

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ELLEN JANE WEISER, EVERLELA BOSTON,  
SIMONE COLLIER, ANTHONY HARRIS and  
BARRY WARREN,

Plaintiffs-Appellants,

-against-

EDWARD I. KOCH, as Mayor of the City of  
New York, GEORGE GROSS, as Administra-  
tor of the New York City Human Resources  
Administration, and CESAR A. PERALES,  
as Commissioner of the New York State  
Department of Social Services, and all  
of their successors, agents, servants,  
employees and those persons in active  
concert or participation with them,

Defendants-Appellees.

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STIPULATION OF  
DISCONTINUANCE

Civ. No.  
84-1387

IT IS HEREBY STIPULATED AND AGREED, by and among  
the parties hereto, through their undersigned counsel, that the  
complaint herein, relating to the temporary suspension of services to  
single adult clients receiving shelter services from the New York City  
Human Resources Administration and the procedures relating thereto  
(hereinafter "current procedures"), be and hereby is withdrawn  
without prejudice. Such withdrawal is subject to the following  
conditions:

1. Defendants Koch, as Mayor of the City of New York,  
and Gross, as Administrator of the New York City Human Resources  
Administration (hereinafter collectively referred to as "HRA"), agree  
to modify the current procedures as follows:

(a) All single adult clients with respect to whom shelter services may be suspended shall be provided an opportunity to speak with the shelter supervisor prior to the time such supervisor makes a decision whether to recommend suspension of services to the client, as long as HRA staff determines that the client poses no immediate danger to staff or other clients, as more specifically set forth in Exhibit A hereto, the substantive terms of which are incorporated herein by reference.

(b) All single adult clients, with respect to whom shelter services have been suspended shall, at the time of suspension or, if not possible at that time, as soon as possible thereafter, be provided with a suspension notice containing the specific information set forth in the draft form attached hereto as Exhibit B, the substantive terms of which are incorporated herein by reference.

(c) The relevant Field Director of the Bureau of Adult Institutional Services ("BAIS"), to whom the current procedures require that the shelter documents relating to suspensions be forwarded by the shelter, shall review such documents and make an independent determination whether suspension was warranted under the guidelines. Within 48 hours of the time of receipt of said documents, the Field Director shall provide his or her written decision regarding the suspension to a telephone contact person at BAIS, from whom the suspended shelter client, or his representative,

may learn of the Field Director's decision. Upon request, a copy of the decision shall be mailed to the client. See Exhibit C hereto, the substantive terms of which are incorporated herein by reference.

2. HRA agrees to formalize its currently observed policy of staying enforcement of shelter service suspensions on cold weather emergency days declared by the New York City Department of Health, pursuant to Mayoral Directive 473-85, as set forth in more detail in the memorandum attached hereto as Exhibit D, the substantive terms of which are incorporated herein by reference.

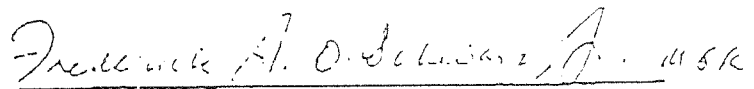
3. HRA agrees to allow MFY Legal Services, Inc., as a legal representative acting on behalf of the named plaintiffs herein, to review a summary chart relating to all suspensions of City shelter services to single adult clients occurring from the date hereof and up to and including the date ninety days subsequent. The summary chart shall include the information specified on Exhibit E hereto, the substantive terms of which are incorporated herein by reference. Such review may be conducted semi-monthly.

4. It is further understood that, in entering into this stipulation and taking the actions set forth in paragraphs one through three hereof, HRA does not concede that its current shelter suspension procedures relating to single adult clients, which have been in effect since September 1984, are in any manner deficient under either the Federal or State Constitutions or any applicable federal, State or City statute or regulation. HRA moreover specifically avers that it is taking the steps outlined herein without legal

compulsion and that, in its view, these steps provide more than is required under any legal obligation that may exist with respect to shelter services or the suspension thereof. It is also understood that in entering into this stipulation, plaintiffs do not concede that the shelter suspension policy and procedures, either current or as amended herein, satisfy the requirements of law.

5. It is further understood that nothing contained in this stipulation shall in any way affect or diminish HRA's authority to modify its policies or procedures for suspension of shelter services to single adult clients, including any amendments to these policies or procedures which are referred to in this stipulation. HRA agrees that it may not modify the agreement stated in paragraph three of this stipulation.

Dated: New York, New York  
November , 1986

  
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Amend IV Social Service Worker/or Senior Advisor: (added portion underscored)

2. Interviews the client accused of perpetrating the incident. The Client must be given the opportunity to explain what occurred or to deny any involvement. As long as HRA staff determines that the client poses no immediate danger to staff or other clients, and if the client is not already speaking to the supervisor, the client must be told that he/she may speak to the supervisor about the incident if he/she wishes to do so.

Amend IV Supervisor 2: (added portion underscored)

2. If necessary, reinterviews the client perpetrator (s), the victim(s) and any or all of the witnesses. If the client perpetrator(s) request(s) an interview with the supervisor, and has not already been interviewed by the supervisor, the supervisor must conduct such an interview so long as HRA staff determines that the client poses no immediate danger to staff or other clients.

NOTICE OF TEMPORARY SUSPENSION  
OF SHELTER SERVICES

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This is to advise you,

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(name of shelter resident) that, as of today, \_\_\_\_\_,  
(today's date), services provided by the New York City Human  
Resources Administration in any and all emergency shelters will not  
be available to you for a period of \_\_\_\_\_ days.

The reason for this temporary suspension of services is  
that, after an investigation, it was determined that, on the premises  
of the following shelter, \_\_\_\_\_ (name  
of shelter), on \_\_\_\_\_ (month, day,  
year), you engaged in an act or acts prohibited by shelter  
regulations. In particular, \_\_\_\_\_

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(briefly describe reason for suspension).

Please note that this decision will be reviewed by the Field  
Director who has supervisory responsibility for the shelter named  
above. Not more than three days after your suspension, that Field  
Director will decide whether your suspension was warranted. You may  
call the following telephone number to learn the result of the Field  
Director's review: 212-\_\_\_\_\_-\_\_\_\_\_. You may request that a copy of  
the Field Director's decision be mailed to you.

Please be advised that City shelter services may be  
provided to you again on \_\_\_\_\_ (month,  
day, year).

EXHIBIT B

Amend p. 4: (added portion underscored)

Field Director, BAIS

1. The Field Director must promptly review all written materials submitted by the shelter regarding a suspension. Based upon such review, the Field Director must determine whether the suspension was warranted or appropriate.
  
2. This review must be concluded within 48 hours of the time of receipt of the shelter documents at BAIS. The Field Director must indicate the decision on Form DSS- and provide a copy of the decision to the shelter and to the designated recipient of phone calls from suspended shelter clients. A copy of the decision must be mailed to the shelter client if the client requests a copy.

Form for the Field Director

New York City Human Resources Administration  
Bureau of Adult Institutional  
Services  
60 Hudson Street  
New York, New York 10013

Based upon my review of the evidence, I have determined that suspension of shelter services provided by the New York City Department of Social Services to \_\_\_\_\_ (name of shelter client) on \_\_\_\_\_ (date) for a period of \_\_\_\_\_ days, based upon a finding that said client

\_\_\_\_\_ (briefly describe client's prohibited act), was/was not warranted.

\_\_\_\_\_  
Field Director, BAIS

New York, New York  
\_\_\_\_\_, 19\_\_

EXHIBIT C



# MEMORANDUM

TO: All Shelter Directors  
FROM: Wilbur Hicks  
RE: Suspension of Shelter Services:  
Cold Weather Policy

DATE:

This memorandum clarifies HRA's current policy with respect to suspensions of shelter services on days declared to be cold weather emergency days pursuant to Mayoral Directive 473-85. On days declared to be cold weather emergency days by the Department of Health, enforcement of suspensions of shelter services will be stayed until the weather returns to non-emergency status. Such stay of suspension applies both to the initial enforcement of suspensions and to already effective suspensions (i.e., in cold weather emergencies, suspended clients may return to the shelter system).

On days where the temperature is near freezing, prior to enforcing a suspension, a shelter should determine from the Department of Health whether a cold weather emergency day has been declared.

If a suspended client poses a physical threat to staff or other clients, and hospitalization or arrest are not appropriate options, an attempt should be made to separate clients who have been engaged in physical conflict via transfer of one or more clients to other shelters.

EXHIBIT D

SUSPENSION OF SHELTER SERVICES TO  
SINGLE ADULT CLIENTS

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<u>Date</u>	<u>Shelter</u>	<u>Summary Data</u> <u>Reason for Suspension</u>	<u>Duration</u>
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EXHIBIT E