



Testimony of
Coalition for the Homeless
And
The Legal Aid Society

On

Oversight: Update on the NYC 15/15 Initiative
Int 147: In relation to reporting on supportive housing

Presented before

New York City Council
Committee on General Welfare
Committee on Mental Health, Disabilities and Addiction

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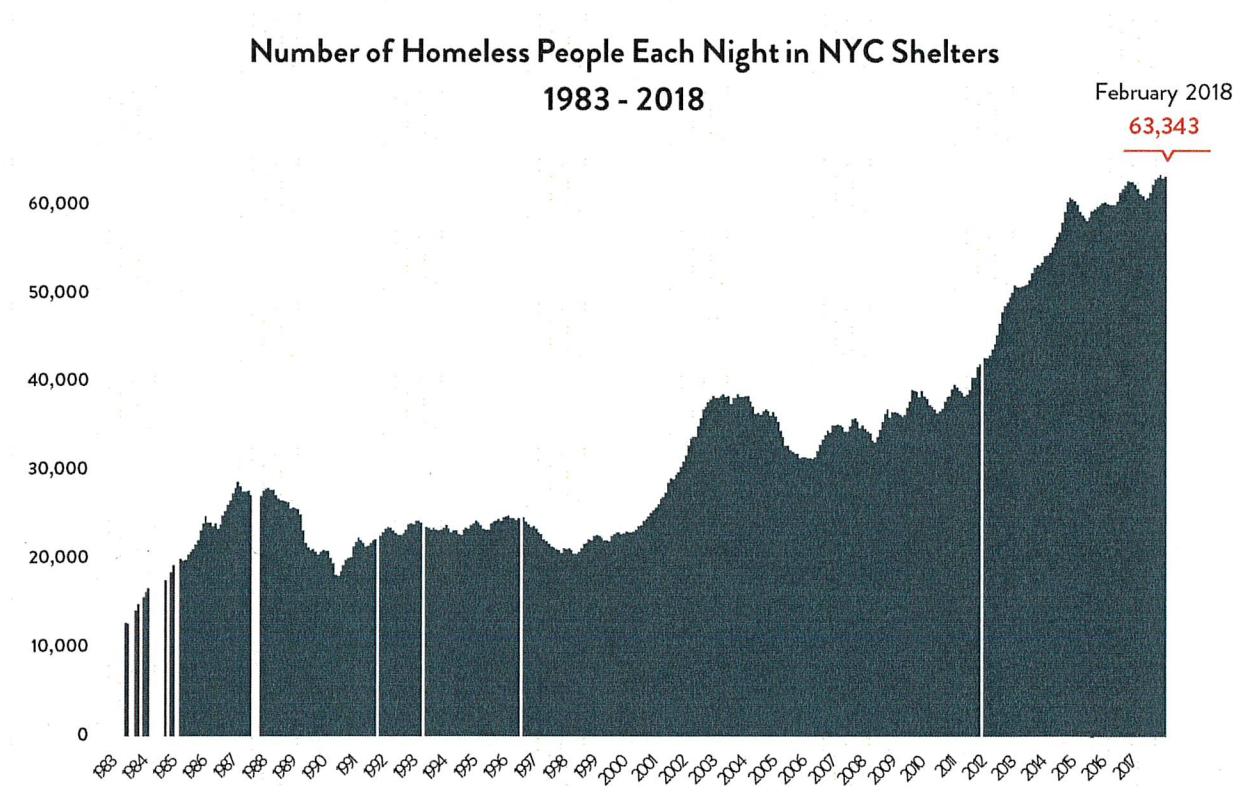
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The Coalition for the Homeless and The Legal Aid Society welcome this opportunity to testify before the New York City Council Committee on General Welfare regarding the NYC 15/15 Initiative, Intro 147, and other topics related to supportive housing.

Record Homelessness in NYC

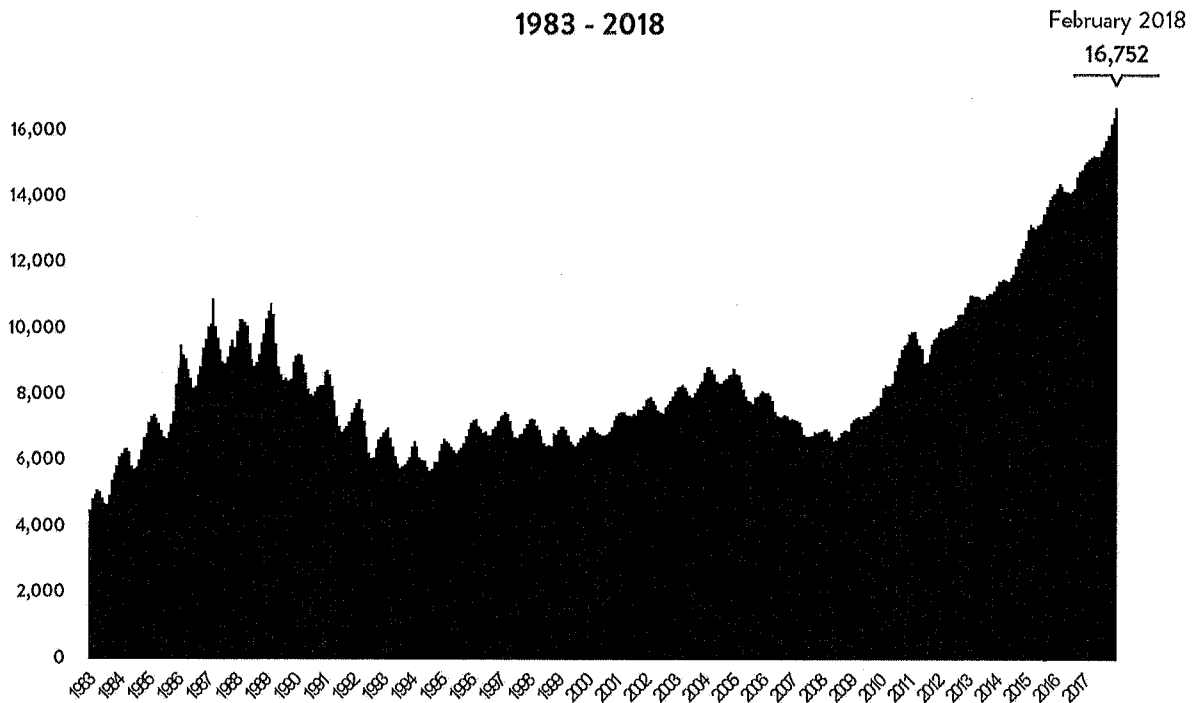
New York City remains in the midst of the worst homelessness crisis since the Great Depression. Each night, more than 63,300 New Yorkers sleep in City shelters. Over the course of fiscal year 2017, a record 129,803 unique individuals spent some time in a shelter, including more than 45,000 children and 38,600 single adults.



Source: NYC Department of Homeless Services and Human Resource Administration; LL37 Reports
Data include individuals in veteran's shelters, Safe Havens, stabilization beds, and HPD emergency shelters.

As the number of homeless families in shelters has stabilized around record levels (remaining at approximately 15,600 between September 2017 and February 2018), the number of homeless single adults continues to rise each month. In February 2018, 16,752 homeless single adults slept in shelters or safe havens each night. The number of homeless single adults in shelters just surpassed 16,000 for the first time in December 2017 and is now poised to hit 17,000 in mere months if this trend continues. The number of homeless single adults is 10 percent higher than it was just one year ago and has increased by 140 percent in the past decade.

Number of Homeless Single Adults Each Night in NYC Shelters 1983 - 2018



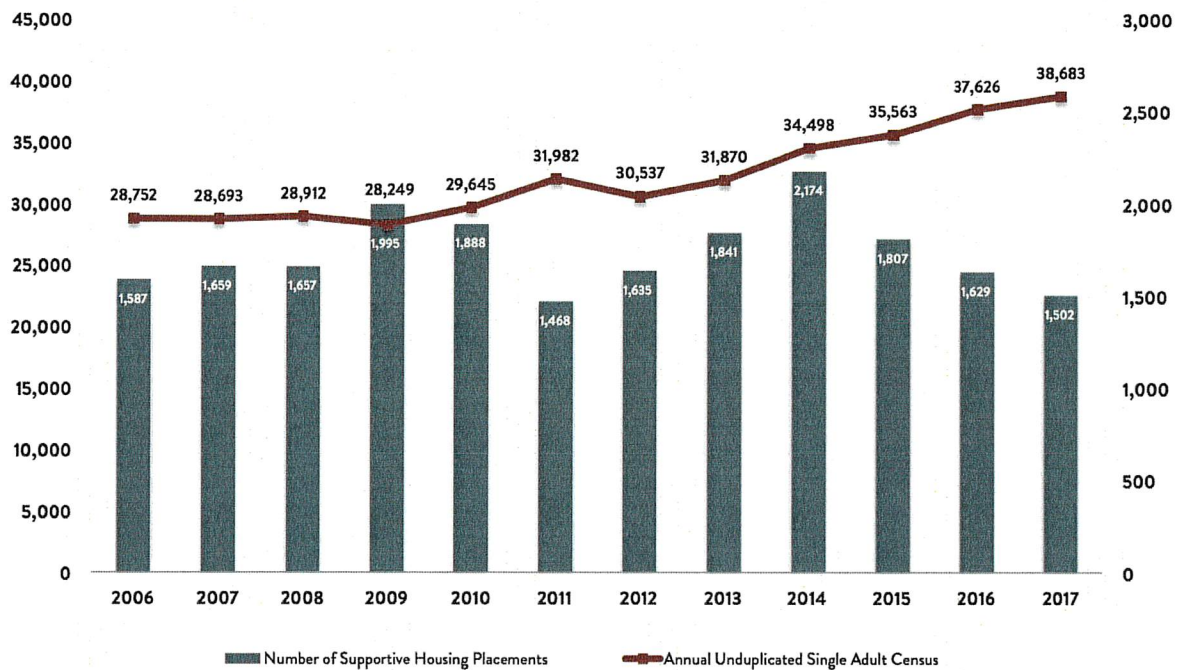
Source: NYC Department of Homeless Services and Human Resource Administration; LL37 Reports

NYC 15/15 Initiative

While the NYC 15/15 Initiative targets supportive housing units to three broad populations (adults, families, and youth), the articulated goals of the initiative include allocating the majority of units to single adults with serious mental illnesses. The planned production of units is split evenly between scattered-site units and congregate (new construction) units. The scattered-site units are rented on the private market, with funding made available to provide mobile supportive services for individuals placed in those units. While congregate units often take years to plan, develop, and construct, scattered-site units can theoretically be brought online with very little lead time. However, the City remains far behind its goal of opening 505 scattered site units by December 2017: As of today, only about 200 units have opened. Additionally, the City has awarded contracts for the production of 921 congregate units, with 406 of those already in the construction phase.

In fiscal year 2017, just 1,502 single adults were assisted in moving into supportive housing from shelters – the lowest number in six years. Given the critical need for supportive housing for the record number of single adults, it is absolutely essential that units be brought online with appropriate urgency and that the process for accessing and maintaining these units does not exclude the most vulnerable individuals.

Annual Supportive Housing Placements for Single Adults Fiscal Years 2006 -2017



Source: NYC Department of Homeless Services

Supportive Housing Application, Eligibility, and Placement Process

As the need has increased and units have become scarcer, we have encountered many issues relating to the application for, eligibility criteria for, and placement process for supportive housing. In addition, DSS has implemented new policies in response to the HUD Coordinated Entry mandate that pose serious concerns regarding the allocation of supportive housing units to those in need. For example, homeless applicants for supportive housing are now assigned a vulnerability score based in part on the number of systems contacts they have had, posing accuracy problems for extremely vulnerable homeless New Yorkers who are disengaged from government agencies. Further, the lack of an official appeals process ignores the need for flexibility when serving individuals with serious needs and increases the likelihood of errors. Copies of letters we have sent to DSS concerning these and a range of other issues are attached.

In particular, we have made the following broader recommendations to DSS regarding the supportive housing application, eligibility, and placement process:

- The application, eligibility determination, and vulnerability assessment processes must be accessible to clients who are disengaged from government agencies.
- An impartial appeals process must be established for eligibility and vulnerability determinations.
- New criteria to establish vulnerability must be made more flexible in the initial stage in order to accommodate high-needs individuals who do not have the required systems contacts to produce a vulnerability score that matches their needs.

- Information regarding eligibility and vulnerability determinations should be provided to clients in writing.
- DSS must affirmatively assist clients to understand the process and obtain necessary documentation during the application process.
- Providers should not be permitted to require additional documentation from applicants beyond PACT application documents or anything else that is outside the scope of funding and eligibility requirements.

Supportive Housing Evictions and Tenant Stability

In the coming years, as tens of thousands of supportive housing units are brought online, the City must ensure that they are introduced to the market in ways that protect the tenancies of the residents of these new units as well as the residents of the City's dwindling stock of vitally needed affordable housing.

The Legal Aid Society and Coalition for the Homeless too often encounter supportive housing providers moving to evict tenants in Housing Court in violation of the ADA and other civil rights protections, presumably because getting rid of a resident who requires a higher level of services is seen as an easier way to resolve a problematic relationship than actually meeting the resident's complex needs as required by law. When supportive housing programs are underfunded and yet expected to serve high-need clients, the natural result is for providers to seek to reduce their costs by eliminating their need to serve such clients. This has too often been done through evictions. Supportive housing providers should have contractual obligations to work with tenants to accommodate their needs rather than reflexively seeking to evict them as a result of the very disabilities which made them eligible for supportive housing in the first place.

We also see supportive housing tenants in scattered-site placements faced with eviction when landlords attempt to reclaim the units for what they believe will be higher-paying tenants. As in our litigation with the provider Pathways to Housing, we see landlords filing petitions in Housing Court against the provider but failing to name the tenant who actually lives in the apartment, giving them no notice that they are about to be homeless again. Supportive housing tenants we represent have told us they were afraid to report problem conditions in their apartments out of fear they would be transferred or evicted as a result.

It can be difficult for advocates, let alone the tenants themselves, to ascertain which regulatory schemes in the patchwork of supportive housing programs govern a particular program. We agree with HPD that supportive housing tenants should have leases in their own names to make clear to all parties what their rights are. We also recommend that the Council pass legislation to ensure that supportive housing tenants are informed of their rights, including:

- a) Whether the apartment is subject to the Rent Stabilization Laws;
- b) Whether the apartment is in a building that is in receipt of a tax exemption or abatement;
- c) The right to court process prior to eviction;
- d) The right to enforce the Housing Maintenance Code, including provisions concerning lead paint hazards and heat and hot water;
- e) The right to be free from discrimination and to request reasonable accommodations;

- f) The right to rent receipts;
- g) The right to have family and/or additional occupants in the apartment;
- h) Rights under the Mental Hygiene Law;
- i) The right to be free from harassment; and
- j) The name of the programs funding and operating the resident's unit; any applicable grievance, or equivalent, policy or procedure to register and hear resident complaints; contact information for a responsible person at the administering agency; and the details of their rental obligation.

We have provided a draft bill (attached) that would address these issues to the committee's counsel for your consideration.

We are also concerned that as the City and State add tens of thousands of units of urgently needed supportive housing over the coming years, pressure will mount to meet the lofty goals set forth in public commitments by adding more scattered-site units than previously announced. Many landlords believe that renting to supportive housing providers gives them an end-run around rent stabilization protections and allows them to deregulate units over time by briefly installing non-profit providers as tenants of record. We must be vigilant that this does not result in displacement of existing tenants from affordable housing, robbing Peter to pay Paul. New York City cannot afford to lose any more units of affordable housing and rent regulated housing.

Intro 147 and Reporting

Coalition for the Homeless and The Legal Aid Society support the intent of Intro 147 and believe it would create an important mechanism for the public and advocates to understand the complicated and often opaque processes of applying for and receiving supportive housing. Additionally, it could provide insights into more systemic problems that need attention by DSS. We would like to meet with Council staff to propose amendments that would make the bill more effective at attaining these goals.

We thank you for the opportunity to testify on this very important subject.

About The Legal Aid Society and Coalition for the Homeless

The Legal Aid Society: The Legal Aid Society, the nation's oldest and largest not-for-profit legal services organization, is more than a law firm for clients who cannot afford to pay for counsel. It is an indispensable component of the legal, social, and economic fabric of New York City – passionately advocating for low-income individuals and families across a variety of civil, criminal and juvenile rights matters, while also fighting for legal reform.

The Legal Aid Society has performed this role in City, State and federal courts since 1876. It does so by capitalizing on the diverse expertise, experience, and capabilities of more than 1,100 lawyers, working with some 800 social workers, investigators, paralegals and support and administrative staff. Through a network of borough, neighborhood, and courthouse offices in 26 locations in New York City, the Society provides comprehensive legal services in all five boroughs of New York City for clients who cannot afford to pay for private counsel.

The Society's legal program operates three major practices — Civil, Criminal and Juvenile Rights — and receives volunteer help from law firms, corporate law departments and expert consultants that is coordinated by the Society's Pro Bono program. With its annual caseload of more than 300,000 legal matters, The Legal Aid Society takes on more cases for more clients than any other legal services organization in the United States. And it brings a depth and breadth of perspective that is unmatched in the legal profession.

The Legal Aid Society's unique value is an ability to go beyond any one case to create more equitable outcomes for individuals and broader, more powerful systemic change for society as a whole. In addition to the annual caseload of 300,000 individual cases and legal matters, the Society's law reform representation for clients benefits more than 1.7 million low-income families and individuals in New York City and the landmark rulings in many of these cases have a State-wide and national impact.

The Legal Aid Society is uniquely positioned to speak on issues of law and policy as they relate to New York City's runaway and homeless youth. Each of our three practice areas routinely interacts with the RHY population. The Legal Aid Society is counsel to the Coalition for the Homeless and for homeless women and men in the *Callahan* and *Eldredge* cases. The Legal Aid Society is also counsel in the *McCain/Boston* litigation in which a final judgment requires the provision of lawful shelter to homeless families. Recently Legal Aid, along with institutional plaintiffs Coalition for the Homeless and Center for Independence of the Disabled – NY, settled *Butler v. City of New York* on behalf of all disabled New Yorkers experiencing homelessness. Legal Aid's Juvenile Rights Practice provides comprehensive representation as attorneys for children who appear before the New York City Family Court in abuse, neglect, juvenile delinquency, and other proceedings affecting children's rights and welfare. Last year, our staff represented approximately 34,000 children. Last year, the Society's Civil Practice provided free direct legal assistance in more than 48,500 cases and legal matters through neighborhood offices in all five boroughs, and 23 specialized units, of which the Homeless Rights Project is one. Our Criminal Practice handles over 220,000 trial and post-conviction cases a year, some of which arise out of arrests predicated on our clients' homeless status. Our perspective comes from daily

contact with children and their families, and also from our frequent interactions with the courts, social service providers, and State and City agencies.

In addition to representing many thousands of children, youth, and adults each year in trial and appellate courts, we also pursue impact litigation and other law reform initiatives on behalf of our clients. On December 30, 2013, The Legal Aid Society, in collaboration with Patterson Belknap Webb & Tyler, LLC, filed *C.W. v. The City of New York*, a federal class action lawsuit on behalf of RHY in New York City. The lawsuit seeks to establish that young people in New York have a right to youth-specific shelter, and to remedy (1) the City's consistent failure to provide an adequate number of shelter beds for RHY, (2) its routine discharge of youth from crisis shelters before permanent housing has been secured, and (3) its longstanding failure to provide reasonable accommodations or mental health services to RHY with disabilities. Our goal in litigation is to ensure that the City creates and maintains enough youth-specific beds to meet the needs of *all* youth seeking shelter. No youth should languish on the street while relegated to a shelter waiting list or be discharged from shelter due to arbitrary time limits. In addition, we seek to ensure that youth discharged from shelter are provided with due process prior to any ejection from shelter. All five of the bills at issue today would bring us closer to these goals, by giving youth more time in crisis shelter to secure other housing, by fostering transparency and accountability in service provision, by streamlining the intake and assessment process between DYCD and DHS, and by providing young adults aged 21-24 with age-appropriate services.

Coalition for the Homeless: Coalition for the Homeless, founded in 1981, is a not-for-profit advocacy and direct services organization that assists more than 3,500 homeless New Yorkers each day. The Coalition advocates for proven, cost-effective solutions to the crisis of modern homelessness, which is now in its fourth decade. The Coalition also protects the rights of homeless people through litigation involving the right to emergency shelter, the right to vote, and life-saving housing and services for homeless people living with mental illness and HIV/AIDS.

The Coalition operates 11 direct-services programs that offer vital services to homeless, at-risk, and low-income New Yorkers. These programs also demonstrate effective, long-term solutions and include: Supportive housing for families and individuals living with AIDS; job-training for homeless and formerly-homeless women; and permanent housing for formerly-homeless families and individuals. Our summer sleep-away camp and after-school program help hundreds of homeless children each year. The Coalition's mobile soup kitchen distributes over 900 nutritious hot meals each night to homeless and hungry New Yorkers on the streets of Manhattan and the Bronx. Finally, our Crisis Intervention Department assists more than 1,000 homeless and at-risk households each month with eviction prevention, individual advocacy, referrals for shelter and emergency food programs, and assistance with public benefits as well as basic necessities such as diapers, formula, work uniforms, and money for medications and groceries.

The Coalition was founded in concert with landmark right to shelter litigation filed on behalf of homeless men and women (*Callahan v. Carey* and *Eldredge v. Koch*) and remains a plaintiff in these now consolidated cases. In 1981 the City and State entered into a consent decree in *Callahan* through which they agreed: "The City defendants shall provide shelter and board to each homeless man who applies for it provided that (a) the man meets the need standard to

qualify for the home relief program established in New York State; or (b) the man by reason of physical, mental or social dysfunction is in need of temporary shelter.” The *Eldredge* case extended this legal requirement to homeless single women. The *Callahan* consent decree and the *Eldredge* case also guarantee basic standards for shelters for homeless men and women. Pursuant to the decree, the Coalition serves as court-appointed monitor of municipal shelters for homeless adults, and the City has also authorized the Coalition to monitor other facilities serving homeless families.

Attachment 1: Correspondence with HRA regarding supportive housing applications, eligibility, placements and evictions, from October 2017 and April 2018



April 4, 2018

Michael Bosket
Human Resources Administration
150 Greenwich Street, 30th Floor
New York, NY 10007

Dear Michael,

Thank you for your response to our letter dated October 31, 2017 – and for subsequent discussions HRA PACT has offered surrounding the CAPS process. While our formal response is contained below, we look forward to continuing the discussion and would greatly appreciate the opportunity to meet again.

Supportive Housing Application & Eligibility

- (1) CFTH: The application and eligibility determination processes should be set forth in the form of a written policy, and any potentially eligible person should be permitted to apply.

HRA: Draft policy and procedures from the PACT unit are currently under review to include relevant information that has been requested by CFTH. The comprehensive policy and procedure are expected to be completed soon and this will be shared with CFTH once published. HRA reviews all supportive housing applications received by referral sources.

CFTH: Please advise as to when the draft policy and procedures currently being reviewed by the PACT unit will be finalized and implemented. What policy is being used in the interim and how are reviewers being trained to determine eligibility currently?

What will HRA do to accommodate applications for this public benefit from those (including people with disabilities) without a referral source?

- (2) CFTH: HRA should be required to assist applicants and their referring providers in securing documents needed to complete the application. Applications should not be found “unable to review” or effectively denied unless the required documents demonstrating eligibility have not been attached to the application and HRA has contacted the applicant to offer assistance in obtaining missing documentation. Additionally, HRA should provide a pre-denial notice to clients and their advocates with an opportunity to respond to any basis HRA may have found to deny the application.

HRA: HRA PACT reviewers do not have direct contact with clients. Reviewers assist the referral source in clarifying what documents are needed and most referral sources (hospitals, jail, homeless shelters, etc.) already provide housing assistance including assistance to obtain necessary documentation as part of their service provision.

"Unable to Complete" status on an application is not a denial or disapproval. It indicates to the referral source that more information is needed to determine if the applicant meets the clinical or homeless criteria for supportive housing. PACT reviewer consultation by email or phone is available to the referral source to explain the reason why the application is "unable to complete" and clarify what additional information is needed to complete the application. Once the application is complete, the decision can be made on eligibility for all supportive housing.

"Disapproved" applications are considered point in time determinations on a specific application. The referral source may submit another application at any time with new information which may result in a new "approved" determination. There is no "pre-denial" notice as all determinations are made within 1-3 business days of the date of application and all determinations can be reviewed again in consultation with the PACT reviewer, the unit director, or the medical director, if the referral source does not agree for any reason.

CFTH: As per the social services law, local districts have an affirmative responsibility to assist applicants in obtaining documents needed to establish their eligibility for benefits.

Please explain why "HRA PACT reviewers do not have direct contact with clients" when needed to assist them in obtaining documents needed to establish their eligibility.

Although an "unable to complete" determination is not intended to be a denial, it effectively functions as one if the documentation requested is not available. In accordance with social services law, we ask that HRA PACT reviewers first document efforts made to assist in obtaining the necessary documentation.

In our experience, the PACT reviewer consultation process is inconsistent depending on which reviewer makes the determination. Will the forthcoming policies and procedures explain a clear set of standards for such consultations?

- (3) CFTH: Reviewers should consider all medical documentation and attribute weight to the documentation consistent with the SSA *"Treating Physician Rule,"* 20 C.F.R. § 404.1527.

HRA: HRA makes clinical eligibility determinations for mental health designated supportive housing according to the SOMH criteria for serious mental illness. Medical documentation is required from a licensed professional and given the appropriate weight. The evidence of functional impairment must be clearly outlined in the evaluation and supported by the client's history as described in the assessments. There are also prior applications that are reviewed and compared for consistency with the current application.

A significant number of psychiatric evaluations submitted with the SH application are completed by licensed clinicians that are not treating physician and application of the SSA Treating Physician Rule may actually have a negative impact on a many of these clients. According to the SSA Treating Physician Rules (TPR), less weight is given to documentation provided by evaluating clinicians rather than treating physicians, and less weight is given to clinicians who have no longitudinal history with a client rather than treating physicians. Thus, utilizing SSA's TPRs may actually have a negative impact on many of these clients as psychosocial assessments and psychiatric evaluations are frequently completed solely for the SH application itself and the individuals completing these evaluations do not have a history with the client.

CFTH: Can you provide additional detail on the “weight” given to medical documentation? To clarify, we recommended that the Treating Physician Rule be used as a framework for clients with treating physicians, consistent with how HRA applies it under the Reasonable Accommodation policy within the Lovely H settlement.

The underlying point of this recommendation is that PACT reviewers should not override the documented diagnosis made by a treating physician or dispute evidence submitted by licensed professionals who have met with the client because, as previously noted, PACT does not have direct contact with clients.

When comparing new applications to prior applications “for consistency,” what is the process or consequence if an inconsistency between applications is discovered?

- (4) CFTH: Consistent with HUD regulations, client and provider reports for time periods when a client may have been sleeping out of doors should be counted toward the length of homelessness.

HRA: This request is outside the scope of HRA’s area of responsibility, as each funding source determines the definition of homelessness and criteria for counting homeless time. According to the NY/NY III definitions and criteria for homeless documentation, an outreach team or drop-in program provides a written attestation that program staff have been working with a client for a certain period of time. This documentation is reviewed, and if consistent with prior applications or housing history submitted, the homeless time is counted from the point of engagement with the client. Additionally, homeless data exchange is conducted with DHS and HASA for count of days in each system – this is part of the supportive housing application review process.

CFTH: To clarify, the purpose of this recommendation wasn’t about the definition of homelessness so much as the types of documentation that can be used to establish eligibility under a given definition – specifically, that client self-attestations and other provider reports should be accepted as collateral evidence of eligibility, as permitted under HUD regulations. Additionally, clients and providers would not know what the funding source of a given unit might be during the 2010e submission stage, so it is unclear why the funding source for a subsequently identified unit would be a factor at this point in the process.

- (5) CFTH: The recommendations of referring providers regarding types of housing options most suitable for the client (i.e., SMI versus SUD) should be given weight and the broadest possible array of approvals, including more than one category, should be provided when a client meets eligibility criteria for more than one category of housing.

HRA: Psychiatric evaluations and psychosocial assessments that contain recommendations on types of housing options most suitable for the client are heavily considered in the final determination. Applications are reviewed for all categories of mental health and NY/NY III categories of supportive housing and applicants receive a determination for each category they are eligible.

CFTH: Please elaborate on how these recommendations are “heavily considered,” including how much weight they are given as a rule.

Many Coalition clients are not found eligible for Category A or NYC 15/15, and we have found that PACT is hesitant to approve for multiple categories such as A and F for chronically homeless

clients diagnosed with serious mental illness and substance use disorders, or A and I for youth who are seriously mentally ill and chronically homeless. Please provide data on how many clients have received approvals for more than one category of housing.

- (6) CFTH: All applicants who meet the eligibility requirements should receive approvals regardless of the supportive housing vacancy rate.

HRA: This is the current HRA policy. Eligibility is a separate process from the referral and placement of an eligible household to a vacant unit. As stated above, the eligibility is based solely on meeting the criteria for the particular supportive housing category.

CFTH: Please elaborate on the current policy.

- (7) CFTH: The CAPS vulnerability index should not provide burdensome documentation requirements that could serve as obstacles for the clients who are most vulnerable and in the greatest need. A subset of available placements, we suggest no less than 50%, should be made available to those with the longest durations of homelessness.

HRA: The CAPS vulnerability index is not yet implemented. It is currently being developed as part of the 2010e application and no additional documentation will be required. Moreover, as you saw during the demonstration on November 8, 2017, the Coordinated Assessment Survey has no additional documentation requirements, and is not burdensome. It's a short assessment to be completed with the client to assist in the identification of potential eligibility for supportive housing and/or rental assistance programs. The system returns data from multiple sources to display valuable information including documentation HRA may have in its records such as copies of birth certificates, Social Security cards and other forms of ID as well as HRA budget letters. It also provides a detailed list of all forms of housing a client may be eligible for. This can be used as a support for direct care workers and the client to use in an effort to assist the client with the housing plan of his/her choice.

For supportive housing dedicated to chronically homeless individuals, the length of homeless time is taken into consideration for referral and placement, but a policy dedicating a percentage of available units to those with the longest duration of homelessness is not within HRA's scope. This would be the responsibility of the contracting agency to specify with the supportive housing provider. In the NY/NY III agreement and NYC 15/15 initiative, many of the target populations are designated for chronically homeless individuals or families.

CFTH: Please refer to the more detailed feedback CFTH has submitted related to the CAPS policy and procedures document.

Please explain why "a policy dedicating a percentage of available units to those with the longest duration of homelessness is not within HRA's scope," when HRA has played a significant role in determining the Standardized Vulnerability Assessment criteria and will continue to refine the SVA as the lead government agency on the CAPS Steering Committee.

- (8) CFTH: HRA should notify applicants and their referring providers of the receipt of their applications and the eligibility determinations in writing, in the language the applicant prefers and at an appropriate reading level.

HRA: The referring worker is provided with a Service Request number and an immediate message confirming transmission of the application. Applications are processed within 1-3 business days, and typically determinations are made within one day. The referring worker will receive an automated notification by email of a determination on the application and the determination letter is available for review with the applicant. Determination letters are not client facing documents. They are letters to the referral source. Placing the burden on the client to self-refer to providers is not recommended given the complexity of the referral/placement process. It is HRA's expectation that the referral source work with the client to navigate this process. Moreover, as discussed during the November 8, 2017 demonstration, the Coordinated Assessment Survey will pull up past applications and eligibility determinations to the referral source so that they may better assist the client.

CFTH: To clarify, our recommendation was not to place the burden on the client, but rather to simultaneously notify clients and providers of the receipt and outcome of the applications, as is the case with several other benefits programs. This could potentially be accomplished through Access NYC. What is the justification for not notifying both clients and providers directly?

What is HRA's justification for not allowing clients, including those with disabilities, to apply for this public benefit unless they have a referral source?

- (9) CFTH: HRA should establish an appeals process to allow applicants to seek reversal of adverse PACT determinations through an impartial review process that mirrors the reasonable accommodations application and approval process. HRA staff making determinations should have expertise in serving people with mental illnesses, other disabilities, and histories of homelessness.

HRA: There is an impartial review process. This process is as follows and will be further detailed in the forthcoming procedure:

- 1. HRA requests the referring providers contact the PACT reviewers to discuss the case in an effort to resolve issues, as the majority of changes to the determination can be addressed at this level.*
- 2. If the referral source is not satisfied after this level review, they may contact the supervisor of the program to discuss the application further.*
- 3. If the referral source is not satisfied at this level, they may request that the HRA Medical Director review the application to determine if the client is eligible or not for the final determination.*

All PACT reviewers are licensed social workers with the required years of diverse experience and expertise working with individuals with mental illness, disabilities and/or homelessness.

CFTH: The review process outlined for conferencing is helpful, but is not truly impartial because it is exclusively overseen by the PACT unit and HRA. Furthermore, it is not open to clients. We recommend that the appeals process include staff (i.e., trained clinicians experienced in working with homeless individuals), outside PACT who can objectively review the application and determination. We also recommend that clients be provided with direct appeal rights.

Placement Process

- (10) CFTH: Supportive housing providers should be able to accept applications from clients served by community providers for available units to ensure those not connected to shelters or a specific government program have equal access supportive housing.

HRA: Supportive Housing providers under the NY/NY III agreement are required to use the appropriate placement agency to fill the vacant units. HRA is the placement agency for many of the supportive housing populations. The HRA placement unit makes every effort to place clients that are not connected to shelters and coordinate with those service providers on the placement process.

CFTH: The response given does not address our primary concern and only mentions NY/NY III units, not NYC 15/15 units. The referral process and access to units, regardless of the agreements, should be expanded to providers other than DHS – particularly those who serve clients on the streets and in DHS shelters.

- (11) CFTH: Providers should not be permitted to require any additional documentation in order to schedule a client interview beyond the PACT application documents and determination.

HRA: Additional documentation for interview should be limited to those needed to satisfy other funding source eligibility or leasing requirements and be compliant with all City, State, and Federal nondiscrimination laws. It would not serve clients well to attend interviews for placement in a site they will not qualify for based on funding or other leasing requirements.

CFTH: It has been our experience that documentation and other requirements outside of funding eligibility requirements – and in conflict with nondiscrimination laws – have been requested and amount to a separate eligibility process for individual sites. How does HRA ensure that providers only request additional documentation that is specifically needed to satisfy funding source eligibility, as opposed to more burdensome and unnecessary documentation that might be used for discriminatory purposes?

- (12) CFTH: HRA should review each decision by a supportive housing provider in which the provider declines to serve an eligible applicant to ensure that applicants are not being unlawfully discriminated against on the basis of their disabilities. Housing readiness, severity of illness, or physical presentation at an interview should not disqualify an applicant who has been approved for the housing in question. Fair housing rules, including source of income discrimination laws, should be followed.

HRA: Each funding source determines the system of monitoring supportive housing rejections. Placement entities under the NY/NY III Agreement (DHS, HRA, ACS, and SOMH) have developed a general practice to refer 3 eligible clients for each vacancy in order to increase the probability of a client attending the interview and to expedite filling the vacancy. Clients are often escorted to the interview to assist with attendance. Clients that are rejected by the provider or do not attend the interview are referred again in order to provide them another opportunity for placement. Providers are expected to adhere to principles that require low barrier access and are expected to follow all program expectations and local, state and federal laws regarding rejections based on housing readiness, income source or severity of illness.

CFTH: How does HRA communicate clients' rights to them, so they can determine what may constitute unlawful discrimination during the placement process and report any suspected violations of their rights to the appropriate authorities?

- (13) CFTH: Clients and their referring providers should be informed in writing of an acceptance, denial, or other outcome of a supportive housing interview, and the process to appeal any adverse decision.

HRA: This request is outside HRA's area of responsibility and would be the responsibility of the contract agency to require this in the scope of services and monitor with the SH provider. SH providers inform the placement entities and referral sources of the outcome or status of the housing interviews in the PACT referral/response system. If the referral source and placement entity disagree with a clinical rejection reason, the decision is discussed with the SH provider to explore their reasons and any recommendations for placement or agree to interview the client again.

CFTH: Will this process for discussing disagreements about clinical rejection reasons remain the same now that CAPS implementation has begun?

Acceptance & Move-In Requirements

- (14) CFTH: Clients should be given at least two full weeks' notice in advance of their move-in date, including all documents or fees required for move in. The provider should assist those who need help to secure any documentation that may be required.

HRA: Intake and admission processes are dictated and monitored by the contract agency that funds the supportive housing units. HRA has no control over these processes.

CFTH: While we appreciate that there are areas where HRA does not have direct oversight, we also recognize HRA's unique position in the supportive housing system as a whole and would like to further discuss ways in which we can work together to improve client experiences during acceptance and tenancy in supportive housing.

- (15) CFTH: Clients should be provided with leases in their names between them and the landlord.

HRA: Congregate SH projects/sites have leases directly with the clients. Scatter site SH programs are able to provide either direct leases or sublease agreements to the clients. This is determined between the program and the funding source of each provider.

CFTH: Please see response to #14 above.

- (16) CFTH: At apartment offer and again at lease signing clients should be provided with a statement of their rights as recipients of supportive housing, specific to the unit in question. Those rights should include, but not be limited to, meaningful access to case management assistance, mediation assistance with roommates, emergency contact numbers, information and rights in

relationship to any payee arrangement, and their status and protections, if applicable, as a rent stabilized tenant or Section 8 recipient.

HRA: These procedures are dictated and monitored by the funding source with each SH provider. The process described above pertains to documents reviewed with the client on admission to the SH program. The documents are commonly referred to as the "client rights and responsibilities" and are a requirement for all mental health dedicated units funded by SOMH and DOHMH.

CFTH: Clients and advocates often have difficulty determining what the funding source is for a particular unit, and therefore it is unclear whether clients in all units funded by SOMH and DOHMH do in fact receive documentation of the "client rights and responsibilities." Please provide CFTH with a copy of the aforementioned requirements.

- (17) CFTH: An ombudsman hotline should be established by HRA to receive and respond to complaints by clients having difficulty receiving the services they need in supportive housing.

HRA: Clients can call 311 to make complaints. All 311 calls are routed to appropriate city agency program area to resolve, including those related to HRA.

CFTH: With the new supportive housing units opening, is there a plan to create a separate ombudsman resource specifically for supportive housing tenants? Please explain HRA's process for resolving client complaints when notified of an issue through 311.

- (18) CFTH: Each supportive housing contract should include a requirement that the owner of the property respond to requests for repairs and make any needed non-emergency repairs within 72 hours of the receipt of the complaint.

HRA: SH Providers are required by contract to assist in keeping apartments maintained at an appropriate standard and to conduct regular apartment inspections. If substandard conditions are detected, the provider is to assist with the repair including assisting the client to advocate for repairs with the landlord or contacting the landlord with the client's permission.

CFTH: Is there a timeframe established for making repairs when a complaint is received?

- (19) CFTH: Each supportive housing contract should include a requirement that the owner of the property and any service provider under sub-contract follow a reasonable accommodations procedure that HRA should outline to protect tenants from facing eviction as a result of the very disabilities that qualified them for supportive housing in the first place.

HRA: These procedures are dictated and monitored by the funding source with each SH provider. Generally, SH providers are required by contract to make every effort to assist clients to meet the responsibilities of maintaining their apartment, including anything that puts the client at risk of eviction with their landlord.

CFTH: Please see response to #14 above.

Transitions & Eviction

- (20) CFTH: Clients should be notified at move-in, and upon request prospectively, that if they wish to transition to another supportive housing provider, an application will be submitted by their current case manager and sent to providers for possible interview and move.

HRA: This is already in practice. If a client is no longer satisfied with their apartment or needs a change in location for whatever reason, the SH provider attempts to assist the client to move and complete a 2010e if the client chooses supportive housing.

CFTH: Are clients notified of this practice in writing at move-in?

- (21) CFTH: If, at any time, a client is no longer eligible for the unit into which they initially moved – or the building or program is no longer appropriate as a result of an improvement in or the decline of a client's well-being - the agency with which the tenant is housed, should assist the client with an application to transition to another more appropriate program (or setting), taking into account the client's wishes and the goal of avoiding homelessness or unnecessary hospitalizations for the tenant.

HRA: These procedures are dictated and monitored by the funding source with each SH provider. All funding sources require client-centered service planning to develop goals and address the needs of the client in the community. If there is a need for additional support as a result of decline in a client's wellness, the SH provider is contracted to locate alternative/appropriate housing options as part of discharge planning. If a client has achieved self-sufficiency, they can work on finding alternative or more independent housing.

CFTH: Please see response to #14 above.

- (22) CFTH: Tenants should be informed annually in writing about programs available to assist them with moving on from supportive housing into apartments in the community and how an application can be submitted and approved.

HRA: See above response on client-centered service planning.

CFTH: Please see response to #14 above.

- (23) CFTH: For clients in violation of one or more provider or agency policy, attempts should be made to schedule at least two case conferences with the tenant in order to mediate the conflict and attempt to chart a path forward with the goal of preventing homelessness for the tenant. This could function like the escalated case conferences for HASA tenants.

HRA: These procedures are dictated and monitored by the funding source with each provider. Generally, SH providers are contracted to make every effort to assist clients to meet the responsibilities of maintaining the terms of their lease or program agreement. Case conferences are standard practice in the field of SH to resolve issues impacting the client's engagement with the program.

CFTH: Please see response to #14 above.

- (24) CFTH: A reasonable accommodation process should be implemented to ensure that clients are not penalized as a result of their disabilities.

HRA: These procedures are dictated and monitored by the funding source with each SH provider. Similar to above answer about the "client rights and responsibilities," the client has a right to request a reasonable accommodation and to grieve any action taken by the SH provider and these grievances must be documented. Phone numbers are provided in the client rights to hotlines at the funding agency and at the Human Rights Commission if at any time the client feels their rights have been violated.

CFTH: Please see response to #14 above.

- (25) CFTH: If a client falls behind in their rent, every effort should be made by the provider to connect the client with eviction prevention financial resources to preserve their tenancy, including assistance applying for a one-shot deal from HRA and referral to available legal resources. Providers should be required to document their efforts to help tenants avoid eviction and their review of payment records to ensure that tenants are properly credited for payments. Any attempts to evict tenants should be reviewed by HRA to ensure that tenants are not being illegally or unfairly forced out of their homes.

HRA: These procedures are dictated and monitored by the funding source with each SH provider. Generally, SH providers are required by contract to make every effort to assist clients to meet the responsibilities of maintaining their apartment, including anything that puts the client at risk of eviction with their landlord.

CFTH: Please see response to #14 above.

- (26) CFTH: Prior to service of court documents, supportive housing providers should refer clients facing possible eviction to a legal services housing court attorney. All such clients have a right to counsel.

HRA: This is determined by the SH provider and is outside of HRA's area of responsibility.

CFTH: Please see response to #14 above.

- (27) CFTH: Evictions, when they occur, should take place through the housing court process, including service of a 10-day notice and court papers, hiring of a marshal, if need be, etc. Self-help evictions and harassment should never be used to force tenants to leave supportive housing.

HRA: Each funding source monitors the discharge process of clients from supportive housing. Harassment or coercion of a client to leave a program would be considered a violation of their rights and the contract agency would require the SH provider to cease the unauthorized practice immediately.

CFTH: Please see response to #14 above.

(28) CFTH: All discharge procedures associated with the supportive housing unit in question should be followed, including OMH Part 595 regulations.

HRA: OMH 595 regulations only apply to the licensed programs funded by SOMH. Discharge from SOMH funded Supported Housing model is delineated in the Supported Housing Guidelines. Each funding source has distinct discharge planning procedures.

CFTH: Please see response to #14 above.

Thank you again for your consideration of these suggestions. We look forward to discussing these items further with you at your earliest convenience.

Sincerely,



Tim Campbell
Deputy Executive Director for Programs

Attachment 2: Correspondence with HRA regarding the Coordinated Assessment and Placement System (CAPS), from December 2017



Robin Pagliuco, Director, Coordinated Entry
Customized Assistance Services
NYC Human Resources Administration
150 Greenwich Street, 30th Floor
New York, NY 10007
Email: pagliucor@hra.nyc.gov

December 21, 2017

Dear Robin:

We write to express our concerns regarding the Coordinated Assessment and Placement System (CAPS) to be implemented beginning next month. We recognize that this coordinated entry system is being developed pursuant to a mandate from the U.S. Department of Housing and Urban Development, and that some requirements could present unintended consequences. As CAPS is developed and implemented in New York City, we want to summarize the primary concerns we have communicated to CAPS steering committee members throughout the past year of the planning process, in the hope that they will be addressed prior to implementation:

- 1) CAPS must be accessible to clients who are disengaged from government agencies. Many of the clients we serve are not engaged with shelters or other providers. The City must ensure that Coalition for the Homeless and other organizations maintain the current level of access to supportive housing resources and advocacy avenues for these vulnerable clients once CAPS is implemented. At the November 13th CAPS info session, we were informed that multi-system use by an applicant will be a key factor in the forthcoming vulnerability index. Recognizing that many of the most vulnerable clients may be disconnected from services altogether, the CAPS process must ensure that housing resources will remain available to clients who are disengaged from government agencies based on other eligibility criteria, such as chronicity. The vulnerability of such clients independent of multi-system use must be appropriately assessed based on the available facts, such as length of time homeless and degree of impairment. Social services providers such as Coalition for the Homeless, who regularly work with vulnerable disabled homeless clients who have previously refused to interact with government-associated services, should be able to submit documentation of their own contacts with such individuals in lieu of evidence of interactions with government systems.
- 2) CAPS must guarantee an appeals process for clients. Although the intent of CAPS is to identify the clients who are most vulnerable and pair them with housing options that best match their needs, errors are inevitable in any such assessment. It is essential that CAPS provide a clear and expedited appeals procedure for clients and their advocates when such errors are made or when the experiences and conditions of a client might not fit exactly into the vulnerability index framework.

In addition to these primary concerns, the following goals must also inform the CAPS process: CAPS must comply with Federal, State, and City laws prohibiting discrimination on the basis of disability; the CAPS development process and established procedures must be transparent, as should any evaluations and revisions to the system; and CAPS should be made available to runaway and homeless youth.

Because we are not a voting member of the NYC Coalition on the Continuum of Care, we are outside the formal review process. Nevertheless, we represent the interests of the homeless individuals and families most in need and should be informed in tandem with that process; given an opportunity to provide feedback on any forthcoming CAPS policies and procedures; and offered training on CAPS implementation. Therefore, we request that:

- 1) HRA send the draft policies and procedures to Coalition for the Homeless when the draft is simultaneously sent to Continuum of Care voting members on January 8th.
- 2) Coalition for the Homeless be provided the opportunity to submit suggested amendments to the draft policies and procedures for review by the voting members before the Continuum of Care vote on January 19th.
- 3) HRA provide any relevant trainings to Coalition for the Homeless staff in advance of the January 23rd implementation date, and proactively offer updates and trainings before any subsequent components of CAPS are implemented.

We thank you for your consideration of these important issues as CAPS is implemented in the coming months. We are available to meet at your convenience to further our dialogue.

Best,



Giselle Routhier
Policy Director



Tim Campbell
Deputy Executive Director for Programs

Attachment 3: Draft supportive housing residents' rights bill

DRAFT Supportive Housing Residents' Rights Bill

Be it enacted by the Council as follows:

Title 26 [XX] of the administrative code of the city of New York is amended by adding a new chapter [XX] to read as follows:

§26-XX Definitions. When used in this chapter, unless a different meaning clearly appears from the context, the following terms shall mean and include:

Supportive housing. "Supportive housing" shall mean housing with accompanying support services geared towards assisting individuals and families who have experienced a period of homelessness, hospitalization, incarceration, or are aging out of foster care, maintain housing in the community.

Dwelling unit. "Dwelling" shall have the same meaning as in the Housing Maintenance Code § 27-2004.

Resident. "Resident" shall mean a person occupying, or intending to occupy, the dwelling unit for thirty consecutive days or more.

§26-XXX. Notice of Supportive Housing Residents' Rights. Every provider of supportive housing shall be required to provide every resident at the time of initial occupancy, and at each lease renewal, and upon request, a notice in a form approved by the Department, that informs the resident of the following:

a. Rent Stabilization Coverage. Whether the dwelling unit is subject to the Rent Stabilization Laws [NYC Admin. Code § 26-504 et seq.] and, if the dwelling unit is not subject to the Rent Stabilization Laws, the reason it is exempt. If it is subject to the Rent Stabilization Laws, the notice shall also provide information concerning how to obtain a rent history from the Division of Housing and Community Renewal.

b. Receipt of Tax Abatements or Exemptions. Whether the dwelling unit is in a building that is in receipt of a tax exemption or abatement, including but not limited to abatements or exemptions pursuant to R.P.T.L. §§ 421-a, 421-g, or NYC Admin. Code § 11-243. If the building is in receipt of an exemption or abatement, the notice will include the abatement or exemption start and end dates.

c. Court Process. The resident's right to court process prior to eviction pursuant to R.P.A.P.L. Article 7.

d. Habitable Housing. The resident's right to enforce the Housing Maintenance Code [NYC Admin. Code § 27-2001 et seq.] including but not limited to provisions concerning lead paint hazards and heat and hot water, and information concerning how to report violations and contact information for the person or people responsible for maintaining Housing Maintenance Code standards and responding to emergencies.

e. Freedom from Discrimination. The resident's right to be free from discrimination, the right to request reasonable accommodations, and information concerning reporting violations of the NYS and NYC Human Rights Laws [NYS HRL § 290 et seq. and Title 8 of the NYC Administrative Code].

f. Receipts for Payments Received. The resident's right to receipts for payments made in exchange for occupancy pursuant to R.P.L. § 235-e.

g. Roommates. The resident's right to have family and/or additional occupants pursuant to R.P.L. § 235-f.

h. Mental Hygiene Law. Whether the dwelling unit is subject to 14 N.Y.C.R.R. § 595 et seq. and the resident's rights under that section, including but not limited to 14 N.Y.C.R.R. § 595.10.

i. Harassment. The right to be free from harassment, a description of conduct presumed to be harassment pursuant to NYC Admin. Code § 27-2004, and the manner in which anti-harassment law can be enforced.

j. Regulatory Scheme. (i) Each funding stream used to provide social services, subsidize rents, or underwrite the development of the unit or property; (ii) the name(s) of the program(s) pursuant to which the resident is occupying the dwelling unit; (iii) the name of the agency administering the program and/or providing services or assistance pursuant (i) and (ii); (iv) any applicable grievance, or equivalent, policy or procedure to register and hear resident complaints; (v) any applicable regulations; (vi) contact information for a responsible person at the administering agency; (vii) the total rent, resident rent, and agency rent amounts; and (viii) the manner in which the rent will be paid.

§26-XXX. Eviction Proceedings. Any provider that is subject to this chapter that is initiating an eviction proceeding pursuant to Article 7 of the R.P.A.P.L., shall plead compliance with this chapter pursuant to R.P.A.P.L. § 741.

§26-XXX. Penalties. (a) Any owner who violates the provisions of XX shall be liable for a civil penalty of two hundred fifty dollars. For purposes of this section, each dwelling unit for which an owner fails to provide the notice required pursuant to XX of this chapter shall be deemed a separate violation.

(b) The Department shall receive, investigate, and respond to complaints concerning violations of this section. All complaints, responses, and violations issued by the Department will be posted on the Department's webpage and will include the identity of the supportive housing provider, the date of complaint, results and date of conclusion of any investigation, and the number and amount of penalties assessed.