

Testimony by the New York Legal Assistance Group in Support of

Int. 878-A, Int. 893-A, Int. 894-A and Int. 229-A

Before the New York City Council Committee on General Welfare

July 13, 2023

Deputy Speaker Ayala, Council Members, and staff, good morning and thank you for the opportunity to speak to the Committee on General Welfare on legislation expanding access to rental subsidies. My name is Deborah Berkman, and I am the Supervising Attorney and founder of the Shelter Advocacy Initiative and the Supervising Attorney of the Public Assistance and SNAP Practice at the New York Legal Assistance Group (“NYLAG”).

NYLAG uses the power of the law to help New Yorkers experiencing poverty or in crisis to combat economic, racial, and social injustices. We address emerging and urgent needs with comprehensive, free civil legal services, financial empowerment, impact litigation, policy advocacy, and community partnerships. We aim to disrupt systemic racism by serving clients whose legal and financial crises are often rooted in racial inequality.

The Shelter Advocacy Initiative at NYLAG provides legal services and advocacy to low-income people residing in and trying to access homeless shelter placements in New York City. We work to ensure that every New Yorker has a safe place to sleep by offering legal advice and representation throughout each step of the shelter application process. We also assist and advocate for clients who are already in

shelter as they navigate the transfer process, seek adequate facility conditions and resources for their needs. We also offer representation at administrative Fair Hearings. The Public Assistance and SNAP Practice represents clients having trouble accessing or maintaining Public Assistance and SNAP benefits. We represent these clients at administrative Fair Hearings, conduct advocacy with the Department of Social Services (“DSS”), Benefits Access and SNAP centers, and bring impact litigation to ensure that our clients are obtaining and maintaining an adequate level of benefits.

I have worked with numerous individuals and families experiencing homelessness and near-homelessness trying to access rental subsidies to transition to and remain in permanent housing. Based on my experiences working with these populations, I appreciate the opportunity to offer the following comments supporting all of the proposed bills.

**I- A Shelter Stay Should Not Be a Pre-Requisite for Subsidy Eligibility**

NYLAG enthusiastically supports Int. 878-A, prohibiting DSS from requiring an applicant for a rental assistance subsidy to have resided or to currently reside in a shelter. The City should not maintain a system where *more* people need to enter the shelter system in order to obtain private housing. It is not an overstatement to say that the New York City shelter system is in crisis. One week this past June, the New York City shelter census was at a record high, reaching over 100,000 residents.<sup>1</sup> The system is currently so overburdened that, in the previous year, DSS has seen families sleeping in shelter intake offices until placements became available. In fact, four

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<sup>1</sup> <https://www.nytimes.com/2023/06/30/nyregion/nyc-homeless-shelters-migrants.html>

families represented by NYLAG report having slept in the shelter intake office with their small children for multiple days until a placement could be located. Last summer, a New York City spokesperson described the rate of shelter availability at that time as “severely below the standard vacancy rate we hope to maintain for the shelter system.”<sup>2</sup> The single adult system in New York City is similarly overburdened. For example, on one night last fall, 60 men had no other option but to sleep in chairs and on the floor of the shelter intake office because New York City did not have sufficient capacity in any of its assessment shelters.<sup>3</sup> Allowing more people to access rental assistance subsidies without a shelter stay will prevent senseless evictions and new entries into the shelter system, thus increasing the capacity of the shelter system.

There is no reason to require shelter stay as a prerequisite for obtaining the specific subsidy of CityFHEPS. Many subsidies, including the standard FHEPS, have no such requirement. The reasoning behind this distinction between CityFHEPS eligibility and FHEPS eligibility is unclear. A person at risk of homelessness is a person at risk of homelessness, whether or not they have ever stepped foot into a homeless shelter before. The semantic requirement that these people actually enter the shelter system, in effect forcing them to prove their need which has already been demonstrated by virtue of them being unable to afford private housing, only serves to

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<sup>2</sup> <https://www.thecity.nyc/2022/7/26/23279842/homeless-shelters-are-overflowing-and-most-likely-in-poor-areas-despite-fair-share-promises>

<sup>3</sup> <https://citylimits.org/2022/09/14/nyc-homeless-agency-scrambles-for-capacity-after-latest-right-to-shelter-violation/>

overburden the City's agencies and budget without materially helping anyone experiencing homelessness.

## **II- People At Risk of or Experiencing Homelessness Should be Prioritized for Rental Subsidies**

NYLAG also enthusiastically supports Int. 893-A expanding eligibility for rental assistance to any applicant at risk of eviction or experiencing homelessness.

Households are being evicted from stable and affordable apartments because there are not enough programs available that will help them maintain their housing. When they are not eligible for a rental assistance program to prevent eviction, they are forced to enter the shelter system, where they languish until they can obtain a shopping letter and secure a new apartment. For instance, in City Fiscal Year 2022, the average length of stay in the DHS shelter system was 509 days for single adults, 534 days for families with children, and 855 days for adult families.<sup>11</sup> This often trauma-inducing experiencing could be avoided by making the subsidy available to more households in the community to preserve their homes.

Currently, New York City tenants must meet one of the following criteria in order to be eligible for CityFHEPS: have veteran status, have prior shelter history, receive Adult Protective Services (APS), or live in a rent-controlled apartment. Prior to its supersession by CityFHEPS, the City's Special Exit and Prevention Supplement (formerly known as "SEPS") allowed program administrators to grant the Supplement to long-term tenants. Once the program converted to CityFHEPS, the long-term tenancy eligibility category was eliminated.

Only a small fraction of NYLAG's clients meet the current CityFHEPS criteria. Many tenants with non-payment housing court cases are elderly and have resided in their apartments for decades and have rent and income thresholds that meet CityFHEPS guidelines yet remain ineligible due to this restrictive criterion.

For example, NYLAG recently represented an elderly couple who were forced out of their home due to lack of access to a sustainable rent subsidy. This couple had resided in their apartment for over 40 years and had a combined monthly income of less than \$1,100. Neither of them was able to return to the workforce, nor did they have family or friends able to provide ongoing financial support. In addition, one of them grappled with severe medical issues that required life-sustaining dialysis. Despite persistent advocacy to Adult Protective Services, DSS, and other entities, we were unable to secure a rental subsidy and eventually the couple lost their home. Had subsidies been available to families at risk of homelessness, this couple would currently have a subsidy to pay their ongoing rent.

A significant portion of elderly tenants need a rental subsidy. Older renters comprise 26.9% of total renters in New York City, and a 2019 report from the Center for an Urban Future notes that adults in New York City older than 65 have a poverty rate of 20 percent<sup>4</sup>. Many long-term tenants rely on monthly Social Security incomes that are not enough to keep up with the cost of their rent, even with rent freezes and annual cost of living adjustments.

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<sup>4</sup> *New York's Older Adult Population is Booming Statewide*, Center for an Urban Future (February 2019) <https://nycfuture.org/research/new-yorks-older-adult-population-is-booming-statewide>.

Expanding rental subsidy eligibility criteria will also lead to substantial savings for the City substantial in shelter costs. The average cost of shelter for a single person in New York City is \$38,000 per person per year, while subsidizing an apartment for a single person costs significantly less. Thus, we strongly recommend that the City Council pass the stated resolution.

### **III- Source of Income or Employment Status Should Not Be an Eligibility Factor for Rental Subsidies**

Int. 894-A, eliminating employment status and source of income requirements for rental assistance is a necessary measure. In addition to creating space in an overburdened shelter system, expanding access to rental subsidies would provide stability to individuals and families experiencing homelessness. People in shelter who do not have access to the programs that assist in transitioning to permanent housing are unlikely to ever gain the means to leave the shelter system because of the prohibitive cost of housing in New York. Precluding housing subsidy eligibility effectively traps people experiencing homelessness in the shelter system. This is particularly problematic because life in shelter takes an enormous toll on the wellbeing of individuals and families experiencing homelessness. Most often people are not placed near family support or in familiar neighborhoods, close to community supports and current medical providers. Children in shelter are often required to transfer to new schools, and family members must travel long distances on public transportation to continue treatment with trusted doctors and therapists. Periodic shelter transfers render it impossible for people to achieve stability by establishing roots and becoming part of a community and are particularly destabilizing for

children. The goal of all people in the shelter system is to transition to the stability of permanent housing, which is almost impossible without the assistance of a housing subsidy. Expanding access to rental assistance is necessary to achieve this goal.

**IV- Utility Allowance Should Not Be Deducted from Rental Allowance, And Tenant Contribution Should Be Reduced When Rent is Below Maximum Rental Allowance**

NYLAG also supports Int. 229-A prohibiting deduction of a utility allowance from rental subsidies and mandating that the tenant contribution be reduced when the rent is below the maximum rental allowance. In effect, this bill increases the amount of rental assistance provided, which is sorely needed to assist people experiencing homelessness in transitioning to permanent housing. Many NYLAG clients have rental subsidies but cannot obtain apartments with them, in part because the rental amount cap is below market rates in New York City.<sup>5</sup> Any raise in the amount of rental assistance available is a welcome measure and will expedite transitions to permanent housing.

However, the rent cap in rental subsidies is not the only barrier for people experiencing homelessness to obtaining permanent housing. Even when clients are able to find apartments that fit within the rental guidelines, the process of getting an apartment approved for a subsidy is slow and overly burdensome for landlords and is often riddled with administrative errors by DSS. According to many NYLAG clients, so much of landlords' reticence to rent to subsidy-holding tenants stems from DSS' own practices. Landlords are reasonably concerned that there will be administrative

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<sup>5</sup> <https://www.renthop.com/average-rent-in/new-york-city-ny>

problems with DSS paying the rent, based on past experience and common knowledge. After a client finds an apartment and a landlord willing to take a rental subsidy, it can take months for that apartment to be approved by DSS for subsidy use. One reason for this delay is that for clients in shelter seeking to use a subsidy, shelter housing specialists or caseworkers process the application and act as an intermediary between DSS and the landlord. Clients report a frequent breakdown of information between their shelter caseworkers, DSS, and the landlords. If a willing landlord makes a mistake on the application (as often happens), it can take many days or even weeks before that information is relayed from DSS to shelter caseworkers and then back to the landlord. The landlords do not work directly with DSS, and information is often lost in the process. Clients report situations where forms are filled out incorrectly multiple times and landlords are not able to obtain clarification on how to correct issues with the forms. This confusing and time-consuming process creates significant deterrents for landlords. Clients also report that often DSS is not able to schedule apartment inspections in a timely manner.

Even when a landlord is willing to hold an apartment to complete the process, often after several weeks they will be forced to rent that apartment to someone who can start the lease quicker. NYLAG clients report having to wait months between finding an apartment with a landlord willing to take a subsidy and actually getting DSS's approval to execute the lease. Many times, such apartments are lost in the process. Just this week, one of NYLAG's clients who is an elderly, disabled, refugee from the war in Ukraine, lost out on a private apartment because it took the shelter



housing specialist staff and DSS nearly an entire month to process her subsidy application. The client identified a suitable, subsidy-eligible apartment and a landlord willing to work with DSS in mid-June and immediately informed her shelter staff. The shelter staff did not submit her subsidy application until July 5<sup>th</sup>. That same day, the shelter staff informed NYLAG that the landlord would receive payment by July 11<sup>th</sup>, but DSS failed to approve the application until that date, one whole week after the application was submitted for a vacant apartment in high demand. Yesterday, DSS informed NYLAG that the landlord would not receive payment until “sometime next week.” Exasperated, the landlord gave up after the continuous delays and informed our client that they were renting the apartment to someone else, citing the fact that they had lost an entire month of rental income while waiting on DSS.

Even after an apartment is approved and the client moves in, problems with DSS persist. NYLAG clients who rely on both the FHEPS and CityFHEPS subsidies report that DSS often does not pay their rent on time, and sometimes will discontinue paying rent without notice to the client or the landlord. Indeed, landlords have created a website, [www.nycfheps.com](http://www.nycfheps.com), to warn each other about the pitfalls of renting to subsidy holders. Although some of the stories posted complain about so-called “difficult” tenants, most complaints state that they will not rent to subsidy holders because of DSS’s slow processing and late rental payments. Evidently, much of the reluctance to rent to subsidy holders is attributable to DSS’ administrative failures, which is entirely within the City’s control. People experiencing homelessness are missing out on obtaining private housing not because they are poor and not because

they cannot afford the apartments, but because DSS has established a reputation as an unreliable intermediary incapable of processing subsidies in a timely manner. We urge this Council to pass the current legislation and to create further legislation aimed at DSS' administrative practices and procedures.

We thank the Committee on General Welfare for the work it has done to facilitate services for vulnerable New Yorkers, and for taking this opportunity to continue to improve the conditions for our clients. We hope we can continue to be a resource for you going forward.

Respectfully submitted,

New York Legal Assistance Group