card

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☐ in favor ☐ in opposition

Date: 10/26/10

(PLEASE PRINT)

Name: Jane Boelen Honolulu Rights Project

Address: ~~300 E 10th St~~ Legal Aid 199 West St

I represent: _____

Address: _____

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☐ in favor ☐ in opposition

Date: 10/26/10

Name: ALAN (PLEASE PRINT) PELIKOW

Address: 250 BROADWAY, RM. 9077, NYC

I represent: NYCHA

Address: 250 BROADWAY, NYC

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

☐ in favor ☐ in opposition

Date: 10/26/10

Name: Gloria Finkelman (PLEASE PRINT)

Address: 250 Broadway

I represent: NYCHA

Address: 250 Broadway NY NY

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☐ in favor ☐ in opposition

Date: 10/26/10

(PLEASE PRINT)

Name: Kamilla Siodin

Address: 450 W. 33rd St., 11th Fl., 10001

I represent: New York Legal Assistance Group

Address: 450 W. 33rd St., 10001

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Appearance Card

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☐ in favor ☐ in opposition

Date: 10/26/2010

(PLEASE PRINT)

Name: PATRICIA MARICEE

Address: 129 FULTON ST., NY, NY 10038

I represent: COALITION FOR THE HOMELESS

Address: ✓

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