



Testimony by the New York Legal Assistance Group

Before the NYC Council Finance Committee on

The Preliminary Budget for FY25

March 4, 2024

Chair Brannan, Council Members, and staff, good afternoon and thank you for the opportunity to speak to the Finance Committee about Legal Services in New York City as it relates to the FY25 Preliminary Budget. My name is Lisa Rivera, and I am the President & CEO at the New York Legal Assistance Group (NYLAG). NYLAG uses the power of the law to help New Yorkers in need combat social, racial, and economic injustice. We address emerging and urgent legal needs with comprehensive, free civil legal services, impact litigation, policy advocacy, and community education. 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 survivors, persons with disabilities, patients with chronic illness or disease, low-wage workers, low-income members of the LGBTQ community, Holocaust survivors, veterans, as well as others in need of free legal services. NYLAG impacted the lives of more than 130,000 individuals in 2023 — the highest number in our 30+ year history as an organization — which is up from 113,000 in 2022.

NYLAG is proud to operate in a city that values the needs of New Yorkers with low income and supports the services they need through its annual budget. NYLAG is grateful to the City of

New York for its deep and ongoing commitment to civil legal services. NYLAG's staff are amongst the many legal and social service providers that are doing the essential work to support our communities — work that, in many instances, only exists because of the inequities, disparities, and obstacles present throughout all the systems we encounter. Despite the challenges in providing these services, we thank you for continuing to advocate for programs striving to create a more just and equitable society and uplift our neighbors. Today, we are asking the City to increase the investment in critical legal and social services that were designed to help our clients but are becoming increasingly difficult to access.

Not for profit providers have a rich history of responding during a crisis — creating innovative programming, gaining expertise in new areas, adapting programming during budget shortfalls to do even more with fewer resources, providing essential services during a pandemic, and never stopping because it is our mission to meet the most basic needs that our clients face in pursuit of creating a more equitable society — one in which they have the opportunity to thrive.

Long-term, continued investment in legal services — including the expertise housed within our organizations — is critical to meeting the current and future needs of individuals and families in New York. We cannot treat the question of legal services and support for New Yorkers as a temporary issue. Instead, long term investments must become a priority if we are going to be able to address the ongoing and ever-changing legal needs of the communities we serve in New York City. Legal service providers need funding that meets our costs and supports our ability to provide innovative, culturally and linguistically competent services, and assist individuals in navigating the complexities of the various systems our clients must face when attempting to achieve justice, stability, safety and dignity for themselves and their families. This has been particularly apparent in services designed to meet the needs of our newly arrived neighbors and tenants.

Despite our strength as an organization of nearly 375 advocates, we have reached a tipping point. NYLAG's continued ability to respond to the ever-increasing need in the community, to recruit and retain staff, and to pay our advocates fair wages is at risk because of chronic underfunding, flat funding, contract delays, our inability to invoice for our services and cuts to programming.

NYLAG is a proud provider of many of the City's hallmark innovative programs to provide essential services to those who need them most, such as Right to Counsel for tenants at risk of eviction, and IOI, providing representation to immigrant New Yorkers at risk of immigration enforcement action. However, because of rising costs across the board, contracts that we have held for years, many of which are extended beyond the initial contract term without consistent funding increases if any, no longer cover the full cost of program operations. This impacts our organization's fiscal stability and our ability to recruit and retain qualified advocates who we need fighting for New Yorkers' rights. We are often forced to choose between diverting unrestricted philanthropic dollars, that could be used to expand services in line with community needs, to supplement city programs. While efforts like the Workforce Enhancement Initiative (WEI) are appreciated, it is not enough to close the gap caused by decades of undervaluing the work of not-for-profit providers especially when they are granted after the fiscal year has already commenced, sometimes 6-8 months later. This does not allow organizations to adequately budget or expend the funds available, and the resulting uncertainty undermines our efforts to increase capacity or raise salaries.

We continue to hear words of crises in our city, a "migrant crisis" being chief among them; but what I have witnessed over the last 18 months is not a crisis of any one group of people, as our new neighbors certainly did not cause a crisis. Rather, what we have all witnessed is a crisis of

management and policy wherein not for profits who stand ready to lead have not been utilized in ways that maximize our connections to the community or our expertise. Instead, we have seen cuts to successful programs and faced growing uncertainty over what programs remain because of budget reduction concerns.

Services, Safety Nets, and Policies to Address the Needs of Vulnerable New Yorkers

It is critical that the City jointly invest in legal and social services to address critical issues facing New Yorkers, whether they're facing obstacles to accessing the benefits and supports they are entitled to or in need of services that empower them to fight injustice. Many of NYLAG's practice areas have been front and center this budget season, and we firmly reiterate the need for resources and policy changes to best serve those who need our service.

Contracts

Many existing contracts do not allow providers to offer competitive and fair wages to the staff implementing these services. We value the incredible work our advocates do every day and want to be able to give them fair and equitable wages. However, systemic challenges in nonprofit contracting with the City are limiting and have real impacts on our fiscal stability and the services we can provide. Years of contracts that haven't kept pace with rising costs, coupled with payment delays have threatened organizations' financial stability. Underfunding and payment delays doesn't just impact our organization, but also the legal rights of all low-income New Yorkers and New Yorkers in crisis.

- Our flat contract budgets do not cover year-over-year cost increases for salaries, healthcare premiums, utilities and space, and other OTPS costs that have continued to rise.

- The salaries that we offer our staff remain inadequate for the work that they do. Staff at civil legal services organizations fight systemic inequities every day, but they face their own struggles because the City fails to adequately value their work, which notably serves communities of color and other marginalized groups, because it's in these communities that said injustices are most prevalent.
- There is a real cost to doing business with the City. Nonprofit providers who are waiting for payments are forced to use lines of credit or take out interest-bearing loans, which diverts precious other resources away from services to meet community needs. While we appreciate the City's emphasis on transparency and increased work on improving contracting, providers still face many challenges in receiving payments. Many staff hours are invested in the contracting and invoicing process which can be inconsistent, redundant, and slow.
- Notably, in an effort to improve historic contracting issues, the City switched to PASSport to reduce repetitive uploading of documents and streamline efficiencies. With this transition, we have been unable to invoice for our work since December. As a result, we have once again had to borrow to make payroll.

Immigration

Although New York City has welcomed large numbers of migrants seeking refuge in the last nearly two years, the lack of significant new investment in legal services organizations has resulted in a diminished ability to leverage our deep expertise to serve newly arrived immigrants and the overstretching of existing programming at the expense of existing clients. For recently arrived migrants from the southern border, legal services are a necessity as they hope to secure status, access benefits, and begin building a life in the U.S. Continued investment and support of

legal services is critical to expand our ability to meet the need of this community. This is a time to do more, not less.

One of the greatest challenges in providing expert immigration legal services is the sheer length of time most applications and cases take in full. The City has vastly relied on *pro se* assistance centers and clinics to meet community needs, which provide guidance and support in beginning application processes, but do not include full representation. While application assistance is an extremely important *initial* step to help asylum seekers meet their one-year filing deadline and start them along the path to obtaining employment authorization, legal services organizations need continuing and long-term investments to continue support immigrants throughout the long process of obtaining asylum and permanent protection from removal and harm. Application assistance alone is insufficient to properly address all the needs of noncitizens who want and need individual guidance and counsel on their options and next steps, making access to continued support and information crucial during a complicated and ever-changing process.

As practitioners who have worked for many years serving the immigrant community in NYC, we know that after the initial application for asylum, many additional steps will be required, including the preparation of testimony, legal briefing, and supporting documents, in order to secure asylum and permanent protection. Indeed, we also know the risks of improperly prepared applications, which may cause real harm to asylum seekers many years after their initial filing, when their claims are finally heard. Over-reliance on one solution will undermine City efforts to create pathways to work authorization and decrease reliance on the shelter system.

The City funds a variety of immigration services, including work with recently arrived immigrants and longtime members of our communities alike. Ideally with proper investment, we

meet the legal needs of large numbers of asylum seekers arriving in New York City — after what is almost always a long and traumatic journey — and provide them with application assistance and access to resources. We also provide pathways to permanency for immigrant New Yorkers, longtime members of our communities, so that they can achieve stability, safety, and justice, through immigration status. NYLAG deeply appreciates the City’s priority in providing full legal representation through the Immigrant Opportunities Initiative administered through OCJ, as it was and remains an innovative program that has proven successful in ensuring representation for individuals in removal proceedings. NYLAG, along with our colleagues in other legal service institutions, fear that *pro se* and brief services will be placed at the forefront in future iterations, especially following the various housing RFXs that created separate contracts for brief legal services and full legal representation in the housing context.

Principally funding brief or *pro se* immigration legal services at the expense of full representation will not serve the City’s interest in moving people out of shelter. While the filing of asylum applications and the subsequent application for employment authorizations may help many people start working, representation in removal proceedings is vital for a successful outcome, as most unrepresented people will ultimately be ordered deported. This makes reductions in funding for programs like the Rapid Response Legal Collaborative (RRLC), in which NYLAG, UnLocal, and Make the Road New York work together to provide comprehensive legal, social, and educational services to advocate for clients with removal orders, all the more dire.

Over the last 18 months, RRLC has filed over 140 Motions to Reopen and appeals, most of which were for recently arrived immigrants, many of whom failed to appear for a hearing despite having no reliable way to receive their notices in the mail. NYLAG has worked diligently to halt

deportations and remove people from ICE custody and reopen cases for those removed with no due process. To illustrate the importance of expertise in rapidly responding to these cases, NYLAG and the RRLC partners represented individuals who were ordered removed in absentia after being denied entry to the immigration court by guards outside the courts. Of the more than 50 cases filed by the RRLC for these individuals over the past year, the vast majority — 82% — were reopened. We have also been inundated with requests to represent *pro se* applicants for asylum who have been ordered deported by judges in hearings that are rife with due process and other legal issues. For example, a *pro se* survivor of domestic violence in her home country was denied asylum, notwithstanding the fact that the immigration judge found her to be credible. In that case, the asylum applicant attempted to testify about the horrific abuse that she had encountered at the hands of her husband but was cut off by the judge and had her application for asylum denied, in contravention of clear case law. NYLAG took the case on appeal and is currently providing her with full representation.

There are far more examples just like these that show the importance of prioritizing newly arrived immigrants' long-term needs, which the City has failed to do via funding despite continuing to rely on organizations with expertise like NYLAG to pick up not only the growing needs in these communities, but also correcting the mistakes that those lacking the expertise leave behind in people's cases.

Given the diversity of the current migrant populations, case postures, and treatment by federal policies, there is no one size fits all. New York City is fortunate to have a breadth of legal service providers with different talents, personnel, and areas of expertise and the City should encourage creativity and diversity in programming to serve existing needs and anticipate future needs. Our expertise should be valued and used in making decisions about current and future

programming as we have been in the past. The funding for legal services must be kept flexible and consistent; cutting funding precipitously requires legal services providers to absorb the cost of continuing the cases and leaves vulnerable communities without sustained representation. Flexible funding also allows legal services providers to better leverage our programmatic and legal expertise to meet emerging needs. Finally, we would urge greater collaboration with legal services providers and community-based organizations. Closer collaboration would center the communities we serve and allow the City to benefit from the years of experience implementing programming for immigrants held within these organizations.

Housing — Right to Counsel

On August 3, 2023, the City published the Anti-Eviction Full Legal Representation RFX. At the outset, the RFX underfunds the program — with an anticipated funding of \$408,520,077 for fiscal years 2025 through 2027 — and has several shortcomings and many providers submitted protests in response.

To fully implement Right to Counsel, providers estimated last year that an additional \$351 million in funding was needed. While we are grateful that the City allocated an additional \$20 million to the program, the estimated costs associated with fully implementing the Right to Counsel far exceed that additional funding. There are approximately 71,000 eligible eviction cases and only about 44,000 would be “covered” under the existing funding structure which is about 62% of the tenants that will be potentially eligible. Moreover, the RFX failed to adequately fund the true cost of providing these services despite data collected by legal services providers that shows that an eviction case costs on average 40% more than the City’s proposed case rate. However, rather than issue a case rate that reflected the genuine cost of services, the City told

providers to propose their own cost rate while the overall funding and number of cases covered by the program remained the same (\$408,520,077 to fund 44,000 eviction cases at \$3,063 per case).

Against this backdrop, rents continue to rise, evictions are skyrocketing, and the affordable housing stock continues to dwindle, and individuals are being denied access to shelter. The funding needed to fully implement Right to Counsel is significantly less than the nearly \$2 billion spent on sheltering the unhoused. Funding used on the Right to Counsel program will significantly offset the need to spend money on shelters and is a proven powerful tool to combat the housing crisis in New York City.

Additionally, we are now four months away from the end of the fiscal year and awards for the Right to Counsel RFP have not been made. As such, we do not know if we've been granted any award and if so, at what level. This impacts our ability to plan successful programming, make hiring decisions, and staff accordingly. The City must immediately prioritize implementing contract extensions to minimize delays in contract registration and payment so that we can access advances on any such contracts so that we can pay our staff.

CityFHEPS

FHEPS is a critical rent supplement for families who are experiencing homelessness or are facing eviction, including those who have lost their housing or ability to pay for housing due to domestic violence, or because of health or safety issues. The subsidies were developed to prevent individuals from entering the shelter system and to enable them to more rapidly exit shelters. CityFHEPS is administered by the City's Department of Social Services, and New Yorkers qualify after meeting certain criteria — households with a gross income at or below 200% of the federal poverty level and facing eviction.

We applaud the City Council's efforts to expand access to vouchers last year and have been profoundly disappointed in the City's decision to not implement the law thereby excluding eligible families from access to benefits that would allow them to exit shelters and obtain permanent housing.

FY25 NYLAG Requests:

For FY25, NYLAG has submitted the following initiative requests, for which we are asking to be renewed funding. It is funding through these City Council initiatives that allows us to provide critical legal services to low-income and vulnerable New Yorkers and remain nimble as needs shift. We thank you for your continued partnership and consideration of these requests.

Legal Services for Low-Income New Yorkers: \$1,020,000

Immigrant Opportunities Initiative: \$700,000

Immigrant Health Initiative: \$500,000

Low-Wage Worker Support: \$337,852

Legal Services for Veterans: \$125,000

Conclusion:

I have testified about this before, but a budget reflects values. As such, the City needs to invest more, not less, in initiatives that uplift and invest in communities that need it most. Now is not the time to pull back. Instead, a focus on meaningful access to programs that defend one's ability to access food, stable housing, achieving safety, ability to work, receive a proper education is needed to address rising inequality and poverty in NYC. Investment in legal and social services is an investment in the people of NYC.

I want to once again take the opportunity to thank Chair Brannan and the members of the Committee for their exceptional leadership and commitment to prioritizing the needs of low-income New Yorkers in the City budget and for this hearing today. I welcome the opportunity to discuss any of these matters with the Committee further.

Respectfully submitted,

Lisa Rivera, New York Legal Assistance Group