

# **Exhibit 12**

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**From:** Goldfein, Joshua <JGoldfein@legal-aid.org>  
**Sent:** Monday, June 21, 2021 11:05 PM  
**To:** Thomas Crane; Kruk, Carolyn (Law); Sprayregen, Sharon (Law) (ssprayre@law.nyc.gov); Calhoun, Martha; Wolpert, Carolyn; Hofmeister, Beth; Smalls, Dawn L.  
**Subject:** violations relating to de-densification hotel moves  
**Attachments:** RA Transfer addendum\_6.21.21 Phase 1\_ FINAL.docx; Congregate Letter\_6.21.21\_Final.docx; RA Transfer addendum\_6.21.21 Future Phases\_Final.docx; DHS-78L RA Request Receipt (COVID).pdf; Letter to LAS RTS 6-19-21.pdf

Counsel,

We write to demand that the City comply with its obligations under federal and State disability law as well as the *Butler* settlement and other provisions of law in its current moves to relocate DHS shelter clients currently in de-densification hotels to congregate shelters. Despite assurances from DSS and DHS officials that clients who have or should have been granted a reasonable accommodation (“RA”) by the agency will not be transferred to a location that cannot accommodate their needs, we continue to encounter and receive reports of clients who have not been assessed or who have been told they will be transferred to a congregate site that cannot accommodate their needs. Attached is our written correspondence to date with the agency in regard to these issues.

DHS has represented in our correspondence to date that it will provide notice to people with an approved or pending RA that they will not be required to move to a congregate site, yet our clients continue to be told by shelter staff that they are moving, some as soon as this week. Shelter staff have told clients who have disabilities that impact their ability to access congregate shelter that they must move without ever being afforded access to the agency’s procedure to request an RA. The City must pause these moves for any shelter residents who it cannot confirm will be moving to a site that is appropriate for that person.

If the City does not immediately remedy these systemic violations of law and the *Butler* settlement, we will have no choice but to take appropriate steps necessary to protect the safety our clients. We remain available to discuss these issues with you at your convenience.

Joshua Goldfein  
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**From:** Calhoun, Martha <calhounm@dss.nyc.gov>

**Sent:** Monday, June 21, 2021 6:36 PM

**To:** Goldfein, Joshua <JGoldfein@legal-aid.org>; Hofmeister, Beth <BCHofmeister@legal-aid.org>

**Cc:** Wolpert, Carolyn <wolpertc@dss.nyc.gov>; Molly Park <PARKM@dhs.nyc.gov>; Pistilli, Tara <pistillit@dss.nyc.gov>; Meghan Smith <MEGHANS@dhs.nyc.gov>

**Subject:** FW: TIME SENSITIVE--PLEASE REVIEW

Josh and Beth,

In response to the follow up questions posed in your email of June 20, please see responses below. In addition we have attached the following documents that are referenced in our responses.

- Question 1: RA Transfer Addendum\_6.21.21 Phase 1 FINAL
- Question 3: Congregate Letter\_6.21.21\_FINAL
- Question 5: DHS-78L RA Request Receipt (COVID)
- Also included here (but not cited in our response) is the notice to people with approved RAs for future phases (RA Transfer addendum\_6.21.21 Future Phases\_Final)

Please see responses to your follow up questions sent on June 20, 2021 below.

1. Your letter refers to a new letter to be distributed to clients who have an approved RA telling them to disregard the letter they received on June 17. Please provide a copy of this letter.  
[Attached.](#)
2. Thank you for confirming that clients with RAs will not be moved. We assume that this will include those RAs granted provisionally. Please let us know if this is not the case.  
[Please note: Clients with approved RA's will not be moved to congregate shelter. However, all clients, including those with RAs, will be moved because these hotels are closing. Clients with approved RAs will be moved to an alternative site, that is not congregate shelter that can accommodate their needs. Any individual that has a provisional RA that is still under review will also be moved to an alternative site. This includes those who are in the 10-day window to submit documents, and those who have submitted but not yet received a final determination. Those clients who are moved to an alternative site due to a provisional RA will be moved again to congregate shelter if the provisional RA is denied. Keep in mind that this may result in two moves in fairly short sequence. Because the 10-day receipts were issued in large numbers starting in the beginning of June, we expect that most clients who currently have a provisional RA will have final determinations before their shelter is slated to move. This will minimize disruption for both DHS and clients.](#)

3. Will the communication to clients currently at congregate sites include information about how to request an RA? Please provide a copy. If clients currently at congregate sites submit an RA request for a less dense setting and it is pending when hotel residents begin moving back to the shelter, will it be granted provisionally?

All of our sites have flyers posted informing clients how they can request a reasonable accommodation. Please see attached for the communication that will be sent to shelters receiving clients. Please note that the first two shelters are currently empty so there is, obviously, no need to send the letter. As set forth in the Interim RA Policy that LAS reviewed in connection with Butler, we grant provisional RAs on a case by case basis, considering whether DHS expects a nontrivial amount of time to pass before a final determination, and whether not providing the RA immediately is likely to cause serious harm to the client.

4. Prior to moving clients at a particular de-densification site back to a congregate site, will you confirm that you have screened residents for RAs and offered them an opportunity to apply for one?

All of our Assessment and density sites are completing assessments of their clients and offering them the opportunity to apply for an RA. That said, it is possible that a client could return to a de-densification site immediately before a move after a substantial time out of shelter and miss the screening.

5. Did clients who were granted a provisional RA pursuant to the interim guidelines receive a notice telling them that their grant was provisional? Please provide a copy.

Yes, clients who were granted a provisional RA received the RAR receipt (attached). As you can see from the attached, the notice explained the nature of the provisional grant and informed clients they had 10 days to submit supporting documentation. As we discussed on Friday, our initial focus was on assessments, and we granted accommodations provisionally. However, many clients did not receive the provisional notice in the moment. Beginning in early June, the provisional RAR receipt was provided to all clients with provisional RAs, which told them they had 10 days to submit documentation to support the RA.

6. Please provide the written instructions to clients that accompany the COVID Placement Request Clinician Assessment Form. Please confirm that the agency will accept and consider information relevant to this inquiry if it is provided in an alternate format, e.g. if the clinician provides documentation but does not complete the form.

There are currently no written instructions to clients regarding the COVID Placement Request Clinician Assessment Form beyond what is contained in the form itself, but we are drafting instructions and will provide them shortly. Supporting documents submitted in an alternate format are accepted and considered. Please note that this form was intended to facilitate the process by directing clinicians to provide relevant information. Once again, the client can give it to their provider, or they can sign a HIPAA release and we will contact their health care provider to request the information.

1. If a client at a de-densification hotel or other hotel that is closing is reassigned to a new site prior to the move because of a purported curfew violation, is the client screened for RAs and given a new placement that is consistent with their needs? What if they have an RA request pending?

Whenever we transfer a client for any reason, we consider the individual's RAs. We do not do a screening on the spot, but in determining the new placement, the team looks at what RAs exist, and places the client in accordance with those needs.

2. How do you plan to address the State's prescriptions regarding air quality in congregate sites?

The state has not given prescriptions regarding air quality; they have offered guidance that varies

depending on the physical dynamics of the individual sites. There is different guidance for those sites with “mechanical air handling systems” versus those without, etc. That being said, we have been working with shelters to answer their questions about the guidance and to coordinate with them to ensure that they are taking the measures that are appropriate to the specifics of their site. But given the differing physical realities of each shelter, there is no single directive to apply.

Thank you.

**Martha A. Calhoun, General Counsel**  
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