

Testimony by the New York Legal Assistance Group (NYLAG)

**Before the New York City Council Committee on General Welfare jointly with the
Committee on Mental Health, Disabilities and Addiction, the Committee on Housing
and Buildings, and the Committee on Veterans on Supportive Housing in New York
City and Legislation Requiring Reports on Removals of Individuals Experiencing
Homelessness**

December 7, 2023

Chair Ayala, Chair Lee, Chair Sanchez, Chair Holden, Council Members, and staff, thank you for this opportunity to testify on the issues of supportive housing and assisting homeless New Yorkers, including our homeless veteran community. This testimony has been prepared by Deborah Berkman, Supervising Attorney of the Shelter Advocacy Initiative, and Ryan Foley, Supervising Attorney of the Veterans Practice, of the New York Legal Assistance Group (NYLAG). NYLAG is a nonprofit law office dedicated to providing free legal services in civil matters to low-income New Yorkers. The New York Legal Assistance Group uses the power of the law to help New Yorkers in need combat economic, racial, and social injustice. We address emerging and urgent legal needs with comprehensive, free civil legal services, impact litigation, policy advocacy, and community education. NYLAG services military veterans, the homeless, immigrants, seniors, the homebound, families facing foreclosures, renters facing eviction, low-income consumers, those in need of government assistance, children in need of special education, domestic violence survivors, persons with disabilities, patients with chronic illness or disease, low-wage workers, members of the LGBTQ community, Holocaust survivors, and others in need of free civil legal services.

The Shelter Advocacy Initiative at NYLAG provides legal services and advocacy to low-income people in and trying to access the shelter system. 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, and we offer representation at fair hearings.

NYLAG serves the diverse needs of veterans through legal clinics within the Bronx and Manhattan VA Medical Centers, including the nation's first legal clinic focused entirely on women veterans, as well as through referral partnerships with veteran-focused community-based organization. We provide comprehensive services to veterans and their families, regardless of their discharge status and eligibility to use the VA Healthcare System. We staff a legal clinic at the Borden Avenue Veterans Residence and serve large numbers of homeless and housing insecure Veterans.

The two major focuses of NYLAG's veteran-specific work are providing assistance with discharge upgrades, which increases eligibility for benefits, and benefit applications and appeals, to ensure veterans are able access the federal benefits they are entitled to. A less than Honorable discharge means a former servicemember may not be able to access the full range of benefits that their military service would otherwise grant them. Veterans who receive an Other Than Honorable (OTH) or Bad Conduct discharge often find they have a complete bar to VA benefits, including critical resources such as VA disability benefits and access to VA healthcare. Studies have found a direct correlation between mental health issues and less than Honorable discharges, making the lack of access to these benefits for this segment of the veteran population even more dire. Veterans with a PTSD diagnosis are eleven times more likely to

have a less than honorable discharge and veterans who reported military sexual trauma in service are 35% more likely to have a less than honorable discharge.

I- Veteran Homelessness

This combination of lack of access to benefits and severe mental health conditions leaves veterans with a less than honorable discharge in a situation where they are seven times more likely to deal with housing insecurity. A crucial step in increasing eligibility and access for veterans is screening for veteran status and identifying that an individual may be eligible to mental health, disability, housing, and education benefits. NYLAG applauds the City Council for taking steps to increase tracking and recording of this information by city agencies, particularly among the vulnerable homeless population, as well as by encouraging outreach and public education campaigns around the resources and benefits available to the veteran community. However, it is equally as important that we ensure that support is given to the organizations and agencies that with then help veterans navigate the difficult and confusing processes to connect to these benefits, including legal service providers.

II- Supportive Housing

Availability and accessibility of supportive housing is critical to help people experiencing homelessness transition to permanent housing. NYLAG offers these suggestions to further that goal:

A. The City Must Contract for More Supportive Housing

In New York City, four out of every five people found eligible for supportive housing have had to stay in shelter or on the street because there are too few supportive housing units

available to meet the current need.¹ The City must contract to provide significantly more supportive housing to have a meaningful reduction of the City's homeless population.

B. The City Must Meaningfully Expand Eligibility for Supportive Housing

In New York City, the vast majority of supportive housing is only available to people who are both homeless and have a serious and persistent mental health condition.² While there is some very limited supportive housing available to people who have other conditions that necessitate assistance, it is extremely difficult for anyone without a serious and persistent mental health condition to obtain supportive housing.³ Only 17% of New Yorkers experiencing homelessness have a “severe mental illness,”⁴ so for the 83% of the New Yorkers experiencing homelessness who do not live with severe mental illness, it is extremely difficult, if not impossible, to transition to permanent housing. This is particularly disturbing because over two-thirds of New Yorkers experiencing homelessness have some mental health needs and could use the services of supportive housing.⁵ According to Coalition for the Homeless, supportive housing is by far the most successful way to end homelessness for individuals and families living with disabilities and other challenges.⁶

Eligibility for supportive housing must be expanded to include people with physical disabilities and other vulnerabilities to meet the needs of the growing homeless population in New York City.

¹ <https://www.coalitionforthehomeless.org/supportive-housing-ends-homelessness/>

² <https://www.coalitionforthehomeless.org/get-help/im-in-need-of-housing/eligibility-for-supportive-housing/#:~:text=To%20be%20NY%20FNY%20I,and%20persistent%20mental%20health%20condition.>

³ Id.

⁴ <https://bronxworks.org/wp-content/uploads/2022/02/Improving-Care-Coordination-for-Homeless-Individuals-with-Severe-Mental-Illness-in-NYC-2.8.2022.pdf>

⁵ Id.

⁶ <https://www.coalitionforthehomeless.org/supportive-housing-ends-homelessness/>

C. HRA Should Auto-populate the Supportive Housing Applications with Information it Already Has

In order to create an application for supportive housing, shelter case managers and housing specialists require clients to provide documentation that HRA already has or already has access to get. If HRA mined its own databases to obtain this information (such as immigration status, birth certificates, copies of identity documents and verification of income) the administrative delay of collecting this information from clients (who often have to re-collect it themselves) would be eliminated and applications could be submitted more quickly.

D. Safe-Havens and Stabilization Placement Should Not Require All Residents to Apply for Supportive Housing, Regardless of Diagnosis

Safe-Havens and Stabilization placements (which house clients with a history of street homelessness) insist that all clients residing there fill out an application for supportive housing even if the client does not have a qualifying diagnosis or another basis for eligibility, and even if the client is adamant that they do not want supportive housing placement. This results in a higher volume of applications than necessary and adds to the administrative burden of adjudicating applications. Eliminating this practice will improve the supportive housing application process for those who need it.

E. HRA Must Interview Supportive Housing Applicants in a Timely Manner

This council should implement a rule that all supportive housing applicants should be interviewed within 30 days of submitting their applications.

F. Supportive Housing Providers Should Not Have the Discretion to Reject an Applicant if the Applicant's Diagnosis Fits the Population that the Housing Serves

Currently, supportive housing providers have the discretion to refuse to admit certain applicants, even if those applicants meet the criteria for supportive housing at those locations.

The City, as part of its contracting with supportive housing providers, should mandate that those providers accept all referrals that fall within their diagnosis guidelines.

III- NYLAG Supports Int. No. 1153, Mandating Reporting About Involuntary Removals

Reporting about the number and cost of involuntary removals of people suspected of experiencing homelessness is essential to understanding whether the city is targeting those suspected of experiencing street homelessness for unlawful involuntary removal. Indeed, we believe that the City's policy on involuntary removals of people experiencing street homelessness⁷ is a violation of Mental Hygiene Law Section 9.41.⁸

It is no secret that City has prioritized removing the visibility of people experiencing street homelessness. In fact, the City cleared 3,198 "homeless encampments" from city streets between March 18 and the end of October of 2022 in attempt to get people to enter shelter.⁹ However, only 5% of these people entered the shelter system as a result.¹⁰ Instead, in order to

⁷ <https://www.nyc.gov/assets/home/downloads/pdf/press-releases/2022/Mental-Health-Involuntary-Removals.pdf>

⁸ Simply put, sleeping outside does not meet the standard for involuntary removal under Mental Hygiene Law Section 9.41 authorizes an individual to be taken into custody, for the purpose of a psychiatric evaluation if that person:

appears to be mentally ill and is conducting himself in a manner which is likely to result in serious harm to himself or others. "Likelihood to result in serious harm" shall mean (1) substantial risk of physical harm to himself as manifested by threats of or attempts at suicide or serious bodily harm or other conduct demonstrating that he is dangerous to himself, or (2) a substantial risk of physical harm to other persons as manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious physical harm.

The City's policy interprets "likely to result in serious harm to himself or others" as "a person who appears to be mentally ill and displays an inability to meet basic living needs, even when no recent dangerous act has been observed" and that if "the circumstances support an objectively reasonable basis to conclude that the person appears to have a mental illness and cannot support their basic human needs to an extent that causes them harm, they may be removed for an evaluation." This analysis is a gross misreading of the text of Mental Hygiene Law Section 9.41, which specifically states that examples of "[l]ikelihood to result in serious harm" include threats of or attempts at suicide or homicidal or other violent behavior.⁸

⁹ <https://gothamist.com/news/mayor-adams-homeless-encampment-sweeps-result-in-just-115-people-entering-nyc-shelters>

¹⁰ Id.

truly mitigate street homelessness, the City must create shelters with small rooms that are more accessible to clients. Most of NYLAG's clients who are experiencing homelessness would come inside if they were offered such a placement in a safe-haven or a stabilization bed. But the need for such placements far outpaces their availability. DHS must significantly increase safe-haven and stabilization bed capacity to meet the needs of those experiencing street homelessness.

We thank the Council 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