



STATEMENT IN OPPOSITION to Intros. 1490, 1491, 1492, 1493, 1494, and 1495 and Resolution 1392.

The Legal Aid Society and Coalition for the Homeless oppose seven of the nine Fair Share bills as introduced because they would result in homeless New Yorkers being deprived of safe, life-sustaining shelter and permanent housing options. The proposed bills would: 1) leave the City unable to comply with its legal obligations to provide shelter to those in need, 2) risk the public release of confidential health and crime victim status of homeless individuals and families, and 3) illegally discriminate against people with disabilities and create liability for the City under Federal law, possibly resulting in loss of Federal funds.

These defects could be addressed simply by revising the language to exclude shelters, supportive housing, and other facilities that serve people with disabilities. If amended in this way, the bills would no longer put vulnerable New Yorkers at risk or force the City to violate court orders and Federal law.

It is shortsighted and counterproductive to limit the City's ability to site shelters at a time of continuing record homelessness, especially in light of the Mayor's plan to phase out the use of all "cluster site" shelter units by the end of 2021 and commercial hotels by the end of 2023. This is a change that all agree is essential for improving the provision of decent shelter to homeless New Yorkers and for using the City's fiscal resources more efficiently – but in order to maintain sufficient capacity in the system, the City will have to open new shelters throughout the five boroughs.

By limiting the City's ability to open shelters quickly at a time of such great need, the proposed bills would unquestionably result in prolonged suffering for homeless children and adults. They would also force the City to violate court orders requiring that all eligible homeless individuals and families have access to shelter. The City has already paid millions of dollars in contempt fines for past violations, and even now the current Fair Share criteria are being used to stop the City from opening badly needed shelters. Furthermore, failure to open shelters and other facilities that serve people with disabilities would violate the Fair Housing Act and the Americans with Disabilities Act, resulting in additional potential liability for the City and the risk of losing Federal funds.

We acknowledge and support the concerns of communities that have accepted a disproportionate share of shelters in the past, often for discriminatory reasons, and recognize the benefits to homeless New Yorkers, our city, and communities when City services are more evenly distributed. But that goal can be achieved without harming the most vulnerable New Yorkers or failing to provide them with placements in the communities where they attend school, hold jobs, go to church, seek medical care, and have the social ties they need to get back on their feet. Indeed, homeless families often face added trauma when going through the shelter application and placement process, and recent statistics indicate that less than half of all homeless families are placed in a shelter near the school of their youngest child (down from 95 percent in 2005). We must not ignore the needs of the thousands of our neighbors who have lost their homes. Unfortunately, the proposed Fair Share legislation does just that.

The Proposed Legislation

Intro 1491 prohibits siting of facilities in areas where DHS may need to open shelters to comply with legal obligations. The provided exception would require lengthy hearings before the City Planning Commission under an untested standard, which could result in years of delays in opening shelters. These barriers to shelter siting would result in suffering for the children and adults denied a shelter placement, as well as increased liability for the City. We oppose this legislation unless shelters, supportive housing, and other facilities serving people with disabilities are excluded.

We note that **Intro 1493** would also further delay the shelter siting process and permit Borough Presidents to propose alternate sites without a requirement that those sites be within the same borough.

Intros 1490 and 1495 are not properly drafted. It is unclear how “subgroup” or “target population” are defined when calculating concentrations of facilities, which could lead to further litigation and delay as these terms are defined. It also fails to explain the methodology as to when “target population” would be used instead of general population for these ratios, thereby leaving room for inconsistency and potential discrimination against protected classes. The data generated by these reports will serve no purpose other than to facilitate discrimination against homeless people and people with disabilities by limiting where shelters and other facilities serving people with disabilities can be sited. Under the Fair Housing Act, such a use of these data would be discriminatory if it produces a result that is discriminatory, regardless of the uses intended by the authors. Violations of the Fair Housing Act can result in loss of Federal funds for the City.

Intro 1494 must be amended to explicitly exclude supportive housing and facilities serving distinct and particularly vulnerable populations from the capital projects listed in the Citywide Statement of Needs. As discussed above, shelters and supportive housing locations are tasked with serving New Yorkers who may need extra protection, including confidential locations. These populations include trafficking and domestic violence survivors, as well as individuals with disabilities or HIV/AIDS. Legally and morally, we have a duty to ensure that, in an effort to address the concerns of some community members, we are not putting the most vulnerable portions of that same community at risk of harm.

Resolution 1392 calls for the adoption of various bills no longer pending in the State Legislature. The referenced bills expired on December 31, 2016 and may or may not have been reintroduced, and at least one sponsor is no longer serving in the Legislature. The resolution references current laws and proposed legislation that suffer from the same flaws as the various Council proposals by fostering unlawful discrimination against homeless people and people with disabilities. For these reasons, we oppose this resolution as well.

Intros 1490, 1491, 1492, 1493, 1494, and 1495 in their reporting requirements do not offer sufficient protection for victims of violence, persecution, or trafficking who may be placed in shelters with confidential locations that are not otherwise protected or do not relate to “law enforcement.” Further, populations with distinct diagnoses or disabilities and HIV/AIDS are entitled to a considerable degree of confidentiality about their health conditions, and by publicizing the exact facility addresses, target populations, and saturation ratios via various requirements, these bills would breach such confidentiality. These bills should explicitly prohibit the publication of addresses and target populations from public reports.