

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON MENTAL HEALTH, DISABILITIES AND  
ADDICTION JOINTLY WITH COMMITTEE ON GENERAL WELFARE

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September 20, 2018

Start: 1:15 p.m.

Recess: 4:26 p.m.

HELD AT: Council Chambers - City Hall

B E F O R E: DIANA AYALA  
Chairperson

STEPHEN T. LEVIN  
Chairperson

COUNCIL MEMBERS: Alicka Ampry-Samuel  
Fernando Cabrera  
Robert F. Holden  
James G. Van Bramer  
Adrienne E. Adams  
Vanessa L. Gibson  
Mark Gjonaj  
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Brad S. Lander  
Antonio Reynoso  
Rafael Salamanca, Jr.  
Ritchie J. Torres  
Mark Treyger

## A P P E A R A N C E S (CONTINUED)

Steven Banks, Commissioner, New York City Human Resources Administration/Department of Social Services (HRA)

Martha Calhoun, General Counsel, Department of Social Services

Kleo King, Deputy Commissioner and General Counsel NYC Mayor's Office of People with Disabilities

Elizabeth Carallo, Shelter Resident with Disability

Susan Dooha, Executive Director, Center for Independence of the Disabled New York  
Appearing for: Dustin Jones

Robinson Paolo, Blind Person living in shelter

Ada Cologne, Social Worker, Barrier for Living Freedom House, Appearing Rosa Amparo

Susan Dooha, CIDNY

Beth Hoffmeister, Legal Aid Society

Jacquelyn Simone, Policy Analyst, Coalition for the Homeless

Jennie Veloz, Advocate, Disability Justice Program & New York Lawyers for the Public Interest

Paul Feuerstein, Founder and CEO, Barrier Free Living

Elizabeth Lynam, Chief Program Officer, HHRC New  
York City

Sophia Mann, Community Board 10

Towaki Komatsu

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[sound check]

SERGEANT-AT-ARMS: Keep it down, please.

CHAIRPERSON LEVIN: Good afternoon,

everybody. Thank you for joining us. I'm Council  
Member Steven Levin, chair of the Council's Committee  
on General Welfare. I want to thank my colleagues,  
Council Member Diana Ayala who's the Chair of the  
Committee on Mental Health, Disabilities and  
Addiction for continuing—for assisting and helping  
holding this important hearing on shelter  
accommodations for those with disabilities. I want  
to thank Speaker Corey Johnson for being a champion  
on this issue and for hiring the City Council's first  
ever liaison to the disability community, Anatasia  
Somoza (sp?). I want to thank Anastasia as well for  
helping to prepare for today's hearing. It was  
excellent insight. According to the U.S. Department  
of Housing and Urban Development, an estimate 38% of  
all sheltered homeless individuals across the country  
live with disabilities. People with disabilities in  
New York City are 9.3% more likely than people  
without disabilities to spend more than 50% of their  
income on rent. The poverty rate for people with  
disabilities in the city is 36.5% double the poverty

1 rate of people without disabilities. These  
2 statistics demonstrate the disproportionate  
3 representation of people with disabilities in the  
4 homeless population. We as a city need to do more to  
5 ensure that there are proper processes in place to  
6 meet the needs of this population. In May 2015, the  
7 Legal Aid Society, Coalition for the Homeless and  
8 CIDNY, C-I-D-N-Y filed a class action lawsuit against  
9 the City of *New York Butler vs. The City of New York*  
10 for failing to address the needs of people with  
11 disabilities in its Homeless Shelter Program.  
12 Clearly, as evidenced by the mere existence of the  
13 Butler lawsuit, and the settlement that followed, the  
14 city is now doing enough. The Butler Settlement  
15 Agreement was considered a win for New York City's  
16 disabled population. It outlines a long list of  
17 terms that the city must implementing including  
18 hiring a Director of Disability Affairs to ensure  
19 policies give people with disabilities meaningful  
20 access to DHS shelter services hiring access and  
21 functional need coordinators to work in each DHS-DHS  
22 Intake Office and assessment shelter, training staff  
23 who interact with—interact with shelter applicants  
24 and residents about the laws related to disability  
25

1 rights and the list goes go. As I understand it,  
2 within five years of the settlement, which was  
3 reached in May of 2017, DHS should have the capacity  
4 to accommodate any person with disabilities. While  
5 *Butler* is certainly a win, I am troubled to learn  
6 that DHS might be taking steps counter to the very  
7 agreement that was reached in the settlement. It has  
8 come to my attention that on June 22, 2018, DHS  
9 issued a change in policy to prohibit single adults  
10 who require assistance with their activities daily  
11 living to ADLs to be transferred to DHS shelters from  
12 hospitals and nursing homes. That is a DHS policy as  
13 of June 22, 2018. According to this new procedure,  
14 DHS—sorry—single adults are “De facto medically  
15 inappropriate for DHS facilities” if they have “an  
16 inability to care for self and independently manage  
17 activities of daily living.” If a client can’t meet  
18 all 12 ADLs listed, that person is deemed ineligible  
19 for shelter. The list includes transferring from a  
20 wheelchair to bed independently, carrying a food  
21 tray, and dressing independently. According to this  
22 list, a person with a simple broken arm in need of  
23 assistance putting on a shirt would not qualify for  
24 shelter. What alternative does the city have to  
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1 provide shelter for individuals requiring—require—who  
2 require assistance with ADLs? Is there a plan in  
3 place? This new policy seems to leave New York  
4 City's disabled population in need of shelter with  
5 nowhere else to go other than the streets. It has  
6 also come to my attention that on April 30, 2018,  
7 this year, the only homeless shelter in New York City  
8 run by Barrier Free Living that serve ADL dependent  
9 individuals with disabilities closed. While the  
10 shelter only had 32 beds, these were the only beds in  
11 the shelter system that allowed the services of a  
12 homecare aid for clients. What has the city been  
13 doing for those who can no longer live at this  
14 shelter? What is the city's long-term plan of  
15 shelter individuals who require such services? If  
16 only—if the only shelter that serve this population  
17 is shut down? Furthermore, what went into the  
18 process of this shelter shutting down? It has been  
19 in existence for over 20 years. It is alarming that  
20 we would allow as a system a shelter that is so  
21 specific and serves such a critical need to close.  
22 We want to get a sense of what is being done for  
23 those in shelters who have disabilities. We've heard  
24 from advocates that bathrooms are not accessible  
25

1 sometimes requiring persons with disabilities to  
2 stall doors open to accommodate their wheelchairs.  
3 We've heard from wheel—from a wheelchair user that he  
4 cannot get into the bed provided to him because it is  
5 not level to his wheelchair leaving him no choice but  
6 to sleep in his wheelchair. The Committees here today  
7 want to use this public forum to gain a better  
8 understanding of where the Department of Homeless  
9 Services is in terms of implementation of the terms  
10 of the Butler Agreement. We also want to ensure that  
11 there's plan in place for people with disabilities  
12 who are not in shelter currently, but may require  
13 shelter in the future. Before we begin, I'd like to  
14 thank the committee staff who has helped put together  
15 today's hearing Committee Counsel Aminta Kilawan;  
16 Policy Analyst Tonya Cyrus and Crystal Pond; Finance  
17 Analyst Meera Noushad; and Finance Unit Head Dohini  
18 Sompura as well as my Chief of Staff Jonathan  
19 Boucher; Policy Director Edward Paulino; and  
20 Legislative Director Elizabeth Adams, as well as the  
21 Council's Community Engagement Staff Lynn Shulman and  
22 Anastasia Somoza. I'd like to now turn it over to my  
23 co-chair Council Member and Chair Diana Ayala, who I  
24 understand just had a granddaughter.  
25

1 CHAIRPERSON AYALA: Yes.

2 CHAIRPERSON LEVIN: So, we want to offer  
3 our congratulations--  
4

5 CHAIRPERSON AYALA: [interposing] Thank  
6 you.

7 CHAIRPERSON LEVIN: --to you, Chair, and  
8 I'm going to turn it over to you for your opening  
9 statement.

10 CHAIRPERSON AYALA: Thank you, thank you.  
11 Thank you, Chair Levin and good afternoon everyone.  
12 I'm Council Member Diana Ayala, Chair of the  
13 Committee on Mental Health, Disabilities and  
14 Addiction, and I would like to thank all of you for  
15 being here today. With last year's settlement of the  
16 *Butler vs. City of New York* class action lawsuit,  
17 this hearing will focus on examining the steps that  
18 the city is taking to ensure disabled New Yorkers  
19 seeking accommodation in New York City shelter system  
20 will have their needs met in a timely manner by a  
21 well informed staff. While barriers for individuals  
22 with disabilities are in the process of being  
23 removed, we know that we still have more to do ensure  
24 that if needed, every disabled New Yorker would be  
25 able to effectively navigate and successfully access

1 the shelter system. According to the U.S. Housing  
2 and Urban Development, and estimated 40% of homeless  
3 individuals presenting for admission to shelters have  
4 disabilities. Today our city shelters have been  
5 unable to adequately provide the necessary reasonable  
6 accommodations to ensure that individual is able to  
7 access what is needed to perform the fundamental and  
8 necessary activities of daily living. While some  
9 barriers may be structural in nature, we are certain  
10 that others can be resolved by training shelter staff  
11 to be aware of the rights of individuals with  
12 disabilities and teaching them to provide reasonable  
13 accommodations in accordance with local, state and  
14 federal laws. This issue has personal resonance for  
15 me because in my own—in my own district of East  
16 Harlem, Mott Haven and the South Bronx have at times  
17 struggled with issues of accessibility and housing  
18 insecurity, and with approximately 62,000 men and  
19 women in shelter in New York City presenting for  
20 shelter on any given night, we must ensure that all  
21 individuals including those with disabilities are  
22 provided with reasonable accommodations and safe  
23 settings with trained staff. While we recognize that  
24 the one size does not fit all and know the challenges  
25

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1 of meeting the needs of individuals with disabilities  
2 may not always seem easy, we also know that providing  
3 comprehensive services in a matter consistent with  
4 the safety and wellbeing of each person presenting  
5 for admission to shelter is absolutely essential. We  
6 look forward to hearing from all of the stakeholders  
7 here today in order to work towards building a better  
8 shelter system for individuals with disabilities that  
9 is consistent with the laws that govern them. I  
10 would like to thank the committee staff Counsel Sara  
11 Liss; Policy Analyst Christy Dyer or Dwyer. I hope  
12 I'm pronouncing it right; Finance Analyst Janette  
13 Merrill; and my Chief of Staff, Millie Bonilla; my  
14 Legislative Director Bianca Marina for making this  
15 hearing possible. Finally, I would like to recognize  
16 the Committee members that have joined us, Council  
17 Member Alicka Ampry-Samuel, Council Member Barry  
18 Grodenchik, Council Member Jimmy Van Bramer and  
19 Council Member Fernando Cabrera. Did I miss it? Oh,  
20 Bob Holden, Council Member Bob Holden. Thank you,  
21 Bob, for coming. Thank you.

22  
23 CHAIRPERSON LEVIN: Thank you, Chair  
24 Ayala. So, we were originally scheduled to have two  
25 members of the public testify on the panel first, two

1 people living with disabilities who have experienced  
2 going through the shelter intake process and—and  
3 wanted to share their experiences: Dustin Jones and  
4 Rosa Amparo. Mr. Jones unfortunately couldn't be  
5 here today because of a flood at—at the Wards Island  
6 Shelter where he's residing, which prohibited him  
7 from being able to come down here because the only  
8 accessible bathroom in—in—at the—at his Wards Island  
9 Shelter was—was flooded, and it prevented him from  
10 being able to be here. Ms. Amparo, who wanted to  
11 share her experience of not being able to access  
12 shelter as a single adult in need of shelter is  
13 unfortunately in the hospital, and so she is unable  
14 to testify as well, and so we are going to hear from  
15 the Administration first, but I want to acknowledge  
16 both of them. I want to thank them for their  
17 willingness to—to testify and for their advocacy, and  
18 if anything, this highlights the need for this  
19 hearing and the need for a better understanding, a  
20 public understanding and the understanding of this  
21 Council is what the situation is on the ground within  
22 the DHS system. So, with that, I'm going to call the  
23 administration to testify. We have Commissioner  
24 Steven Banks of the New York City Department of  
25

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1 Social Services; Aaron Goodman from Social Services;  
2 Martha Calhoun from Social Services, and I see here  
3 Commissioner Victor Calise of the Mayor's Office of  
4 People with Disabilities. Thanks. [pause] Can I  
5 ask you all to raise your right hand, please. Do you  
6 affirm to tell the truth, the whole truth, and  
7 nothing but the truth in your testimony before this  
8 committee and to respond honestly to Council Members'  
9 questions?  
10

11 PANEL MEMBERS: [off mic] Yes.

12 CHAIRPERSON LEVIN: Okay.

13 COMMISSIONER BANKS: Good afternoon.

14 Thank you very much for the opportunity to testify.  
15 We have extensive testimony that we're giving you for  
16 the record. I want to highlight some of the aspects  
17 of it, but first, I want to really address the two  
18 clients who were going to testify here this morning.  
19 As you know, I represented clients before I got this  
20 job for many years, and I understand how challenging  
21 it is, and I admire both of them for wanting to  
22 testify. Each of them, their cases illustrated some  
23 significant problems in our system that even as we're  
24 making reforms, individual's cases sometimes reveal  
25 gaps in those reforms, and for one individual, the

1 gap was the nature of the police searches involving  
2 wheelchairs, which have been the source of some  
3 contraband. And, we didn't have the right procedure,  
4 and—and one of the clients was not treated in the way  
5 we would want him to be treated, and as a result of  
6 his experience, we've issued a new NYPD procedure for  
7 appropriate searches of wheelchairs, and Commission  
8 Calise, I want to just thank him public for his  
9 effort in that—in that issue to make sure that we  
10 have proper procedures in place to address that  
11 problem. We will certainly follow up with the help  
12 shelter provider with respect to Clark Thomas, there  
13 is more than one accessible bathroom there, and he  
14 will follow up to see what happened and report back  
15 to you off line to the committee chair in terms of  
16 that circumstance. The other client who was going to  
17 testify and highlighted between HRA and DHS with  
18 respect to the fact that a domestic violence shelter  
19 when a particular individual had reached the 180-day  
20 limit set by state law that rather than working  
21 through the procedures that we have in place to make  
22 sure that there is a seamless transition between two  
23 agencies, which are now integrated that that wasn't  
24 appropriately handled in this particular case, and we  
25

1 have put some additional protocols in place to make  
2 sure that the kind of experience that she had isn't  
3 repeated. I come to you to testify today about a  
4 number of topics relating to providing services to  
5 New Yorkers with disabilities, but I also want to  
6 frame it and we'll get into some detail here that the  
7 changes we're making in the DHS Shelter system follow  
8 the changes that we have made already in HRA in terms  
9 of providing services, and they're really framed by  
10 two lawsuits. One is *Lovely H.* that brought in 2005  
11 against HRA, and the second was brought before the  
12 90-day review against DHS the *Butler* lawsuit, both of  
13 which are settled with Federal Court supervision.  
14 And I think that we want you to have confidence in  
15 what we're going to do with the *Butler* settlement in  
16 respect to the shelter system based upon what we've  
17 been able to do in the *Lovely H.* settlement for HRA.  
18 When I came to HRA, on an annual caseload of 600,000  
19 individuals either getting ongoing or one-time  
20 assistance and families or individual households, we  
21 were giving annually 90, 9-0 reasonable  
22 accommodations. Today, annually, we're getting  
23 46,000 reasonable accommodations to clients seeking  
24 help at HRA, and that's the approach that we are  
25

1 going to take with respect to the reforms that are  
2 laid out in the Butler Settlement to address the  
3 needs of the clients of DHS. I'm joined here today  
4 by General Counsel with the Department of Social  
5 Services, Martha Calhoun as well as my colleague  
6 Commissioner of the Mayor's Office of People with  
7 Disabilities, Commissioner Victor Calise, and also  
8 Deputy Commissioner and General Counsel Kleo King.  
9 We've given you an update on where we are with  
10 Turning the Tide perhaps during some questions we'll  
11 come back to that point, but I wanted to come back  
12 the subject of the hearing, and focus on I think one  
13 of the most important aspects of Turning the Tide is  
14 phasing out 360 shelter sites and replacing them with  
15 90-day shelters and they are, I want to report to  
16 you, significant progress, which is very relevant to  
17 the topic of this hearing. At the time of Turning  
18 the Tide's announcement last year, we were in 647  
19 locations, and we've already reduced the number of  
20 sites that we're down to 468. That's almost 30% of  
21 our goal of a 45% reduction. So, it's a pretty  
22 significant reduction, and I think as you know from  
23 prior hearings, we prioritized phasing out the  
24 clusters where there tend to be walk-ups and in  
25

1 addition there is not air conditioning, which is one  
2 of the reasonable accommodations that many of our  
3 clients want. And so, as we continue to phase out  
4 the 360 shelter locations, and replace them with a  
5 small number of 90 borough based shelters, we are  
6 committed to siting shelters that increase and  
7 enhance the shelter systems' ability to provide  
8 meaningful access to DHS shelter and services for  
9 applicants and clients with disabilities as well as  
10 increase our capacity to place children and adults as  
11 close as possible to the anchors of life: Schools,  
12 jobs, healthcare, houses of worship and family. As  
13 we have developed new purpose built shelters of which  
14 we anticipate 25 of the 90 shelters will be purpose  
15 built shelters, as well as implement various capital  
16 improvements and design and construction projects in  
17 the shelter pipeline, which we're—they are all  
18 required to be compliant with all applicable codes  
19 including requirements concerning accommodating  
20 people with disabilities or other reasonable  
21 accommodations needs. The shelter system will  
22 further develop to meet the needs of clients with  
23 disabilities. Indeed, with a capital budget of \$300  
24 million for shelter development and improvement, we  
25

1 are increasing the proportion of existing shelter  
2 units that are accessible for people with  
3 disabilities. But through the agency's work on the  
4 Butler settlement and in general we're working to  
5 improve the client experience by updating intake  
6 processes to ensure they are comprehensive,  
7 understandable, and properly implemented, but it's  
8 also important to remember this is a shelter system  
9 that's built up in a very haphazard way over 40  
10 years. The Butler Settlement was agreed to and  
11 approved by the federal judge in December 2017, and  
12 the report we're giving you today is essentially on  
13 10 months of reforming a 40-year system. In the DHS  
14 system, DHS allows for reasonable accommodations for  
15 requests to admit at any time not only intake, the  
16 agency will be revising and updating intake forms  
17 through the Butler process including updates to the  
18 system of record, which will also include ensuring  
19 that shelter eligibility investigations take  
20 disabilities into account when looking at potential  
21 viable non-shelter housing options. In the DHS  
22 system families are placed in private rooms with  
23 either private or shared bathrooms, and these units  
24 can accommodate home health aids and/or visiting  
25

1 nurse services for persons in need of such services  
2 such as those who cannot independently complete the  
3 activities of daily living. Shelter for single  
4 adults being congregate settings on state regulation  
5 cannot provide space and services to meet those  
6 needs. To more effectively respond to these New  
7 Yorkers who turn to DHS for help, DHS has had since  
8 2010 an institutional referral discharge procedure.  
9 Last June we updated that procedure to create fillable  
10 forms. The substance of the procedure is essentially  
11 the same. We created additional instructions for  
12 discharging entities to try to expedite  
13 determinations. I think it's important to understand  
14 this procedure for what it is. It's a procedure  
15 that's focused on hospitals and nursing homes who  
16 discharge clients to the shelter system. It's  
17 important to focus on the most important aspect of  
18 this procedure, which is the shelter system is not a  
19 default for other institutions that have discharge  
20 planning responsibilities, and we'll get into some  
21 the numbers, but I think you'll see that there hasn't  
22 been a change going back over a period of time in the  
23 numbers of people that we provide shelter to are  
24 discharged from hospitals or discharged from nursing  
25

1 homes in comparison to those that we—that we believe  
2 their needs cannot be met in shelter consistent with  
3 state regulation, which limits who shelters can  
4 provide assistance to. Having said that, we  
5 recognize this is a significant problem. It's  
6 reflective of the affordability crisis that we talked  
7 about often at these hearings in terms of the ability  
8 for people to obtain and retain housing in addition  
9 to the discharge policy you referenced earlier, which  
10 relates to hospitals and nursing homes. The home  
11 based programs are focused on trying to keep who are  
12 in housing in their homes because of the data that  
13 you referenced before in terms of the numbers of  
14 people in the community with disabilities. I'm sure  
15 we'll get into some of that more with the questions  
16 back and forth, and I can give you the exact  
17 information about the numbers of discharges from  
18 hospitals and nursing homes that are affected by  
19 again a policy, which has been in effect since 2010.  
20 As I said earlier, the settlement in *Lovely H* and  
21 *Butler* exemplify the reforms we're trying to place to  
22 provide clients with disabilities with meaningful  
23 access to our services after many years when they  
24 have been barriers to attaining essential services.  
25

1 In recognition of the major reform efforts that are  
2 involved, Federal District Court Judges approved both  
3 settlements with multi-year implementation plans and  
4 milestones. The *Lovely H* case, as I said, was brought  
5 in 2005 and this high-it settled by the  
6 Administration in 2015 within a year of when I became  
7 the Commissioner, highlighted the problems of persons  
8 with disabilities in need of public benefits  
9 experienced in obtaining and maintaining those  
10 benefits and services to which they're entitled  
11 including their needs for reasonable accommodations  
12 As I said at the time when we began those reforms on  
13 an annual basis, only 90 reasonable accommodations  
14 have been issued. DSS is committed to ensuring that  
15 people with disabilities get the help they need and,  
16 therefore, we settled the case to make public  
17 benefits more accessible to people with disabilities.  
18 Pursuant to the milestones in the Federal Court  
19 approve settlement, we're improving our ability to  
20 screen clients in need of reasonable accommodation as  
21 a result of physical and mental health disabilities  
22 as well as providing case management. For example,  
23 through *Lovely H*. we have issued agency wide  
24 reasonable accommodation and modification policy;  
25

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1 created a reasonable accommodation request; reviewed  
2 determination of appeals process, assisted clients in  
3 obtaining clinical documentation to support the  
4 reasonable accommodation requests, developed a client  
5 services screen that informs staff of all active  
6 reasonable accommodations for clients; sent clients  
7 pre and post-appointment reminders for system and  
8 meeting program requirements; created a direct  
9 contact number specifically to serve clients with  
10 homebound home visit needed status; formed a  
11 disability advisory panel to share information giving  
12 greater expertise and input and feedback from the  
13 disability community; implemented a full day  
14 introduction of disabilities training that is  
15 mandatory for all employees, developed and are  
16 implementing a supervisory training that supports  
17 frontline supervisors and their ability to oversee  
18 the implementation of reasonable accommodation at  
19 their HRA sites; trained staff and developed  
20 reasonable accommodation processing and notification  
21 services in HRA Central Call Centers such as Info  
22 Line; created and office hours partnership between  
23 HRA staff and Street Homeless Outreach teams to  
24 expedite homebound status services to the street  
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1 homeless clients; issued a plain language and clear  
2 design policy to create client notices that are  
3 easier to read for clients with cognitive and visual  
4 disabilities; work with expert consultants to  
5 development a disability screening tool currently  
6 being implemented at five sites throughout the city  
7 and in the process of being implemented—rolled out to  
8 all HRA job centers. Many—why is this relevant to  
9 *Butler*? Many of the policies and practices  
10 implemented at HRA pursuant to *Lovely H.* also benefit  
11 DHS client as well as DH service delivery. With the  
12 integration of DHS and HRA within the shared services  
13 model last year, DSS—this allows DSS offices such as  
14 Finance, Communications, Personnel, External Affairs,  
15 and Training to serve both agencies, and share best  
16 practices and experiences from *Lovely H.* with respect  
17 to *Butler*. As a result, practices such as improved  
18 communication mechanisms, materials for people who  
19 are blind or low vision and training of staff working  
20 with the clients who are deaf or hard of hearing  
21 benefit the clients of both agencies. With respect to  
22 *Butler*, DHS has the legal and moral mandate to  
23 provide essential shelter on demand to all eligible  
24 families and individuals who need it, and on the same  
25

1 day in which they apply. This requires having a  
2 system that not only has sufficient capacity and  
3 vacancies to be able to appropriately assign persons  
4 within the system, but a system that also provides  
5 sufficient capacity to accommodate the very needs of  
6 people with disabilities. In December of 2017, the  
7 City of New York reached their Federal Court  
8 settlement that you and I have referred to. It's  
9 multi-year litigation to enhance access to shelter  
10 and its intended services for applicants and clients  
11 with disabilities. Settlement capped years of  
12 productive negotiations with the Legal Aid Society,  
13 class counsel not only for a class of plaintiffs that  
14 includes all applicants for and clients at HDS  
15 shelter that have disabilities, but also to  
16 institutional plaintiffs. The Center for Independent  
17 of the Disabled of New York and the Coalition for the  
18 Homeless. The settlement including the Multi-Year  
19 Reform Plan was signed by all parties and approved by  
20 a Federal Court judge in the Southern District of New  
21 York, Judge Sweet after public comment. The  
22 settlement is monitored by the Legal Aid Society over  
23 a period of five years from its effective date, and  
24 pursuant to the terms of the settlement, Legal Aid is  
25

1 able to review and comment on DHS deliverables  
2 including new and revised procedures as well as  
3 accessibility survey tool developed by DHS expert  
4 consultant and proposed remediation plans. The  
5 communication structure outline in the settlement  
6 provides an avenue to which advocates can provide  
7 impact-input on many of the ways in which DHS is  
8 enhancing its system and improving its system to  
9 increase shelter access for people with disabilities.  
10 At a December 7, 2017 fairness hearing on the  
11 agreement, Judge Sweet approved the settlement  
12 reached between the agency and Legal Aid and there  
13 were no-all comments were positive. The  
14 comprehensive settlement provides the city of New  
15 York will do the following: Enhance DHS' practices  
16 to ensure all applicants and clients with  
17 disabilities are provided reasonable accommodations  
18 to ensure meaningful access to home shelter utilizing  
19 the services of an expert consultant Survey Intake  
20 sites, assessment sites and selected shelters to  
21 identify barriers to excess and develop remediation  
22 plans to enhance successful features in existing  
23 shelters; modify existing procedures as needed to  
24 enforce best practices in line with legal standards  
25

1 regarding accessibility; and retrain staff consistent  
2 with the federal, state and city disability rights  
3 and DHS enhanced practices related to disability  
4 rights; ensure that shelter evacuation plans  
5 recognize the particular needs of people with  
6 disabilities; provide communication accommodations  
7 for individuals who have vision or hearing  
8 disabilities; conduct a population analysis of the  
9 detour (sic) system based on available data sets to  
10 determine the percentages and types of persons with  
11 disabilities seeking or using DHS shelter services  
12 and overall ensure the agency has sufficient  
13 accessible capacity to meet the needs of homeless  
14 applicants and clients with disabilities. DHS is  
15 committed to these reforms in order to improve  
16 shelter accessibility for individuals with  
17 disabilities. Even before its effective date in  
18 December 2017, DHS began work pursuant to the  
19 settlement because we recognized the important  
20 opportunity reform of our agency's practice, and  
21 ensure all applicants and clients with disabilities  
22 have meaningful access to the homeless shelter  
23 system. Given the magnitude of the reform effort the  
24 parties agreed to and the Federal Court approved a 5-

1 year implementation timeline with interim milestones.

2 One key benchmark we executed is contracting with an  
3 expert architectural consulting firm to develop a DHS  
4 shelter survey tool consistent with the Department of  
5 Justice guidelines and survey existing DHS shelters  
6 including all intake and assessment sites and other  
7 shelters already classified as accessible and provide  
8 training such that DHS teams can continue survey work  
9 of additional and new shelters and develop  
10 remediation plans to increase accessible shelter  
11 capacity including an initial remediation plan by  
12 April 2019. For this expert and comprehensive  
13 analysis in consultation with the Legal Aid Society,  
14 DHS contracted with Steven Winter Associates, an  
15 expert architectural and building systems consulting  
16 firm with experts—expertise in accessible design in  
17 ADA Guidelines and construction requirements of  
18 federal and state and local laws. SWA has vast  
19 experience in this area exemplified by their ongoing  
20 work since 2004 with respect to the Consent Decree  
21 between the U.S. Department of Justice and the  
22 Housing Authority of Baltimore to which SWA has  
23 conducted field inspections of thousands of dwelling  
24 units, and created remediation plans to ensure that  
25

1 the Housing Authority in Baltimore was in compliance  
2 with Americans with Disabilities Act. Their  
3 expertise working with plaintiffs, government  
4 agencies and housing programs make them uniquely well  
5 suited to assist DHS with its accessibility based  
6 efforts. Moreover, the Department of Justice was one  
7 of the references we consulted regarding SWA before  
8 we hired them, and pursuant to the settlement, the  
9 Legal Aid Society approved the city's hiring at SWA.  
10 Under the settlement and in accordance with the terms  
11 of the city's hiring of SWA, the expert consultant  
12 will survey existing intake and assessment sites as  
13 well as a stock of over 60 other shelters to assess  
14 accessibility at those shelters pursuant to the ADA  
15 Accessibility Guidelines and the Federal Department  
16 of Justice ADA Best Practices Toolkit; Develop and  
17 implement a DHS Facility Survey Tool as well as  
18 tenant training for DHS staff to continue survey  
19 shelters in the system as well as new shelters that  
20 are coming online; identify accessible features of  
21 facilities in individual units that can be added to  
22 DHS' Building Compliance System so as to make better  
23 and more accurate placements for clients with  
24 disabilities into appropriate shelter locations, and  
25

1 propose remediation of existing shelters to enhance  
2 and improve accessibility options for the DHS shelter  
3 system. Our survey work with SWA involves conducting  
4 full day in-depth surveys at select DHS shelters that  
5 evaluates access to every public space in the shelter  
6 ranging from a shelter entrance to every common area  
7 or library or cafeteria, sleeping unit type, bathroom  
8 type, water fountain and more. This analysis  
9 combined with a population analysis will provide deep  
10 insight into the current and anticipated and  
11 anticipated characteristics of individuals with  
12 disabilities in shelter along with the ways in which  
13 we can ameliorate barriers for them to access shelter  
14 services. The initial analysis is expected to be  
15 completed in the spring of 2019, and we look forward  
16 to using the tools as a means to enhance our shelters  
17 in a manner that best serves individuals with  
18 disabilities. We're are already using lessons  
19 learned in the early stages of the architectural  
20 analysis to inform our efforts in setting new  
21 shelters and shrinking the shelter footprint for Turn  
22 the Tide. Our success thus far in meeting this  
23 benchmark as well as many others is in large part due  
24 to a robust working group system that we did help to  
25

1 enable staff across DSS and HRA and DHS to work  
2 together to implement the various components of the  
3 five-year plan. In this framework, staff members  
4 from more than 16 different program areas within our  
5 agencies collaborate to pool ideas and resources to  
6 maximize services for clients. With the Butler  
7 settlement, we are also expanding on our existing  
8 agency wide goal to develop more enhanced reasonable  
9 accommodations processes for clients and applicants  
10 with disabilities. As I've testified previously, the  
11 DSS Office of Disability Affairs ensures that the  
12 ability to request reasonable accommodations is  
13 readily available and simple and that staff is  
14 properly trained on how to assist and expedite  
15 requests. Again, that's how we went from 90  
16 reasonable accommodations annually to 46,000 at HRA.  
17 The Integrated working group framework to implement  
18 the Butler settlement has allowed DHS to draw from  
19 the previous lessons learned from the Office of  
20 Disability Affairs overall work and the work related  
21 to Lovely H. and collaborate with staff representing  
22 adult shelters service, adult shelters, family  
23 shelters, constituent services, customized assistant  
24 services and information technology services and  
25

1 numerous other offices in our agencies to work out  
2 policy and procedures that will best implement  
3 reasonable accommodations across the agencies. A key  
4 component of this work is not only revising and  
5 retraining all our processes and procedures, but also  
6 making the process more client friendly and client  
7 centric and empowering staff to be able to grant  
8 these accommodations on site as much as possible.  
9 The DHS Director of Disability Affairs adds  
10 additional review and expertise in enhancing these  
11 efforts. Finally, pursuant to the settlement to add  
12 more resources to this effort, DHS will be developing  
13 a team of Disability and Functional Need or DAFN  
14 coordinators who work directly on the ground with DHS  
15 clients and program staff at intake and assessment  
16 shelters as well as program shelters to triage issues  
17 pertaining to disabilities and reasonable  
18 accommodations; offers specific advice and know-how,  
19 advocate for clients expressing accessibility-based  
20 needs and focus on and identify areas for improvement  
21 and training. In relation to the agreed upon five-  
22 year implementation timeline stipulated in the Butler  
23 Settlement, which is overseen by the Federal Courts  
24 and monitored by Legal Aid, we're in line with the  
25

1 milestone timeframe or have when needed received a  
2 formal modification. To date, we've completed the  
3 following deliverables and milestones: As mentioned,  
4 we've hired an expert consultant for Firm SWA. Since  
5 that time, we developed a DHS Facility Survey Tool  
6 which the Legal Aid Society approved and have begun  
7 surveying our intake and assessment sites. Our  
8 shelter survey selection criteria we will also share  
9 with the Legal Aid. We conducted an initial baseline  
10 population analysis, which we expect to repeat  
11 periodically throughout the process refining it as  
12 systems become more refined to track individual's  
13 specific requests and needs. We instituted an  
14 informal relief mechanism by which advocates through  
15 Legal Aid can work with our agency's legal team to  
16 triaged reasonable accommodation requests. A  
17 Director of Disability Affairs was hired and as  
18 indicated previously as DAFN team is in the process  
19 of being hired. To ensure continuity of access to  
20 shelter and shelter-based services for our clients  
21 with disabilities who may be absent from shelter  
22 during hospitalization or institutional placement, or  
23 clients entering shelter from such facility. We  
24 developed, as I discussed earlier provided Legal Aid,  
25

1 with DHS' referral from Healthcare Facilities policy  
2 and is staff best practice guide. In addition to  
3 reasonable accommodation work described above, we are  
4 revising our reasonable accommodation procedures, and  
5 we'll be sharing that with Legal Aid in accordance  
6 with the time table and the settlement. Lastly,  
7 we're in negotiations with the Legal Aid Society  
8 about the details of the monitoring protocol, which  
9 includes our progress implementing the settlement  
10 terms and performance and outcomes implementing our  
11 procedure and architectural changes. As mentioned,  
12 DHS conducted an initial baseline population analysis  
13 pursuant to the settlement to determine the extent to  
14 the shelter-the shelter population may have a  
15 functional need and require some form of placement  
16 related reasonable accommodation for disability. This  
17 would include accommodations such as placements in  
18 accessible sites for people using wheelchairs, air  
19 conditioning, durable medical equipment or auxiliary  
20 aids for communication and placements in mental  
21 health shelters. The Legal Aid Society reviewed,  
22 commented on and helped improve the initial analysis,  
23 which is based on existing data in the DHS care  
24 system of record as well as other systems including  
25

1 the Welfare Management System, SDX, and information  
2 from the U.S. Census Bureau's American Community  
3 Survey, and we'll continue—and this will continue to  
4 be refined as we enhance our systems through the  
5 five-year plan to implement the Butler Settlement and  
6 are able to collect more nuanced data. The initial  
7 analysis, which represents an analysis as of November  
8 2017 shelter residents show that 28% of households  
9 including one or more people who may have a condition  
10 requiring air conditioning. 28% included one or more  
11 persons who may have a condition requiring specific  
12 appliances or medical equipment and 18% of households  
13 included at least one person who may experience some  
14 form of mobility disability requiring accommodation.  
15 For example, some of them may require a wheelchair  
16 based accessibility options. Overall, however, 61%  
17 of households in the DHS shelter system included at  
18 least one person who may experience a disabling  
19 condition that may require a placement related  
20 reasonable accommodation. Although this initial  
21 analysis represents a specific point in time and the  
22 shelter population is not static, this essential—  
23 extensive analysis is incredibly valuable in  
24 developing an initial level of understanding of  
25

1 people living in shelter, and we are proceeding to  
2 build up systems in accordance with that  
3 understanding. As we continue refining the analysis  
4 of the needs of the shelter population and Turning  
5 the Time Homelessness, we're prioritizing getting out  
6 of cluster sites, which overall tend to provide less  
7 access to features such as air conditioning and/or  
8 wheelchair accessibility and other types of shelter.  
9 We are confident that that overarching aim of the  
10 Butler Settlement, which is to provide reasonable  
11 accommodations, communicate effectively with clients  
12 with disabilities, and improve accessibility for  
13 people with disabilities who are homeless will  
14 improve on our existing efforts to serve all New  
15 Yorkers who need services. In addition, the  
16 testimony covers, as we've previously testified, the  
17 role of the Office of Disability Affairs. I'm going  
18 to leave that in the record, and if there are  
19 questions about it, we will come through there. I  
20 want to just highlight and to close there the  
21 transforming of the shelter system through new  
22 investments and partnerships, which we've talked  
23 about in prior hearings, but I think it's  
24 particularly relevant at this particular hearing. The  
25

1 city has made important progress in transforming that  
2 haphazard system that I described. It's been decades  
3 in the making. By investing in historically  
4 underfunded not-for-profit service providers, and  
5 facilities to ensure those partners are appropriately  
6 funded to deliver the services our homeless neighbors  
7 depend on as they get back on their feet. Addressing  
8 conditions that have built up over many years  
9 implementing the NYPD Management Team to oversee  
10 shelter security citywide and raising the bar for  
11 services that we provide our homeless clients moving  
12 away from a one-size-fits-all strategy towards a  
13 people and community bases system that is responsive  
14 to families with unique needs. This includes  
15 addressing shelter conditions built up over decades  
16 through comprehensive repairs, renovations and new  
17 partnerships with the NYPD to ensure a safe and  
18 secure environment for New Yorkers in need as they  
19 get back on their feet. In 2016 and 2017 calendar  
20 years, the Mayor's Interagency Shelter Repair Squad  
21 conducted more than 34,000 inspections and reduced  
22 violations that went under-addressed for many years  
23 by 84% and we've allocated the necessary funding to  
24 make further major renovations improving shelter  
25

1 conditions that have built up over decades and we'll  
2 continue making progress restoring our  
3 infrastructure, In investing in historically  
4 underfunded facilities and providers dedicating  
5 unprecedented dollars, more that a quarter of billion  
6 new dollars annually to modernizing the outdated  
7 rates that our vital provider partners have been  
8 receiving for years to ensure those partners are  
9 properly funded to deliver the services our homeless  
10 clients depend on as they get back on their feet  
11 while expanding education programs and increasing our  
12 social work staffing and mental health services. I  
13 want to just conclude by saying overall the  
14 Administration has continually demonstrated its  
15 priority of improving our policies at our agency  
16 systems and services to better the lives of low-  
17 income New Yorkers including those with physical and  
18 mental disabilities. Beginning with the 90-day review  
19 of Homeless Services, we have focused on implementing  
20 measures that reinforce systemic change that will  
21 outlive the five-year plan right out in the Butler  
22 Settlement. We are still less than a year into  
23 implementing the reforms set forth in the Butler  
24 Settlement that the improvements we are making now  
25

1  
2 and over the next five years will set the city as a  
3 leader in implementing ADA Compliant approaches to  
4 enhance shelter accessibility. Our work to date has  
5 already helped us identify effective practices for  
6 how to serve clients with disabilities, and using the  
7 integrative working group framework, we've been able  
8 to implement procedures that reflect an efficient  
9 uniform system even among the programs that contain  
10 significant operational differences. Moving forward,  
11 the insight gained from this experience will allow us  
12 to best connect vulnerable New Yorkers to the  
13 services that enable them to thrive. Thank you again  
14 for this opportunity to testify. Commissioner Calise  
15 and I welcome your questions.

16 CHAIRPERSON AYALA: Thank you,  
17 Commissioner. I have a lot of questions. I'm taking  
18 over for Steve. [laughs]

19 COMMISSIONER BANKS: I've—I've know you  
20 some time know. I know you have a lot of questions.  
21 [laughter] Hopefully, I have a lot of answers for  
22 you.

23 CHAIRPERSON AYALA: He's letting me go  
24 first. It's a big deal, guys. Can you—so what is—  
25 what is the process for training staffers now to

1 identify different types of disabilities other than  
2 the--the checklist on the ADLs?  
3

4 COMMISSIONER BANKS: So, again I want to  
5 put the ADLs in--in context. That is--that--that  
6 checklist that you're referring to--

7 CHAIRPERSON AYALA: [interposing] Yes.

8 COMMISSIONER BANKS: --is a discharge  
9 document that hospitals and nursing homes fill out  
10 before giving them to us so that we can find  
11 appropriate placements, and where someone is being  
12 discharged from a hospital or a nursing home  
13 improperly in our opinion, we can push back and get  
14 someone more appropriately housed. The training that  
15 we are developing for our staff for Butler is similar  
16 in scope to how we approach the training for *Lovely*  
17 *H.* We carried a full day of training. It was  
18 mandatory. It was supervisory training, but the  
19 exact kind of training is laid out in the milestones  
20 in the Butler Settlement. I believe that we're  
21 providing drafts of training in--let me just consult  
22 with the gentleman. [background comments, pause] I  
23 just wanted to make sure I get the right date, but  
24 there's--there's a very specific process for when  
25

1 we're supposed to provide the protocols for the  
2 training program to fully let's--

3  
4 CHAIRPERSON AYALA: [interposing] Has the  
5 training begun?

6 COMMISSIONER BANKS: [pause] Right,  
7 there's--there's training that's been done, but the  
8 reason why I want to be careful in my answer is that  
9 the Butler process informs an iterative back and  
10 forth between the city and the Legal Aid Society,  
11 which is a good framework here, and we have an  
12 obligation to provide them with a more robust  
13 training for staff remembering that there are--there  
14 is milestones set out in the agreement, which I can  
15 go through with you in--in some detail. If you'll  
16 hang on one moment, I'll--I'll go through some of  
17 them, and I think it will give you some confidence  
18 about how this is--is proceeding. So, just walking us  
19 from December 2017 forward. So, the agreement was so  
20 ordered on December 7, 2017. The hiring of the--the  
21 architectural consultant was required to take place  
22 in 2018 and actually the engagement happened in 2017.  
23 We are required in February of 2018 to implement an  
24 informal relief mechanism. That has been done.  
25 We're required to have an accessibility survey tool

1 for shelter sites, monitoring protocol methodology  
2 and begin the site surveys with the consultants by  
3 March 2018. That happened. We're required by June  
4 2018 to have a population analysis and share  
5 reasonable accommodation selection menu, which we  
6 did, which I can go through that menu if that would  
7 be helpful with the Legal Aid Society, and we're  
8 required to provide the first site selection criteria  
9 and continuing the monitoring protocol in August of  
10 2018. That was done. We're required to share  
11 institutional referral policies and best practices  
12 and continue the site surveys in September 2018.  
13 That happened. We're required to share operational  
14 reasonable accommodation procedures and hire the  
15 disability access functional needs coordinators.  
16 That was slightly extended, but that's November 2018,  
17 and also enhance the reasonable accommodation intake  
18 access process by November 2018. By December 2018,  
19 we're required to provide disability access training  
20 curriculum and quality assurance measures and we are  
21 on track to do that and also an accessible facility  
22 data base, and we're on track to do that, but as I  
23 answered you initially, there is training, but we're  
24 very focused on making sure the training meets the  
25

standards of the agreement, and under the terms of  
the agreement, we're required to have the curriculum  
and the quality assurance message-mechanisms at that-  
by December 2018.

CHAIRPERSON AYALA: Yeah, I-I appreciate  
that because I-I think right, we-we all agree that  
the-the first person who was in contact the intake  
person is crucial, right, in determining the type and  
the level of-of-of services that an individuals who  
comes into the shelter needing, right? Whether that  
is a disabilities accommodation or a mental health  
screening so it's-it's really critical that that  
person be trained annually if possible or on a  
continuing basis on how to better identify those  
individual needs so that we're making sure that  
they're met.

COMMISSIONER BANKS: I agree with you. I  
just want to emphasize the addition of the Disability  
Access and Functional Needs staffing--

CHAIRPERSON AYALA: [interposing] Yes.

COMMISSIONER BANKS: --which is currently  
projected from November, is a very important piece of  
this. That-there's no other shelter system in the  
country that has such staffing. It's an emergency

1 management concept and I know Commissioner Calise has  
2 a—has information on that that might be helpful to  
3 consider. We think adding that staff in addition to  
4 the training is really what's going to be game  
5 changing. So the training approach will be similar  
6 to what we look at with *Lovely H.* in terms of  
7 requiring it, but the addition of the disability  
8 access and functional needs staffing, staff is really  
9 important.  
10

11 COMMISSIONER CALISE: Yeah, it's  
12 something we implemented in Emergency Management to  
13 ensure that we're giving the services for people with  
14 disabilities and there exists throughout the  
15 agencies, throughout the city as well, and it's  
16 something that it complements our disability service  
17 facilitators who also work with the city to ensure  
18 that accessibility is being met.

19 CHAIRPERSON AYALA: Have you had the  
20 opportunity to visit any of the shelters?

21 COMMISSIONER CALISE: No, I haven't.

22 CHAIRPERSON AYALA: You haven't. I think  
23 that, I mean that's also a critical point, right.  
24 It's—it's important that individuals with  
25 disabilities are able to physically see the layouts

1 right and provide input in terms—because there are a  
2 lot of—a lot of times we, you know, there are things  
3 that we don't—we don't see, right because we don't  
4 require a certain accommodation. I—I for instance  
5 was walking on the street with someone that is  
6 wheelchair user, got on a curb cut on end of the  
7 street. The other side of the street didn't have a  
8 curb cut so we couldn't exit. So we had to turn back  
9 around and got around onto the street. I wouldn't  
10 have noticed it had I not been with this—this person.  
11 So, in regards to the reasonable accommodations,  
12 could you walk us through what some of those  
13 reasonable accommodations are with the exception of  
14 air conditioning and wheelchair accessibility. I  
15 mean if—if an individual comes into a shelter on  
16 Ward's Island for instance, and they need to use the  
17 restroom, does the door close behind them? Are there  
18 hand railings? What—what were—what do you mean by  
19 reasonable accommodations?  
20

21 COMMISSIONER BANKS: I think it's very  
22 important in answering your question to—to level—set  
23 us back to what got us here.

24 CHAIRPERSON AYALA: Yes.

25

1  
2           COMMISSIONER BANKS: The system is built  
3 up over 40 years without this kind of an approach,  
4 and the settlement is to reform it. One of the tasks  
5 that the Settlement Agreement requires us to do, and  
6 in doing so we consulted with the Legal Aid. So, we  
7 had to develop a reasonable accommodation menu, and I  
8 think going through it will help you-

9           CHAIRPERSON AYALA: Yes.

10           COMMISSIONER BANKS: --get the context of  
11 how granular this is. So, one category is access to  
12 facilities, and these are the kinds of menu items  
13 that will come down to-for determinations. Medical  
14 or disabling condition requiring placement of a  
15 particular geographic location. Access to electrical  
16 outlets to para or disability related equipment.  
17 Placement with air conditioning and sleeping area.  
18 Placement in accessible unit or dorm for deaf or hard  
19 of hearing. Placement in elevator building and/or  
20 first floor. Placement with accessible bathroom  
21 features. Specify. This is in menu to specify.  
22 Could include the following: Shower grab bars,  
23 toilet grab bars, lower shower height, lower sink  
24 height. Placement with wheelchair accessible  
25 bathroom and/or unit. Accessible transportation from

1 intake to assessment and/or to shelters and between  
2 shelter. Access to refrigeration for medication.  
3 Expedited intake in placement. Disability or  
4 medically related dietary needs. Specify. Specify  
5 could include the following: Renal dietary needs,  
6 diabetic dietary needs, case management is another  
7 category on this menu. Help reading forms. Help  
8 completing forms. Permitting assistances by a  
9 support person or appointments. Assist with  
10 referrals to request appropriate equipment for  
11 medical or disabling condition. Flexible scheduling  
12 and intake for—I'm sorry. Flexible scheduling for  
13 in-shelter appointments. Communication is another  
14 category on the-on the menu that developed. Help for  
15 people who are blind or low vision. Specify. Specify  
16 could include email, text if available, Braille,  
17 large print, audio, data discs, help for people who  
18 are deaf or hard of hearing. Specify. Specify could  
19 include the following: Email, taxes if available,  
20 ASL, VRI, Spanish sign language or other language,  
21 tactile sign language, tactile finger spelling.  
22 Miscellaneous category on the menu: Permit shelter  
23 access to professional homecare attendant, permit  
24 emotional support animal to reside in shelter,  
25

1 service dog reside in shelter. Other: Applicant or  
2 client to specify or describe requested need. So,  
3 that's a very comprehensive set of-question sets for  
4 a menu. It is-it's very significant reform for where  
5 things have been for the last 40 years.

7 CHAIRPERSON AYALA: Does that include-I  
8 don't-I don't recall hearing-do you have access to  
9 motorized beds as part of the medical equipment? I  
10 mean meaning that you can-with a button lower if you  
11 need to get in and out of a wheelchair?

12 COMMISSIONER BANKS: This-this is one of  
13 the challenges where if someone requires that level  
14 of care, the discharge from the hospital, the  
15 discharge from a nursing home we would have concerns  
16 about a determination made that shelter is the only  
17 alternative for such a person.

18 CHAIRPERSON AYALA: I mean but I think,  
19 Commissioner Calise is a-is a great example of able  
20 bodied, you know, individual who just happens to be a  
21 wheelchair user. There wouldn't-there shouldn't be  
22 any other impediments to him having access to the  
23 same level of shelter because he could possibly have  
24 some difficulty getting in and out of an existing  
25 bed. So, I-I would have a problem, you know,

1 referring someone like him back to a nursing home  
2 just because we don't have the appropriate equipment.

3  
4 COMMISSIONER BANKS: Yeah, I think I-I  
5 over answered your question. We, certainly-certainly  
6 we would work with Medicaid to see whether or not we  
7 could get appropriate equipment for somebody, but I  
8 think it might be helpful just to give you and also  
9 the chair some context of these issues about ADLs. So  
10 in Calendar Year 2016, we had 1,000-I'm sorry. We had  
11 1,268 referrals from hospitals with 30 referrals from  
12 nursing homes, 37 referrals from hospitals were found  
13 to be individuals that we could not serve in shelter,  
14 15 from nursing homes. In Calendar Year 2017 there  
15 were 1,260 referrals from hospitals, 30 from nursing  
16 homes again, and there were 37 from hospitals and 5  
17 from nursing homes. So, we found we could not serve  
18 in shelter. So far in Calendar Year 2018 including  
19 since we issued a more streamlined way to use the  
20 same process, which has been in place since 2010,  
21 there have been 723 referrals from hospitals and 17  
22 from nursing homes. That's January 1 to August 15<sup>th</sup>  
23 there were 13 from hospitals found medically  
24 inappropriate and two from nursing homes. I mean our  
25 focus here is to make sure that all part of the

1 systems that exist that produce homelessness are  
2 focused on coming up with the best alternatives for  
3 people other than having to enter shelter. So, the  
4 process is really a pushback on hospital discharges  
5 to make sure that somebody is being discharged to an  
6 appropriate place particularly given state  
7 regulation.

9 COMMISSIONER CALISE: So in reference to  
10 shelter and as you referred to me I would be able to  
11 live under those circumstances because I would need  
12 all those activities that that would limit (sic)

13 COMMISSIONER BANKS: Council--

14 CHAIRPERSON AYALA: So, are most--are most  
15 of the challenging cases that are referred to DHS  
16 coming from facilities or do you have examples of  
17 individuals that are maybe walking in, you know, or  
18 coming into the intake center that are then found  
19 ineligible and referred to another facility, and if  
20 so, is there a list of facilities or community  
21 partners that you could share with the Council?

22 COMMISSIONER BANKS: So, again let's--  
23 let's just take a look at the kinds of things that  
24 are--that are--that would be one of those 13 hospital  
25 discharges or two nursing home discharges so far this

1 year. That would be an issue. Hang on just one  
2 second. So, for example someone on a ventilator who  
3 is being discharged from a hospital, they need the  
4 hospital to come up with a different discharge plan  
5 or somebody who has an inability to make their needs  
6 known or follow commands. We need the hospital or  
7 the nursing home to make a—to help that person and  
8 not have shelter be the default, and these are right  
9 from the form that you were referring to before in  
10 terms of the kinds of—kinds of things that are rolled  
11 out, and I—I—I've know the chair for many, many  
12 years. I want to just respectfully disagree it  
13 doesn't allow for screening someone out with a broken  
14 arm. We have unfortunately a number of people in our  
15 shelter system who have broken arms. We are  
16 exercising a judgment to try to prevent shelter  
17 entries for people for whom other systems exist to  
18 help them.

20 CHAIRPERSON AYALA: So, what happened I  
21 had—I had a case a couple of years ago when I was  
22 doing constituent services where we had a family that  
23 was being evicted from public housing for reasons  
24 that I won't share, but they had a child who was  
25 disabled who was born with a life expectancy of

1 months, and was able, you know, through the good care  
2 of her parents to live. She was 8 years old. She  
3 was blind, deaf, you know, non-verbal, required a  
4 feeding tube, was completely bed bound. That family  
5 gets evicted, and now they come to the intake center.  
6 You—they're no coming from a medical facility. The  
7 child obviously has unusual circumstances that  
8 require some immediate attention. How do you deal  
9 with a family like that?  
10

11 COMMISSIONER BANKS: So, two things to  
12 focus on with that family. First, we've got home  
13 base in place to a much more robust level than it had  
14 been in your days of doing constituent services, and  
15 I might be getting calls from you. So, there are a  
16 lot of mechanisms we have in place to keep people  
17 from losing their homes. I mean I think as we  
18 testified previously, we've driven down evictions 27%  
19 in New York City by increasing access to legal  
20 services and by providing additional rental  
21 assistances were provided in excess of \$20 million in  
22 rental assistance to prevent people from losing their  
23 homes, and you have other mechanisms in that kind of  
24 case to prevent someone having come into shelter.  
25 Having said that, if that family were to come into

1 shelter, we have the ability for a family with  
2 children. The state regulation for single adult  
3 shelter provides for courier shelter. For families  
4 with children it provides for living units, and so we  
5 would have the capacity to shelter that family,  
6 although I would hope that our Prevention First  
7 strategies would keep that family from having to  
8 enter shelter.  
9

10 CHAIRPERSON AYALA: Do any of these  
11 reasonable accommodations—of the accommodations  
12 extend to the older adult population?

13 COMMISSIONER BANKS: The reasonable  
14 accommodations apply to all—under the *Butler*  
15 Settlement apply to all clients.

16 CHAIRPERSON AYALA: Alright.

17 COMMISSIONER BANKS: Not limited by age.  
18 I think I testified in the spring about a population  
19 of seniors that we're seeing the shelter system and  
20 there's no differentiation between access for seniors  
21 for reasonable accommodations and access for non-  
22 seniors.

23 CHAIRPERSON AYALA: Yeah, that's another  
24 population that needs to be looked at a little bit  
25 more closely because they come in with, you know,

1  
2 unique individual set of circumstances and needs that  
3 are not necessarily being met with the current  
4 system. This is my last question. You mentioned in  
5 your testimony that DHS has a new revised procedure  
6 for searching wheelchair users. What does that  
7 procedure look like? What is the difference from how  
8 it used to be and how it is now?

9 COMMISSIONER BANKS: I think and I'm  
10 going to seek a little help from Commissioner Calise.  
11 I think the major feature is it provides for an  
12 appropriate way for somebody to be in a secure chair?

13 COMMISSIONER CALISE: So, generally what  
14 happens is they've—in the past they've asked people  
15 to come out of their chair, and that's difficult for  
16 people with disabilities to actually transfer. So,  
17 there's a lot that's going into redesigning this,  
18 and—and well, working with PD to figure what's the  
19 most appropriate way to get a person and search their  
20 chair correctly, and make sure that that someone  
21 isn't hiding something under their cushion or someone  
22 is hiding something in their wheelchair to be able to  
23 do that without them transferring. So, it's about  
24 keeping the person in their chair, and being able to

1 search that chair appropriately for any type of  
2 contraband that may be in there.

3  
4 CHAIRPERSON AYALA: Do you use scanners.  
5 I mean I think Corrections is currently looking into  
6 scanners they're easier to use.

7 COMMISSIONER CALISE: So what happens  
8 with the person in the wheelchair the hard part is  
9 that it's hard to detect anything because of the  
10 metal on the wheelchair. So, they can do the arms  
11 and parts of the body, but the scanners would pick up  
12 other areas of their wheelchair. So, the idea is to  
13 be able to how do you appropriate—appropriately check  
14 for that. So, for instance, when I go through TSA  
15 security, they tend to examine me in the wheelchair  
16 in lots of different ways. They ask me to move to  
17 the side without transferring out. They pick up my  
18 legs with assistance with—for me to be able to do  
19 that, and if I can't. They ask what's the best way to  
20 do that. So, those are the approaches that we're  
21 taking to talk and communicate with the person, and  
22 be able to search the chair appropriately.

23 COMMISSIONER BANKS: And again, I would  
24 just want to emphasize that what happened to Mr.  
25 Jones led to a change in policy, and it—it should not

1 have happened, but we have a—I think a more  
2 appropriate policy in place that reflects the insight  
3 that Commissioner Calise has just explained.

4  
5 CHAIRPERSON AYALA: Yes. No, I appreciate  
6 it. Thank you for your testimony. I know that it's  
7 frustrating on both ends. I think that one of my—my—  
8 my bigger issues with—with government, being a person  
9 in government as a legislator and as a civilian is  
10 the expediency by which, you know, these things  
11 occur. You know, laying out 5 and 10-year plans  
12 doesn't really do much to remediate existing  
13 conditions for, you know, day-to-day New Yorkers and  
14 I think that's—that's really frustrating, and the  
15 underlying, you know, I think issue here is we're all  
16 trying to get to a point where we can, you know  
17 comply with the law and—and do that in a rate—in a—at  
18 a faster rate, and so, I appreciate your efforts and  
19 thank you for testifying today. I'm going to turn  
20 this over to Chair Levin.

21 CHAIRPERSON LEVIN: Than you, Chair.  
22 Thank you, commissioner. So, I guess I want to just  
23 start with a little bit about this policy from June  
24 22<sup>nd</sup> of this year. So, can you share with us why—why  
25 was this necessary, and before you start I'll read—

I'll read all of the categories. Just to be clear  
it's—it's pretty, you know, easily about to be  
understood. Ten questions or sorry, 12 questions.  
If you answer no to any of these questions, you are  
deemed no appropriate for shelter.

So bathing. You have to be able to bathe  
self independently. May use devices such as shower  
chair and/or grab bars.

Dressing: Dressing independently and  
retrieve all clothing, dress and undress including  
shoes and outer garments.

Grooming: Groom self independently  
including shaving, brushing teeth and hair and other  
common grooming activities.

Toileting: Successfully completing  
toileting independently including transferring and  
without—including transferring and without  
supervision preventing soiling of clothing and using  
toilet paper. May use raised toilet and/or grab  
bars.

Bowels: Manage bowels, catheter,  
colostomy bags and diapers independently without  
leaks.

Bladder: Control bladder functions without assistance. Can include use of diapers to control leaking or minimal incontinence.

Transferring: Independently transfer from wheelchair about bed and vice versa . May use elevated bed.

Feeding: Feed self independently including, for example, carrying food tray, opening common food or drink containers and cutting up on food.

Mobility. Independently ambulate or use cane, walker or propel manual motorized wheelchair.

Communication: Communicate with spoken, sign, visual, tactile language without an interpreter.

Cognition: Understand directions and-and follow commands, and make needs known.

Self-Management: Make managed key responsibilities associated with independent living including medications and chronic illnesses.

So, if-if you answer no to any of those questions, you are deemed ineligible for shelter?

So, I guess my first question is this:  
Here's my first question.

1  
2 COMMISSIONER BANKS: Could I interrupt  
3 you? Your assumption is not correct.

4 CHAIRPERSON LEVIN: I didn't make an  
5 assumption

6 COMMISSIONER BANKS: You said if you  
7 answer any one of these questions, you're ineligible  
8 for shelter.

9 CHAIRPERSON LEVIN: Total points from  
10 answers. One point for each answer. If score is  
11 less than 12, patient is not appropriate for shelter.

12 COMMISSIONER BANKS: I'm going to direct  
13 you to the rest of the document, which is the page if  
14 you continue through the document, there is absolute  
15 exclusion criteria, which is--which is the absolute  
16 exclusion cases.

17 CHAIRPERSON LEVIN: Sorry.

18 COMMISSIONER BANKS: If you look at the  
19 absolute exclusion cases, they're narrower than  
20 simply saying if you answer no to any of these  
21 questions--

22 CHAIRPERSON LEVIN: It's not an  
23 assumption I'm reading here.

24 COMMISSIONER BANKS: I hear what you're  
25 saying.

CHAIRPERSON LEVIN: If you answer no, you are not deemed appropriate for shelter. Is that right or not right?

COMMISSIONER BANKS: I think you're taking the-taking the--you're asking me questions out of the context of the document and what we're trying to get at.

CHAIRPERSON LEVIN: So, this document is-- so that's not right? If you lack--if you score less than 12, you may still be appropriate for shelter?

COMMISSIONER BANKS: Here's the answer I gave before, and I-I ask that you consider it. The purpose of this document was to prevent hospitals and nursing homes from dumping people from their operations into the shelter system. That's not a result that this committee has ever wanted. This policy has been in effect since 2010. We made a change that created fillable documents and created ways to expedite our decision making. If you look at the part of the document entitle "Absolute Exclusion Criteria"--

CHAIRPERSON LEVIN: [interposing] What page is that? Where is that?

COMMISSIONER BANKS: 10.

1  
2 CHAIRPERSON LEVIN: Page 10.

3 COMMISSIONER BANKS: Appendix 1. It's  
4 Appendix 1.

5 CHAIRPERSON LEVIN: Okay.

6 COMMISSIONER BANKS: So, if you look at  
7 those categories--

8 CHAIRPERSON LEVIN: I'm sorry. Appendix  
9 1.

10 COMMISSIONER BANKS: page 2, Appendix 1.

11 CHAIRPERSON LEVIN: Okay. Alright,  
12 absolute exclusionary criteria. Okay.

13 COMMISSIONER BANKS: And just looking at  
14 these criteria we could read through them. Pick any  
15 one you--any ones you want.

16 CHAIRPERSON LEVIN: Okay, Need for  
17 Homecare Nurse Service.

18 COMMISSIONER BANKS: [interposing] Okay,  
19 could I--could I just finish?

20 CHAIRPERSON LEVIN: Okay.

21 COMMISSIONER BANKS: I think if you look  
22 at them, you would say to yourself, should any  
23 hospital or nursing home really be discharging  
24 somebody into congregate shelters established by  
25 state legislation with any of these conditions.

1

2

CHAIRPERSON LEVIN: Okay.

3

4

COMMISSIONER BANKS: And then I would ask  
you to look at the numbers that I recited earlier,  
which shows you that these are relatively small  
numbers of cases that the hospitals and nursing homes  
should be handling differently.

8

9

CHAIRPERSON LEVIN: Okay. Let's—we'll  
talk about the numbers in a second. How about home  
care of need for home care of visiting nurse services  
beyond room care, or IM, IV Medication administration  
and beyond two weeks. So, okay, so you're saying  
that anybody that is—that is in need of homecare of  
visiting nurse services, that's absolute exclusion?

15

16

COMMISSIONER BANKS: Because it's a  
congregate living environment.

17

18

19

20

21

22

23

24

25

CHAIRPERSON LEVIN: So, okay, I direct  
you to the Butler Settlement page 15 Miscellaneous  
number 3 under subdivision E No. 3: Allowing an  
applicant or recipient to bring a personal care  
attendant into shelter. So is that not—Butler allows  
it, but under this rule or this provision—I don't  
know. Is that different? Is a personal care  
attendant different from a visiting nurse? If so,

1 how? How is a visiting nurse different from a  
2 personal care attendant?  
3

4 COMMISSIONER BANKS: It's not an absolute  
5 prohibition, first of all. Second, it--

6 CHAIRPERSON LEVIN: [interposing] It is  
7 absolute extension criteria.

8 COMMISSIONER BANKS: Could I finish,  
9 please?

10 CHAIRPERSON LEVIN: Okay.

11 COMMISSIONER BANKS: The--well, the  
12 procedure that you're referring to has been in place  
13 since 2010. It pre-dates the Butler Settlement. If  
14 there is a dispute between counsel for the Plaintiffs  
15 and counsel for the City, I'm sure they'll work this  
16 out. The hearing is probably not the right place to  
17 do it.

18 CHAIRPERSON LEVIN: Okay. I'm not--I'm  
19 just referring to the--to the Butler Settlement. My  
20 question is this--this is my question: Under  
21 Callahan, if somebody with disabilities that might  
22 fall into one of the categories in absolute exclusion  
23 in Appendix 1 or I still don't quite understand this  
24 why 12 doesn't equal 12, but checks know--I mean these  
25 are the things that I just read into the record. Are

1 they under Callahan entitled to a right to shelter in  
2 New York City?

3  
4 COMMISSIONER BANKS: As you know, I was  
5 counseling Callahan for a number of decades.

6 CHAIRPERSON LEVIN: You know.

7 COMMISSIONER BANKS: And in that role I  
8 had the same view that I had today as I sit here.  
9 Hospitals and nursing homes should not be dumping  
10 people in shelter.

11 CHAIRPERSON LEVIN: [interposing] That's  
12 not my question.

13 COMMISSIONER BANKS: I'm giving--

14 CHAIRPERSON LEVIN: [interposing] The  
15 policy.

16 COMMISSIONER BANKS: [interposing] You  
17 have my answer.

18 CHAIRPERSON LEVIN: But that's not my  
19 question. My question is does Callahan guarantee a  
20 right to shelter for everybody regardless of their  
21 disability status?

22 COMMISSIONER BANKS: When I was  
23 counseling Callahan I believe that hospitals and  
24 nursing homes should not dump people into shelter.  
25 The Callahan Decree also permits the state to issue

1 regulations. I litigated and lost arguments that the  
2 state could not issue regulations that would affect  
3 the underlying context of the decree. You might  
4 remember that in the early 90s. The state regulation  
5 does not permit us to provide shelter to people who  
6 have certain needs that are beyond those that can be  
7 served in shelter. We've referenced that regulation  
8 in our testimony, and I'd be happy to go through with  
9 you that regulation, but the decree has a provision  
10 in it I believe, and I have counsel here. I believe  
11 it's paragraph 10 or 12 that says the state has the  
12 ability to issues regulation. They issued a  
13 regulation during the course of the Callahan  
14 litigation that define who was medically eligible for  
15 shelter. That's what's underlying the policy that  
16 has been in place in the city for a number of years  
17 with respect to whether nursing homes or hospitals  
18 should dump people into the shelter system.

20 CHAIRPERSON LEVIN: So, okay. I-let's  
21 take a few steps back here. I'm a little bit  
22 unclear. What is this? What is this? Is this-this  
23 is as I read DHS ADL Assessment for Institutional  
24 Referrals as I read those into the record, and then  
25 on the bottom it says total points from answers. If

1 score is less than 12, patient is not appropriate for  
2 shelter.  
3

4 COMMISSIONER BANKS: No.

5 CHAIRPERSON LEVIN: [interposing] Why do-  
6 the reason I ask is that somebody, some DHS employee  
7 is conducting this assessment.

8 COMMISSIONER BANKS: No.

9 CHAIRPERSON LEVIN: If-No? Who's  
10 conducting this assessment?

11 COMMISSIONER BANKS: This is an  
12 institutional discharger document. We're looking to  
13 have institutions give us the information so that we  
14 can in our medical office make appropriate  
15 determinations. This is not something that somebody  
16 sitting in an intake center is using as a document.

17 CHAIRPERSON LEVIN: Whose-whose filling  
18 this out?

19 COMMISSIONER BANKS: The hospital.

20 CHAIRPERSON LEVIN: It's a hospital or a  
21 nursing home.

22 COMMISSIONER BANKS: Correct.

23 CHAIRPERSON LEVIN: And-and if-and if  
24 somebody scores a 10 because they can't independently  
25 transfer from wheelchairs to be and vice versa, just-

1 just—I'm—I'm—I'm putting forward a—not just a  
2 hypothetical, but a probable outcome.  
3

4 COMMISSIONER BANKS: [interposing] I  
5 think your assumptions are wrong here because--

6 CHAIRPERSON LEVIN: [interposing] I'm  
7 not, this is—if I could finish, someone scores a 10  
8 on this. So, whoever is filing out his form says,  
9 the person scores 10. Reads: If person is less--  
10 scores less—scores less than 12, patient is not  
11 appropriate for shelter. Therefore, what? That's my  
12 question. Therefore, does the person—what happens  
13 then? What's the next step?

14 COMMISSIONER BANKS: Okay. As I said a  
15 moment or two ago, this is not a document that an  
16 intake worker at 30<sup>th</sup> Street is working with.

17 CHAIRPERSON LEVIN: Okay.

18 COMMISSIONER BANKS: This is a worksheet  
19 to guide decisions made by the medical director of  
20 the agency. In all cases, the medical director  
21 confers with the hospital or the nursing home in  
22 order to determine what's going to be the best  
23 outcome here.  
24  
25

1  
2 CHAIRPERSON LEVIN: So, the medical  
3 director? I'm sorry, you said the medical director  
4 is filling this out?

5 COMMISSIONER BANKS: No, I said the  
6 hospital nursing staff is filling it out, and it is  
7 reviewed by our Medical Director's Office, not by  
8 intake staff.

9 CHAIRPERSON LEVIN: It's reviewed by the  
10 Medical Director's Office and the Medical Director  
11 then--?

12 COMMISSIONER BANKS: Hospitals have been  
13 filling out this form for years, Chair. This is a  
14 form that hospitals have been filling out for years,  
15 and it's an updated procedure and--

16 CHAIRPERSON LEVIN: [interposing] And  
17 it's always said to hospitals if somebody can't  
18 transfer back and forth between a chair--

19 COMMISSIONER BANKS: [interposing] Yes.

20 CHAIRPERSON LEVIN: --independently and a  
21 bed, they are inappropriate to--they are--they are not  
22 appropriate for shelter.

23 COMMISSIONER BANKS: That is correct. I'm  
24 relying in my answer on advice of people that have  
25

1 worked for the agency when I was not working for the  
2 agency.  
3

4 CHAIRPERSON LEVIN: Okay.

5 COMMISSIONER BANKS: But that has been  
6 the--that has been a--

7 CHAIRPERSON LEVIN: [interposing] I guess  
8 maybe I could ask you a different way.

9 COMMISSIONER BANKS: Could I just finish?  
10 You--you--I know you're frustrated. This is a  
11 document--

12 CHAIRPERSON LEVIN: [interposing] I'm--I'm  
13 confused, frankly.

14 COMMISSIONER BANKS: But this is a  
15 document that has--this has--this is the type of  
16 document that's been in use for a number of years,  
17 and it's not an intake document. It's a document to  
18 be filled out by hospitals and nurse--and nursing  
19 homes to be reviewed by the medical to determine  
20 whether or not under state regulations someone could  
21 be properly served in shelter.

22 CHAIRPERSON LEVIN: Okay.

23 COMMISSIONER BANKS: That's state  
24 regulation was issued after the Callahan Decree. The  
25 procedure was in place before the Butler settlement,

1 and if you look at the numbers that are involved  
2 here, you can see it's a small number of people who  
3 believe the hospitals and nursing homes should come  
4 up with appropriate discharge planning for other than  
5 shelter.  
6

7 CHAIRPERSON LEVIN: If-if somebody  
8 answers no to one of these, is it the position of DHS  
9 that they are not appropriate for shelter?

10 COMMISSIONER BANKS: It's the position of  
11 DHS, as I said, that the medical director will confer  
12 with the hospital to determine what's the best course  
13 of-course-

14 CHAIRPERSON LEVIN: [interposing] Why  
15 doesn't it say that here then? Why does it say  
16 they're not appropriate for shelter instead of if  
17 score is less than 12, medical direct-please contact  
18 our medical director. Here's the number.

19 COMMISSIONER BANKS: Right, if you were a  
20 hospital or nursing home wouldn't you always want to  
21 push somebody who was a-who has significant needs  
22 onto us without having the clarity that this document  
23 has been giving us for years?

24 CHAIRPERSON LEVIN: Well, this is-look,  
25 I-I-I don't, if somebody is being discharged from a

1 hospital and they have no other place to go because  
2 they don't have a home, do I think that the hospital  
3 is the right setting for them? No.

4  
5 COMMISSIONER BANKS: But--

6 CHAIRPERSON LEVIN: So, I think it's the  
7 responsibility of the hospital to find somebody a  
8 permanent affordable apartment using the resources of  
9 a hospital staff to find permanent affordable housing  
10 in New York City that is affordable? No, I don't  
11 think would be realistic. It isn't in the ballpark of  
12 realistic.

13 COMMISSIONER BANKS: But hospitals have  
14 discharge planning obligations.

15 CHAIRPERSON LEVIN: And you're saying  
16 that it is--is look--

17 COMMISSIONER BANKS: It's similar to the  
18 parole issue that you--we testified about before.  
19 Remember? Which is at the end of the day don't you  
20 think the state, the correctional institutions should  
21 do discharge planning so someone doesn't end up in  
22 shelter?

23 CHAIRPERSON LEVIN: I think that that's  
24 an ideal. I think that, or that's something to work  
25 towards. I would prefer that that be--that number be

1 zero, but we live in the real world, and there's  
2 times when people are being discharged from a  
3 hospital setting and don't have anywhere else to go.  
4 We are saying here that the Department of Homeless  
5 Services is saying not-not appropriate for shelter.  
6 I just I-I-I guess the question really to me is when  
7 I read this does DHS really believe that somebody who  
8 can't carry their own food tray for whatever reason  
9 therefore answering no, scoring 11 on this is not  
10 appropriate because that's what it says in black and  
11 white.  
12

13 COMMISSIONER BANKS: But we find that when  
14 we push back in these cases, that the hospitals come  
15 up with other alternatives that are appropriate for  
16 the individuals such as OPWDD for example.

17 CHAIRPERSON LEVIN: Okay. How is-I I'm  
18 just going-just going back to that absolute exclusion  
19 document. How is-how is the need for a homecare  
20 visiting nurse as an absolute exclusion consistent  
21 with the settlement of *Butler*. I'm not-I don't-I'm  
22 not really asking about *Butler* here, I'm asking about  
23 the absolute exclusion criteria. In other words, if  
24 this predates *Butler* then ought not this be changed  
25 to be in accordance with the *Butler* settlement?

1  
2           COMMISSIONER BANKS: First of all, *Butler*  
3 applies to all populations. The original plaintiffs  
4 were adult families. As I said before, we have the  
5 ability accommodate such households in families with  
6 children and adult families because the regulatory  
7 structure provides for non-congregate settings. In a  
8 congregate setting it's led us so far this year to  
9 have 15 cases that we pushed back on, 13 from  
10 hospitals 2 from nursing homes. We think it's the  
11 better approach to avoid shelter being the default,  
12 and to look to other systems that exist to provide  
13 services to just the kind of individual you described

14           CHAIRPERSON LEVIN: [interposing] So--

15           COMMISSIONER BANKS: -- and the hospital  
16 is well situated to do that. For example, some of  
17 the state systems.

18           CHAIRPERSON LEVIN: If somebody is--if  
19 somebody is turned away from shelter--

20           COMMISSIONER BANKS: You--you have the--  
21 you're postulating somebody going--

22           CHAIRPERSON LEVIN: [interposing] Where  
23 do we--where are they going?

1  
2 COMMISSIONER BANKS: You're postulating  
3 somebody coming in the middle of the night and being  
4 turned away from shelter, but you're asking me--

5 CHAIRPERSON LEVIN: That's never  
6 happened?

7 COMMISSIONER BANKS: Not--not for this  
8 document. This document is a hospital discharge  
9 nursing home discharge document.

10 CHAIRPERSON LEVIN: Did that not happen  
11 to Ms. Amparo. I--I--you're saying that that's never  
12 happened?

13 COMMISSIONER BANKS: Ms. Amparo's case  
14 was mishandled between HRA and DHS and we put in  
15 place a process to avoid having that happen.

16 CHAIRPERSON LEVIN: So, it does not or  
17 will not happen where somebody is turned away from  
18 intake because they don't meet a criteria? That's  
19 laid out on this form.

20 COMMISSIONER BANKS: This form is a form  
21 that is used with the hospital. It's not an  
22 individual's form where they're coming in and  
23 applying for shelter. It's a form designed to make  
24 the hospitals focus on getting people to the best  
25 locations. So the form that's used to focus on

1 getting nursing home to get people to the best  
2 locations.  
3

4 CHAIRPERSON LEVIN: [interposing] So, it-

5 COMMISSIONER BANKS: [interposing] It's  
6 not a form that's designed if someone should come in  
7 in the middle of the night.

8 CHAIRPERSON LEVIN: If a hospital does  
9 discharge somebody that does not meet all these  
10 criteria because that happens a couple-1,700 times a  
11 year, 1,200 times a year?

12 COMMISSIONER BANKS: No, that isn't-that  
13 wasn't my testimony.

14 CHAIRPERSON LEVIN: You said 1,268 was  
15 the number of discharges from hospitals by DHS.

16 COMMISSIONER BANKS: It wasn't. Those are  
17 the cases we took in.

18 CHAIRPERSON LEVIN: Those are the cases  
19 that came in your front door discharged from  
20 hospitals.

21 COMMISSIONER BANKS: That we accepted.

22 CHAIRPERSON LEVIN: Right. I'm saying  
23 that of those if-if one of those-I'm sorry. If one  
24 of those does not meet your criteria, what-what is  
25 then the next step? Where do they go then?

1  
2           COMMISSIONER BANKS: For example this  
3 year, there were--so far this year there have been 13  
4 cases from hospital and two cases from nursing homes.  
5 They did not discharge them to us. They found other  
6 solutions for people in other systems. You're--

7           CHAIRPERSON LEVIN: [interposing] Like  
8 what?

9           COMMISSIONER BANKS: Imagining

10          CHAIRPERSON LEVIN: For example?

11          COMMISSIONER BANKS: How about OP--

12          COMMISSIONER CALISE: Office for People  
13 with Development Disabilities.

14          CHAIRPERSON LEVIN: So not a single  
15 person then that is discharged from a hospital or  
16 nursing home that is deemed ineligible because  
17 they're not meeting a criteria here is turned away to  
18 the street. Is that right?

19          COMMISSIONER BANK If they were to come  
20 to our intake center, we would take them in and we  
21 would deal with the consequences the hospital had  
22 improperly discharged such a person the next day.

23          CHAIRPERSON LEVIN: And if they're  
24 referred from the hospital?

1  
2           COMMISSIONER BANKS: We are bound to tell  
3 the hospital find a better alternative and that has  
4 been what we believe is happening.

5           CHAIRPERSON LEVIN: And if the hospital  
6 still discharges them to DHS?

7           COMMISSIONER BANKS: We think that that's  
8 very wrong, but we would take them in.

9           CHAIRPERSON LEVIN: Use that as bay.  
10 (sic)

11           COMMISSIONER BANKS: We would take them  
12 in an we would use the kinds of services that we  
13 think are appropriate. For example, nursing homes,  
14 you know, can refer to CIDNY for an Olmstead Subsidy.  
15 There are other systems that exist besides the  
16 shelter system that hospitals and nursing homes  
17 should be making use of.

18           CHAIRPERSON LEVIN: So, you're saying it  
19 has never happened, that DHS has turned somebody away  
20 to the street or in ER and it will not happen in the  
21 future?

22           COMMISSIONER BANKS: I'm trying to be  
23 careful with your questions because you're setting up  
24 a situation which why should any hospital not just  
25 dump clients on us because you're saying—you're

1 putting us in a position to say even when they  
2 violate our—let me finish. Even when they violate  
3 their own discharge policies if they should happen to  
4 show up on—on our doorstep we should provide shelter  
5 for them, but I'm pushing back to you, and I would  
6 hope you would join us in pushing back is that this  
7 is a hospital and nursing home issue. The Department  
8 of Homeless Services is trying to deal with the fact  
9 that other entities pushed clients to us when they  
10 should be addressing their needs directly.

12 CHAIRPERSON LEVIN: Okay. I—I've been  
13 working. I mean I promised I wouldn't bring up  
14 medical respite in this hearing, but I've been  
15 working with the NYLAG for a few years now on trying  
16 to come up because they came to me and said we can't  
17 just hold onto people forever and ever and ever  
18 because we don't—because we can't find them in a  
19 place to go because they're homeless, because they  
20 don't have a place to—because—because they—there's  
21 no—nobody wants to be homeless in the first place.  
22 Nobody wants to be in shelter in the first place.  
23 Everybody would much rather have some place else to  
24 go. Sometimes people with disabilities fall into  
25 that category where they have no other place to go,

1 and my question to you is are they have a right to  
2 shelter? Whether they are discharged from a hospital  
3 or they walk your front door do they have a right to  
4 shelter?  
5

6 COMMISSIONER BANKS: I think the data  
7 that I gave you before shows you that we are, in  
8 fact, taking people who are discharged by hospitals  
9 and discharged by nursing homes. It also shows you  
10 that when we believe that under the congregate  
11 shelter structure established by state regulation  
12 that under state regulation we can't provide  
13 appropriate services we're going to push back hard on  
14 hospitals and nursing homes.

15 CHAIRPERSON LEVIN: Okay, can we talk  
16 about what--what--so, what happened with Barrier Free  
17 Living? There was a shelter that had 32 beds that  
18 was specifically designed to accommodate people in  
19 need of assistance for ADL, and that was the only one  
20 in the city, and it closed. It had been in existence  
21 for 20 years since the early 90s I think. Why--why  
22 was that closed, and why would the city allow such a  
23 necessary program close without some type of  
24 replacement program. So, if they weren't running a  
25 good program or they ran an inappropriate facility,

1 why didn't we with all of our great resources and our  
2 \$90 billion budget find another place to open?  
3

4 COMMISSIONER BANKS: So, first, Barrier  
5 Free is a great organization. It's done great work  
6 over the years. The individuals that were there, all  
7 of the individuals that were at the time when it was  
8 going to be closed were connected to permanent  
9 housing except two clients who ended up in shelter,  
10 in other accessible shelter that worked for their  
11 needs. So, for the clients that were there at the  
12 time of closures they ended up as we would think  
13 would be appropriate outcomes in terms of being  
14 connected to permanent housing. The building was  
15 unsafe. It had to be closed and we worked with  
16 Barrier Free Living to try to find other locations.  
17 We are anxious to have them develop the shelter on  
18 the site that they had the building, and we welcome  
19 the provider with another request for proposal so  
20 that we can fund them to run a shelter. I think, as  
21 you know, I sent a letter to every elected official,  
22 every council member that is every community board  
23 looking for more sites, and any site that we could  
24 get that would be appropriate for Barrier Free  
25

1 Living, we'd be happy to have them open a new shelter  
2 and site that-that--

3  
4 CHAIRPERSON LEVIN: [interposing] How  
5 many sites were identified? I mean what-what were--?

6 COMMISSIONER BANKS: Very few elected  
7 officials have identified sites as a result of that  
8 communication.

9 CHAIRPERSON LEVIN: Well, with all due  
10 respect, DHS has the resources to identify sites.  
11 They do it all the time because they open up shelter  
12 so-

13 COMMISSIONER BANKS: [interposing] That's  
14 correct and we have that--

15 CHAIRPERSON LEVIN: We-I'm-I don't have-I  
16 have a staff of six. So, I'm the, you know, they're  
17 not like-we're not-we're not real estate agents. So,  
18 we don't know of every site that might be available.  
19 You guys have a better handle on finding sites than  
20 we do.

21 COMMISSIONER BANKS: Right.

22 CHAIRPERSON LEVIN: You have a track  
23 record to do that.

24 COMMISSIONER BANKS: I think, as you  
25 know, our process works mainly by not-for-profit

1 providers identifying sites, and bringing them to us  
2 or in some cases landlords have identified sites and  
3 brought them to us. That's how we got 21 sites  
4 cited, and again we're—we sent--

6 CHAIRPERSON LEVIN: [interposing] What  
7 happened with those 21? Wasn't it for Barrier Free  
8 Living.

9 COMMISSIONER BANKS: Some of them were  
10 families with children sites, as you know. Some of  
11 them were adult family sites, as you know. Some of  
12 them were mental health shelters, as you know.  
13 There's a need for many kinds of shelters that we  
14 have. I think I testified previously about the  
15 urgency of bringing on more mental health shelter  
16 beds. We've opened several shelters recently, and we  
17 have more slated to open, and to provide mental  
18 health beds. So, we're in a system with many needs  
19 that we're trying to meet at the same time, and we  
20 stand ready to work with Barrier Free if there's  
21 anything we can do to help them identify sites.

22 CHAIRPERSON LEVIN: [interposing] They  
23 have been closed for five months now. What's the  
24 plan moving forward?

1  
2 COMMISSIONER BANKS: The plan moving  
3 forward is to continue to evaluate any proposal they  
4 might submit to us. We want to also focus on the  
5 reality of our shelter system, which is that we have  
6 limitations on the state regulation as to who we can  
7 house, but we certainly will work with them to find  
8 any site that-that works with us-

9 CHAIRPERSON LEVIN: [interposing] Well, I  
10 mean, I know that like my good friend Ben Kallos, my  
11 good colleague Ben Kallos and-and his community in  
12 Roosevelt Island identified a site that was turned  
13 down.

14 COMMISSIONER BANKS: Right, well that  
15 site is being used for another challenging population  
16 as well at Coler.

17 CHAIRPERSON LEVIN: And-and, but it was-  
18 why was that? I thought it was rejected. I heard it  
19 was rejected because it was in flood plain of some  
20 kind or that it was, and-and-and-and has evacuation  
21 issues.

22 COMMISSIONER BANKS: If we're talking of  
23 the same site, Coler Hospital has people in it right  
24 now who have had very serious needs.

1  
2 CHAIRPERSON LEVIN: So, it was rejected  
3 because it was being used by another program.?

4 COMMISSIONER BANKS: Yeah.

5 CHAIRPERSON LEVIN: There's no free space  
6 available? That's not-that was not my understanding--

7 COMMISSIONER BANKS: [interposing]  
8 There's no space available, that's available to us to  
9 use for that--this population.

10 CHAIRPERSON LEVIN: It seems to me that  
11 where there priorities all over the place I get it.  
12 This is a, ought to be a top priority, therefore,  
13 taking precedent over other priorities.

14 COMMISSIONER BANKS: I'm not sure you  
15 would agree if we say we weren't going to open a  
16 mental health shelter in order to provide a site to b  
17 Barrier Free.

18 CHAIRPERSON LEVIN: [interposing] Well, I  
19 would say a general population shelter.

20 COMMISSIONER BANKS: We have clients that  
21 have general population needs, too.

22 CHAIRPERSON LEVIN: Right, but this is a--  
23 this is a specific need with a program that was the  
24 only program in the city meeting that need is now  
25 closed and not offering a very specific, very needed

1 service for 32 beds. It seems to me that—that, you  
2 know, a general population shelter is a lower  
3 priority on the list because you got to make  
4 decisions. You got to prioritize.  
5

6 COMMISSIONER BANKS: You're right, and we  
7 have to make those decisions every night running a  
8 shelter system particularly with winter approaching  
9 to make sure we have enough capacity every night for  
10 that shelter.

11 CHAIRPERSON LEVIN: Is there a plan for  
12 the nine new shelters? Is—is this replacement as one  
13 of the nine new shelters planned?

14 COMMISSIONER BANKS: It—our ability to  
15 open the nine new shelters is dependent upon not-for-  
16 profit shelter providers coming to us with proposals.  
17 I have said in this testimony and Barrier Free Living  
18 know this. They have a site in which they could  
19 develop one of the nine new shelters on period, to  
20 have a site they could develop one of the nine new  
21 shelters on.

22 COMMISSIONER CALISE: Barrier Free Living  
23 is a really important part in the community? I was  
24 considered for shelter when I originally got injured  
25 and I worked with Paul several times to—on—on issues

1 everywhere that we can be helpful. I think what the  
2 Commissioner is saying is we would love to build on  
3 that existing site and correct me if I'm wrong if he  
4 brings the proposal for it and we're able to do that,  
5 I think that's a viable—one viable option. I don't  
6 want to see Barrier Free Living go away. They  
7 provide services. They allow PCAs to be in there,  
8 and Paul has been a great part of the community, and  
9 we want to see it succeed and the—the places, where  
10 are we going to put it. What's viable and if a good  
11 solution is brought forward to us, I believe that we  
12 will jump on top of that.

14 CHAIRPERSON LEVIN: Okay.

15 COMMISSIONER BANKS: The Commissioner  
16 said it much more succinctly than I had tried to say  
17 it. They've got a site. They can develop a site.  
18 If they want to get another site, they can come to us  
19 with another site. If we have an appropriate site  
20 for them to open a second site, we're happy to do  
21 that. They're a great organization.

22 COMMISSIONER CALISE: And I would be  
23 happy to work with Commissioner Thomas as well.

24 CHAIRPERSON LEVIN: I'm going to turn it  
25 over to my—my colleague Council Member Holden, and

1 then I'll—I'll come back with some more questions  
2 with—and now, we've been joined by Council Member  
3 Adrienne Adams.  
4

5 COUNCIL MEMBER HOLDEN: Yes, thank you.  
6 So, it—it's sound like—just following up a little  
7 bit—it sounds like the providers are not really  
8 making proposals to you to accommodate the people  
9 with disabilities. Is that true?

10 COMMISSIONER BANKS: Absolutely not. We  
11 just opened a mental—we have a mental health shelter  
12 we're about to open in the next couple of week.  
13 We've just opened two of them. We're—we're getting a  
14 lot of excellent proposals for the kinds of shelters  
15 that we need to open. I think the questioning from  
16 Council Member Levin was focused on one particular  
17 provider and one particular shelter, which as—as  
18 Commissioner Calise said, we value them greatly.  
19 We've given them land to develop, you know, they have  
20 land they could develop a new shelter on, and if they  
21 bring us another proposal, we're happy to—to work  
22 with them. So, I—as I—I didn't want to leave you the  
23 impression that we have--

24 COUNCIL MEMBER HOLDEN: [interposing]  
25 Alright, alright, you know, I'm just trying to get—

1 you know I was listening and I'm trying to decipher  
2 some of it. However, we do have providers that  
3 actually tell their clients, the homeless that they  
4 have to leave during the day, right? We--that they  
5 have to go--

7 COMMISSIONER BANKS: [interposing] No.

8 COUNCIL MEMBER HOLDEN: --they have to  
9 come back at night.

10 COMMISSIONER BANKS: No. One of the  
11 first things we did during the 90-day review was to  
12 eliminate that directive from the prior  
13 administration and the shelters cannot require people  
14 to leave during the day. However, in the faith base  
15 shelters that we, you know, help--they help us bring  
16 people in off the streets, those shelters that faith  
17 based organizations operate, they operate as  
18 religious facilities during the day, and they are  
19 unavailable to our clients. The reason why we don't  
20 open shelters and ongoing shelters in faith based  
21 facilities is because of beds to help bring people  
22 off the street, and you identified I think it was an  
23 important issue here, which is we want to make sure  
24 that we don't have people on the street during the  
25 day.

1  
2 COUNCIL MEMBER HOLDEN: Thank you. To  
3 follow up, could you—getting back to this form again,  
4 this—it says on the top it says to be completed by a  
5 healthcare facility staff only. So, they fill this  
6 out, and do—have you heard of any nursing home or  
7 hospital discharging a person in a—let's say in  
8 wheelchair just putting them out on the street? Have  
9 you heard of that?

10 COMMISSIONER BANKS: No, recall when I  
11 used to be a Legal Aid lawyer that I had cases where  
12 that happened, but I haven't—we have not seen those  
13 happening now.

14 COUNCIL MEMBER HOLDEN: Now, you said  
15 that the—the nursing home and/or the hospital should  
16 have other alternatives to the shelter system. What  
17 are they? Are they—could you give us a few—let's say  
18 in nursing homes, have we—we have—we have to now  
19 discharge this person.

20 COMMISSIONER BANKS: Well, I think as  
21 Commissioner Calise said, there are state programs  
22 for people with disabilities.

23 COUNCIL MEMBER HOLDEN: [interposing]  
24 There are state, but let's say they run into  
25 obstacles there. I mean I don't know how many

1 facilities there are. The idea is to keep them close  
2 to home--

3  
4 COMMISSIONER BANKS: [interposing] Yeah.

5 COUNCIL MEMBER HOLDEN: --where they have  
6 some--

7 COMMISSIONER BANKS: [interposing] Yep.

8 COUNCIL MEMBER HOLDEN: --some support.

9 Are there enough facilities?

10 COMMISSIONER BANKS: Well, sometimes  
11 there-

12 COUNCIL MEMBER HOLDEN: [interposing]  
13 Stay in (sic) facilities?

14 COMMISSIONER BANKS: Looking at the  
15 numbers of people that we're finding are not--don't  
16 meet the standard for being able to provide shelter,  
17 it's a relatively small number of people, and we do  
18 find on a case-by-case basis, and that's the  
19 important thing to--to--I want to make sure that it's  
20 fairly clear on the record we're not talking about  
21 hundreds or thousands. We're talking about a handful  
22 of cases in which frequently the focus on the case  
23 once we've said hey, the shelters were not right for  
24 that person. There are family solutions. There are,  
25 you know, other things that could be brought to bear

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in terms of Medicaid to give the kind of help. But I think it's part of the issue here is it's not a one-size-fits-all policy.

COUNCIL MEMBER HOLDEN: Okay, thank you.  
Chair.

CHAIRPERSON AYALA: I would like to recognize Council Member Adams. You had—you had a question?

COUNCIL MEMBER ADAMS: I wasn't necessarily going to ask this question, but I'll ask it. Thank you, Council Member. Good afternoon, Commissioner.

COMMISSIONER BANKS: How are you today?

COUNCIL MEMBER ADAMS: Good afternoon to everyone that's come out today. In—in sitting here listening to the testimony so far and just coming in, it—it just comes to mind, Commissioner, the number of individuals who are homeless with disabilities who are panhandling. Does DHS take any type of responsibility or posture on our vulnerable individuals with disabilities who are out in number panhandling on service roads and sidewalks and—and so on?

1  
2           COMMISSIONER BANKS: Yes. We're, I think  
3 as-as you know we have street outreach teams in all  
4 five boroughs out 24/7 365 days a year. Through  
5 their efforts on the front lines they've brought in  
6 from the streets 1,815 people. We use Safe Havens as  
7 a way to do that, and we certainly are very focused  
8 on the needs of people who are on the streets that  
9 have disabilities, but some of the people and you and  
10 I have looked at this together, are people that have  
11 a place to go and they're panhandling and there are  
12 Homestat approaches to try to assess everybody on the  
13 street to determine whether or not they have some  
14 place to go and offer them services. One of the  
15 things we certainly want to do is to connect people  
16 to our HRA job training services to see if that helps  
17 someone meet their economic needs if they're housed  
18 and-and panhandling nonetheless. If they're unhoused  
19 and panhandling we want to bring them in off the  
20 street, and that's really what our focus is. So, I  
21 know we're going to get out and take a look at the  
22 end of the subway line together soon in your  
23 district, and I think we can, you know, maybe  
24 together see if there are other things we can be  
25 doing.

1  
2 COUNCIL MEMBER ADAMS: Okay, terrific  
3 speaking of the subway and I wasn't even thinking  
4 about the gentleman. We do have a staple at Jamaica  
5 Station who is in a wheelchair that I greet every  
6 morning and every evening. I would imagine also it  
7 would be a matter of some type of outreach via  
8 enforcement and a lot of other things also. My-my  
9 priority is always safety. So, I'm always worried  
10 about these individuals and the fact that cars can  
11 hit them or they may not be able to move as quickly  
12 as others and that type of thing. So, I'm just  
13 concerned for their safety, and overall wellbeing.

14 COUNCIL MEMBER ADAMS: I mean our first  
15 priority is addressing people on the streets and  
16 bringing them in-inside and that's I think the  
17 success we've been having at Homestat so far.

18 COMMISSIONER BANKS: Yes. Thank you.

19 CHAIRPERSON AYALA: I should also point  
20 out we've got accessible-accessible capacity for  
21 people in wheelchairs in our Safe Haven. So, perhaps  
22 when we're together we can convince that individual  
23 to come in.

24 COUNCIL MEMBER ADAMS: Okay, thank you  
25 very much, Commissioner.

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1  
2 CHAIRPERSON AYALA: Yes, I have a quick  
3 question so, only because it keeps coming up as part  
4 of the hearing. So last night as--as Council Levin  
5 mentioned, my daughter had a baby and I was visiting,  
6 and as I was coming out with my other grandchildren  
7 who were running around driving me nuts, I realized  
8 that there was a gentlemen smack in the middle of the  
9 exit to the hospital in a wheelchair with both legs  
10 wrapped, and his belongings and he appeared to be  
11 have been there for--for a really long time, and so I  
12 don't doubt that hospitals are discharging, you know,  
13 homeless folks and just, you know, sending them  
14 directly to you when maybe it may not be medically  
15 appropriate, and I wonder is there a tracking--does  
16 DHS track what hospitals individuals are coming from.  
17 Is it like--?

18 COMMISSIONER BANKS: Yeah, I mean the--the  
19 discharge form that Council Member Holden referred to  
20 for hospital personnel to fill out we do track where--  
21 where people are coming from, and where there are  
22 disputes about discharges. Offline I'd be interested  
23 in following up with you about the hospital where  
24 your daughter---

25

1  
2 CHAIRPERSON AYALA: [interposing] Yeah,  
3 I'd appreciate it.

4 COMMISSIONER BANKS: --had the baby.  
5 Congratulations so we can find out--

6 CHAIRPERSON AYALA: [interposing] Thank  
7 you.

8 COMMISSIONER BANKS: --what might have  
9 happened with that case.

10 CHAIRPERSON AYALA: Thank you.

11 CHAIRPERSON LEVIN: So, I'm going to ask  
12 another questions about Barrier Free Living. Is DHS  
13 open to them proposing exactly the same model as  
14 they've operated for the last 25 years? In other  
15 words with assistance for--for people with ADLs?

16 COMMISSIONER BANKS: I'm open to whatever  
17 they're going to propose. We've had shelters that  
18 we've opened where the proposal originally might have  
19 looked on its face is something we couldn't do, and  
20 then working with the provider we've come up with  
21 something we could do. So, I would encourage them or  
22 anyone else to propose whatever they think they could  
23 contribute to helping us address homelessness, and as  
24 part of the negotiations, we'll work out the model.

1  
2 CHAIRPERSON LEVIN: So, okay. Just want  
3 to make this very clear because I mean there seems to  
4 be some confusion. So--so the model that they  
5 operated, which provided assistance--provided the  
6 people that need assistance with their ADL. That is--  
7 that is entirely a model that that DHS is supportive  
8 of in the future, and we would encourage if they're  
9 going to put in another application to proposed a  
10 mode that is--that is the same model that they have  
11 operated thus far.

12 COMMISSIONER BANKS: As you know, there  
13 are procurement issues here, alright.

14 CHAIRPERSON LEVIN: Anybody. Not just--not  
15 just them--

16 COMMISSIONER BANKS: [interposing] I  
17 welcome anybody--

18 CHAIRPERSON LEVIN: --because the model  
19 itself. I think the model is the question. It's not  
20 about Barrier Free Living. It's we--we--we--we are  
21 supportive of a model that provides--that allows for  
22 people that need assistance with ADL.

23 COMMISSIONER BANKS: We are open to any  
24 proposal for any need that--that anybody thinks we  
25 could serve better in the shelter system, any

1  
2 proposal that will help us address the goals of  
3 *Butler* we're open to it, and then we're going to be  
4 subject to negotiations between the provider and  
5 about whether the model actually works under state  
6 regulation, but the shelter was operating. They had  
7 a way of approaching it. I think as Commissioner  
8 Calise said, I have great regard for—for Paul and  
9 what he's done over the years. If it wasn't for the  
10 building safety, they would still be operating today.

11 COMMISSIONER CALISE: Oh, and I'll—and if  
12 that proposal comes through I'll be sure to be part  
13 of the process.

14 CHAIRPERSON LEVIN: Okay. Just going  
15 back to the alternatives to DHS. So, this is—I still  
16 don't—I'm unclear. Somebody is discharged, is  
17 flagged as not getting 12 out of 12 or flagged as  
18 needing a home health aid, and is thus automatically  
19 excluded, what—what are the—you mentioned some  
20 alternative options for people and—and for—for  
21 housing through discharge. You mentioned Olm-  
22 Olmstead.

23 COMMISSIONER BANKS: Well, I think as you  
24 -as you know, and many members of the Council know,  
25 we often get involved when Medicaid—Medicaid Managed

1 Care services, which, as you know, we don't run but  
2 we do make—we do have input into determinations. We  
3 often get involved when Medicaid Manager Care might  
4 be denying services to somebody for the kind of  
5 homecare health that they may need. You know, in a  
6 lot of cases there are other systems problems that  
7 result in—in a determination by a hospital or nursing  
8 home to say, there's no choice but to send them  
9 shelter. Again, I want to just go back through the  
10 numbers. In 2016, there were 1000–1,268 discharges  
11 from hospitals.  
12

13 CHAIRPERSON LEVIN: [interposing]  
14 Commissioner, there is no need to reiterate this.  
15 We've got to be out here by 4:00.

16 COMMISSIONER BANKS: [interposing] Almost  
17 all of them were accepted in shelter.

18 CHAIRPERSON LEVIN: I don't want to  
19 reiterate anything.

20 COMMISSIONER BANKS: Most all of them  
21 were accepted in shelter.

22 CHAIRPERSON LEVIN: But I do want to say,  
23 though, is that I have heard that—that OPWDD and  
24 Olmstead are not truly available housing options that  
25 the application process for Olmstead, housing through

1 Olmstead is a year or two-long process. So,  
2 obviously, we can't expect a hospital to keep  
3 somebody for a year waiting for an application to go  
4 through. That is not appropriate. The—the question  
5 raised is who—whose—we say we don't want DHS to be  
6 the place of last resort. That's what DHS is. DHS  
7 is the place of last resort for everybody. Nobody—  
8 it's not the—it's not the—it's not the ideal option  
9 for anybody that goes in. The 60 some odd thousand  
10 people that are in DHS shelter it is—I guarantee you  
11 it's not their first option, as you know.

13 COMMISSIONER BANKS: I mean, look, the—  
14 the Administration overall is certainly aware of and  
15 focused on finding a long-term sustainable solution  
16 for this group of New Yorkers who are homeless who  
17 need ongoing medical services. This is a problem  
18 that predates both of us, you and I in our current  
19 roles, and it's something the Administration is very  
20 focused on. Obviously, I'm acutely aware every night  
21 that DHS is the place of last resort. We have  
22 hearings sometimes about whether or not the number of  
23 people who are seeking shelter as a last resort  
24 whether that number is right. As you know, we've  
25 been able to hold that flat for the first time in a

1 decade. But as the Administration overall, we are  
2 very much aware of this issue, and we're going to  
3 come up with solutions for it, but in the meantime if  
4 someone were to come to us on any given night, we're  
5 going to do the best we can to make sure that the  
6 person doesn't end up in the street, and meanwhile,  
7 we're going to keep working with the hospitals and  
8 nursing homes to address their needs. Having someone  
9 with these kinds of needs in a shelter for a year  
10 isn't a good solution either for that individual.  
11 So, as an administration at large we're going to look  
12 for better solutions.  
13

14 CHAIRPERSON LEVIN: Well, I would argue  
15 that it's better than living on the street.

16 COMMISSIONER BANKS: Absolutely, but-but  
17 listen, as you know, we're—we have people out 24/7  
18 bringing people in. If we see any indication of  
19 hospital discharges or people that are being  
20 discharged from nursing homes onto the street, we're  
21 going to take action. I don't have that. I don't  
22 have kind of information here today as I testify.

23 CHAIRPERSON LEVIN: Okay, I mean I think  
24 that empirically any New Yorker sees people living  
25 with disabilities on the street. We all see that.

1 So, we know that there are people with disabilities  
2 living on the street.  
3

4 COMMISSIONER BANKS: But those are two-  
5 two different issues. One is whether or not there  
6 are people with disabilities on the street, and we're  
7 spending a tremendous amount of resources to bring  
8 them in, and that's how we've been brought in—the  
9 number of people that are brought in. The other  
10 issue is whether or not people are being turned away  
11 from DHS intake, and ending up on the streets. As to  
12 the first one, I completely agree with you. We're  
13 putting in tremendous resources to bring people in  
14 from the streets however they got there. As to the  
15 second one, however, the policy that has been  
16 replaced in the city since 2010 requiring hospitals  
17 to work with the DHS medical director to make sure a  
18 discharge is appropriate is something that is not a  
19 one-size-fits-all and it's a case-by-case analysis.

20 CHAIRPERSON LEVIN: So, we've got to keep  
21 on moving on here because we—we do have to be out of  
22 here in a little bit, in about an hour. So, I just  
23 have two other points I want to raise.

24 COMMISSIONER BANKS: Okay.  
25

1  
2 CHAIRPERSON LEVIN: The first is we've  
3 heard a lot of complaints about connecting to  
4 permanent housing resources, people that are in the  
5 shelter system today, they require assistance with  
6 ADL, getting into affordable housing units that may  
7 have a set-aside for people with disabilities. So,  
8 the connection to—the affordable housing stock  
9 that's there is—we're seeing—we're—we're hearing that  
10 there's a problem there?

11 COMMISSIONER CALISE: Well, 7% of all  
12 new affordable housing is set aside for people with  
13 disabilities. Five percent for mobility and 2% for  
14 hearing and vision, and we are just about getting rid  
15 of those right now that people are there. The  
16 problem is the affordable housing isn't affordable  
17 for people that are coming—that are on Medicare,  
18 right? They would be making \$9,000 a month. So, the  
19 idea is how do we figure out how to get people with  
20 disabilities, and how to bridge that gap, right?

21 CHAIRPERSON LEVIN: Right?

22 COMMISSIONER CALISE: Because there's  
23 \$24,000 and \$9,000 here.

24 CHAIRPERSON LEVIN: Right.  
25

1  
2 COMMISSIONER CALISE: What types of  
3 subsidies are available to be able to do that?

4 CHAIRPERSON LEVIN: Yes.

5 COMMISSIONER CALISE: Well, right, there  
6 is--there is Section 8 housing that is available.

7 That--that certainly raises that up, but then there--  
8 then there is a problem with hitting the developer.

9 Will they accept that? So, some of what we're  
10 working right now--

11 CHAIRPERSON LEVIN: Uh-hm.

12 COMMISSIONER CALISE: --with Housing  
13 Preservation and Development to figure out what we  
14 can do to actually bridge that gap because that gap  
15 is the big problem. In conjunction with that we--

16 CHAIRPERSON LEVIN: [interposing] Perhaps  
17 the voucher could work.

18 COMMISSIONER CALISE: What's that?

19 CHAIRPERSON LEVIN: Perhaps the voucher  
20 could work.

21 COMMISSIONER CALISE: A voucher could  
22 work as well, but it's also about doing education  
23 with the developers to ensure that they're able to do  
24 that, which is always a process, right--

25 CHAIRPERSON LEVIN: Uh-hm.

1  
2 COMMISSIONER CALISE: --and it is  
3 something that HPD is being--is committed to doing  
4 along with filling that 7%, but once that 7% is full,  
5 what do we really have.

6 CHAIRPERSON LEVIN: Right.

7 COMMISSIONER CALISE: And--and--and that's  
8 the bigger issue, right with this housing stock. How  
9 do we figure out how to raise that to 10% or even 15%  
10 in that affordable housing? Well, these are the  
11 issues that we do have, Council Member--

12 CHAIRPERSON LEVIN: [interposing] Or we  
13 can--

14 COMMISSIONER CALISE: [interposing] and  
15 I'm with you on this.

16 CHAIRPERSON LEVIN: --or it could raise  
17 the set-aside for--for formerly homeless, too, is one  
18 thing and--and--and maybe that could also create some  
19 availability with them.

20 COMMISSIONER CALISE: [interposing]  
21 Well, I'm working under the disability context and  
22 that--and that's where I am and say how do we do that?  
23 I mean my goal is to figure out how to raise it at  
24 least 10% and also get developers to be able to take  
25 that voucher, to take that Section 8. Whatever that

1 may be is important. In conjunction with that we want  
2 to keep people with disabilities out. We have an NYC  
3 at Work Initiative to try to get people with  
4 disabilities employed throughout the city, and also  
5 an empowered NYC Program that allows people to get  
6 resources to figure out that they can—figure out what  
7 they can do to get housing, what they can do to get—  
8 to bridge that gap.  
9

10 CHAIRPERSON LEVIN: Bridge the gap.

11 COMMISSIONER CALISE: I mean and that's—  
12 that's what we're working with, and our Empowered NYC  
13 is a newly launched program and we're meeting people  
14 where they're at, and if you have people that you  
15 know that need that type of financial empowerment,  
16 we'd be happy to work with you on that.

17 CHAIRPERSON LEVIN: Bridging that gap may  
18 require some—some—some support, some financial  
19 support.

20 COMMISSIONER CALISE: Right, it's  
21 certainly a financial support that--

22 CHAIRPERSON LEVIN: [interposing] Yeah.

23 COMMISSIONER CALISE: --I-I  
24 wholeheartedly agree with you we have to bridge that  
25 gap.

COMMITTEE ON MENTAL HEALTH, DISABILITIES AND  
ADDICTION JOINTLY WITH COMMITTEE ON GENERAL WELFARE

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1  
2 CHAIRPERSON LEVIN: Got it. Okay, thank  
3 you, Commissioner. Okay, the last-last question or a  
4 series of questions: With people that are currently  
5 in shelter how are we tracking-how are we tracking?  
6 Is that tracked through CARES? People that require  
7 assistance with ADL is that-is that tracked in CARES?  
8 So we know how many people in shelter today require  
9 assistance with ADL? [pause]] And then how are  
10 reasonable accommodations requests tracked? Are  
11 those tracked in the Care system?

12 COMMISSIONER BANKS: I think as we've  
13 found when we went from 90 reasonable accommodations  
14 to 46,000 reasonable accommodations at HRA that we  
15 needed to build a-a system to be able to do that, and  
16 that's one of the things that we're doing.

17 CHAIRPERSON LEVIN: Sorry. Say that  
18 again. You went from -

19 COMMISSIONER BANKS: I said when we-one  
20 of the things we learned that in order to go from 90  
21 reasonable accommodations at HRA when I started for  
22 HRA clients to currently 46,000 reasonable  
23 accommodations that we need to be--0

24 CHAIRPERSON LEVIN: [interposing] In an  
25 HRA system and benefits?

1  
2 COMMISSIONER BANKS: That we right, but  
3 that we need to build a system to be able to track  
4 and--

5 CHAIRPERSON LEVIN: [interposing] Right  
6 and the care is not adequate.

7 COMMISSIONER BANKS: It's not—we're—we're  
8 building out a system to be able to do it more  
9 effectively.

10 CHAIRPERSON LEVIN: Okay, um, an okay.  
11 Now, what happens when somebody presents that they  
12 need assistance with ADL and they're in shelter  
13 currently, a single adult shelter? What--what happens  
14 then? Are they--are they transferred to a shelter  
15 that is more accessible or would you share with us  
16 what is the process when somebody presents that?

17 COMMISSIONER BANKS: I mean again in--in  
18 the context of being 10 months into the Butler  
19 Settlement, the process is to assess the need to  
20 grant reasonable accommodations and--and implement  
21 them, but again I want level a set with you. They  
22 were ten months into reforming the 40-year system  
23 that hasn't met these needs very well.

24 CHAIRPERSON LEVIN: So, what happens if  
25 somebody--Okay, what happens if somebody requires

1 assistance between, you know, the—requires a home  
2 health aid—requests a home health aid if they're in—  
3 if they're in shelter today?  
4

5 COMMISSIONER BANKS: We're going to try  
6 to meet those needs as—as we can. Especially for  
7 families with children and adult families we have the  
8 ability to do that, to meet those needs now, and for  
9 single--

10 CHAIRPERSON LEVIN: [interposing] Right.  
11 I'm more talking about single adults for them.

12 COMMISSIONER BANKS: Right, but for—for  
13 single adults we have to be able to build the  
14 capacity to—to meet those needs and to focus on how  
15 quickly we can move people out who may have those  
16 needs, but again we're ten months in to reforming a  
17 system that has needed reform.

18 CHAIRPERSON LEVIN: How about service  
19 animals? Are service animals allowed in shelter?

20 COMMISSIONER BANKS: Yes, and you can see  
21 it's in the menu specifically and respectively.

22 CHAIRPERSON LEVIN: What is the mechanism  
23 in place for shelter residents to report complaints  
24 that they have around this issue? If somebody is  
25 requesting assistance with ADL and feels that they're

1 not getting that assistance for DHS, what's the  
2 method by which they can make that complaint?

3  
4 COMMISSIONER BANKS: I mean there's two  
5 ways. One is the part that we have ownership for,  
6 which our--our info line complaint mechanism where we  
7 use that to field complaints with respect to HRA  
8 reasonable accommodations, and have built it up as a  
9 robust way to do that, and now that's available for  
10 people in the DHS system as well, and then there's  
11 the information release system that was set up as one  
12 of the deliverables that I mentioned in response to  
13 Council Member Ayala's question with the Legal Aid  
14 Society.

15 CHAIRPERSON LEVIN: Do shelter residents  
16 have a posted bill of rights?

17 COMMISSIONER BANKS: Yes, they do.

18 CHAIRPERSON LEVIN: Specifically about--

19 COMMISSIONER BANKS: [interposing] And  
20 specifically one of their rights is the right to make  
21 complaints.

22 CHAIRPERSON LEVIN: Council Member Ayala  
23 asked about beds, but I just want--I just want to  
24 follow up on that. Do people--do people in shelter if  
25 requested have access to a motorized bed if they need

1 it as a—as a condition of needing assistance with an  
2 ADL?  
3

4 COMMISSIONER BANKS: I didn't hear (sic)  
5 the Council question.

6 CHAIRPERSON LEVIN: In other words, a bed  
7 that can be raised and lowered using a button, not a  
8 manual crank. Is a person with a severe disability  
9 wouldn't be able to raise or lower the bed  
10 independently—independently using the manual crank?

11 COMMISSIONER BANKS: We—we have through  
12 Medicaid done that in the past.

13 CHAIRPERSON LEVIN: Yeah, and that can—  
14 and it's—but only through Medicaid. So, somebody has  
15 to have a Medicaid case number to do that?

16 COMMISSIONER BANKS: If we haven't  
17 encountered the situation, which we haven't been able  
18 to do through Medicaid, obviously as *Butler* proceeds  
19 there may be a greater—a greater need.

20 CHAIRPERSON LEVIN: Are—are—does every  
21 shelter have bathrooms that are ADA accessible as  
22 defined that it's large enough for an individual to  
23 close the door behind them with a walker or  
24 wheelchair inside the stall and/or room to still have  
25

1 enough space to turn themselves around to use the  
2 toilet?  
3

4 COMMISSIONER BANKS: Let me give you some  
5 information on that, but also it's important to  
6 remember that the settlement specifically provides  
7 for the hiring of an expert, an independent expert  
8 that was approved by the Legal Aid Society to take  
9 that kind of accounting and that becomes ACS--

10 CHAIRPERSON LEVIN: [interposing] Right,  
11 you mentioned select shelters. I don't know how  
12 they're selected.

13 COMMISSIONER BANKS: They were selected  
14 through a process in which we consulted with  
15 plaintiff's counsel, and if they were selected in  
16 order to give us a baseline so that we could evaluate  
17 the system and then continue to evaluate as we go on.  
18 The purpose of the *Butler* Settlement remember is  
19 that to have an accessible system which is different  
20 than every particular unit being assessed. I can  
21 give you right now the following information,  
22 remembering the--earlier in the testimony I said to  
23 you that the need for air conditioning was a  
24 significant need. So, we currently have 134  
25 locations where there's air conditioning, and we have

1 184 locations where there is wheelchair  
2 accessibility.  
3

4 CHAIRPERSON LEVIN: Out of how many?

5 COMMISSIONER BANKS: The total number of  
6 buildings we have is 469 but remember many of those  
7 are clusters--

8 CHAIRPERSON LEVIN: [interposing] Yep.

9 COMMISSIONER BANKS: --which we are  
10 closing. As was said in the testimony getting out of  
11 clusters is an important part--

12 CHAIRPERSON LEVIN: [interposing] Got it.

13 COMMISSIONER BANKS: -of coming into  
14 space.

15 CHAIRPERSON LEVIN: Sorry. We got to be  
16 out at least. So, two more questions here. Of the  
17 11 new shelters built by the city are they all  
18 outfitted with ADA accessibility?

19 COMMISSIONER BANKS: The--the shelters  
20 aren't by the city. The city--the shelters are  
21 proposed by not-for-profit providers. We have not  
22 built any of these shelters. Of the 15 that are open  
23 an operating, 12 of them were opened under new  
24 Certificates of Operation--CofO's and, therefore, they  
25 must meet all accessibility requirements. Three of

1  
2 them are operating under older ADA-certificates of  
3 occupancy, but they'll be looked at as part of the  
4 consultant's assessment of our new shelters whether  
5 or not--what we can do with those particular three.

6 CHAIRPERSON LEVIN: Okay. My last  
7 question. I think you've answered this before, I but  
8 I just this clear and on the record. Does DHS intend  
9 to stop serving people who require assistance with  
10 ADLs?

11 COMMISSIONER BANKS: You know, we went  
12 about two hours talk about on this topic--

13 CHAIRPERSON LEVIN: [interposing] Yes.

14 COMMISSIONER BANKS: --and in my lifetime  
15 I've asked a lot of yes or no questions, and  
16 sometimes the witnesses say, I just talked about this  
17 for two hours. Mostly the judges say well, that's  
18 probably right. So, I talked it for two hours. It's  
19 a much more nuanced answer than yes or no.

20 CHAIRPERSON LEVIN: I don't know that it  
21 is. It's on the face--I'm a little concerned that you  
22 can't answer no to that?

23 COMMISSIONER BANKS: I--if you are still  
24 asking it as a yes or no question, I'm concerned  
25 about the last hours of testimony in which I said to

1 you we are reforming access to our shelters through  
2 the Butler Settlement, which is undoing 40 years of-  
3 of problematic access. We have a five-year timeline  
4 to do that. We have-are eliminating a one-size-fits-  
5 all approach. We have hospital based forms that are  
6 filled out that focus on ADLs. We have an iterative  
7 process between our medical director and hospital.  
8 If somebody scores--

10 CHAIRPERSON LEVIN: [interposing] That-  
11 that sounds to me like a no answer. That's--

12 COMMISSIONER BANKS: [interposing] It's  
13 not a no answer. It is not-you're-that is an unfair  
14 characterization of two hours worth of testimony.

15 CHAIRPERSON LEVIN: No, no, no, that's-  
16 the answer-no that's-it's a positive thing what  
17 you're describing. The question was: Does DHS  
18 intend to stop serving people that require the  
19 assistance of ADL? What you just answered was no we  
20 don't-it seems like you're saying we don't intend to  
21 stop service people that require assistance of ADL.  
22 I just want to make sure that that is-that-that-that  
23 should be a pretty easy one.

24 COMMISSIONER BANKS: It's not an easy one  
25 because the reason why we've been having so much of

1 this back and forth is that it's not a one-size fits  
2 all. There are some people we're currently serving  
3 who need help with ADLs. There are some people who  
4 we couldn't serve in a congregate setting who need  
5 help with ADLs. So, the implication from a lot of  
6 the questions is that we've made a policy change to  
7 stop serving people with ADLs. We have not made a  
8 policy change. However, that doesn't mean that for  
9 many, many years there's been a focus on people who  
10 have ADLs that cannot be served in a congregate  
11 setting that we haven't pushed back hard on hospitals  
12 and nursing homes when they attempt to discharge  
13 people who can't be served in a congregate shelter  
14 setting under state regulation. As I said earlier,  
15 thought, the city at large understands that this is a  
16 challenge for people that need medical care who are  
17 homeless, and we are committed to coming up with a  
18 solution for that. That doesn't mean that the  
19 solution is the shelter system.

21 CHAIRPERSON LEVIN: Alright, thank you  
22 Commissioners. Thank you everybody for your  
23 testimony and we'll take 30 seconds, but I'll call up  
24 the first panel here. Fran Amaparo (sic) Elizabeth  
25 Carallo, Dustin Jones and Ada Cologne. I encourage

1 the administration—Commissioners, if you could  
2 potentially stay to listen to some testimony that  
3 would be greatly appreciated. [background comments,  
4 pause] I'd just like to make clear as per previous  
5 negotiation, the Commissioner—Commissioner Banks does  
6 have to leave at 3:30. So, we acknowledge that, but  
7 I'm grateful that he can stay until that time.  
8 [background comments, pause] Okay, whoever wants to  
9 begin.  
10

11 ELIZABETH CARALLO: [off mic] My name is  
12 Elizabeth Carallo and I've been dealing with—

13 ROBERT: There you go.

14 ELIZABETH CARALLO: [on mic] My name is  
15 Elizabeth Carallo and I've been dealing with the  
16 shelter system since the hospital released me to the  
17 shelter four months ago. At the shelter, they  
18 discriminated against me by denying me shelter more  
19 than four times, each time being sent back to the  
20 hospital and the hospital sending me back for the  
21 reason that my disability is paralysis from the waist  
22 down due to an accident. I told the BRC Street  
23 Outreach Team at Penn Station that the shelter  
24 refused to accept me. They took my case stating that  
25 the shelter was the only intake shelter with

1 wheelchair access, and that it was illegal if I was  
2 denied. So, BRC drove me to Franklin, and after  
3 arguing with the intake staff, I was eventually let  
4 in the shelter. Once inside the shelter I faced  
5 heavy barriers. I was stuck not being able to even  
6 shower or get in my bed. I was denied the right to  
7 have a home health aid in my condition because they  
8 said those are the rules and stipulations of DHS.  
9 When my roommate saw the problems I was having, they  
10 offered to help. However, the guards in the shelter  
11 said if anyone was caught helping me shower then they  
12 would kick me out. I didn't want to end up on the  
13 streets with me in this condition. I was eventually  
14 transferred to another shelter under the false  
15 promised that it would better suit my needs and allow  
16 me to have a home health aid and get physical  
17 therapy. That was untrue. At that shelter I spent  
18 days sleeping in my wheelchair because the bed was  
19 higher than chair, and I couldn't slide into it.  
20 Also, I spend days without showering and weeks  
21 because I needed help with that task. DHS visited me  
22 personally to talk about my needed accommodations,  
23 and transferred to a more appropriate facility, but  
24 they didn't do anything to help. They said that they  
25

1 couldn't. Eventually, I was hospitalized after an  
2 assault by another client and was moved from the  
3 hospital to another shelter. Still the same problems  
4 arose. I cannot shower because I need an aid. I'm  
5 held prisoner by staff because I cannot travel alone.  
6 Constantly going to the hospital because DHS will not  
7 help me access my medication or catheter bags. I  
8 have also had medication stolen by shelter staff. I  
9 am in bad condition in DHS' hands. I have asked to  
10 be put in the Physical Rehab Program. I've been  
11 denied even for a transfer to a medical facility.  
12 Something must be done. This is not fair.

14 CHAIRPERSON LEVIN: Thank you. Thank you  
15 for your testimony. We'll—we'll ask some follow-up  
16 questions of the whole panel.

17 SUSAN DOOHA: Hello. My name is Susan  
18 Dooha. I'm the Executive Director of Center for  
19 Independence of the Disabled New York, and I'm here  
20 testifying for Dustin Jones. I'm providing his  
21 statement in summary. He's unable to be here because  
22 of the conditions in his shelter today. Thank you  
23 for this invitation to appear before the New York  
24 City Council to describe my experiences in the New  
25 York City Shelter System focusing on the Shelter

1 systems and accessibility. My name is Dustin Jones.  
2  
3 I have a physical—I have a physical disability and  
4 I'm long-time advocate. Until July 2017, I lived in  
5 an apartment in the Bronx. My roommate's behavior  
6 caused us to lose the apartment. From July unit  
7 September 2017, I rented rooms thinking that I would  
8 find housing quickly. However, that was not the  
9 case. I entered the Department of Homeless Services  
10 shelter in September having run out of options. In  
11 September, I began to be housed on Wards Island.  
12 From there I went to a CAMBA shelter for four days  
13 and was placed on October 25<sup>th</sup> in the Clark-Thomas  
14 Shelter on Wards Island. I'm going to be speaking  
15 about my experiences at Clark Thomas because that's  
16 where I've had the most experience. My experiences,  
17 however, are unique and other shelters have the same  
18 conditions as well. As a wheelchair user, my  
19 federal, state and local civil rights and human  
20 rights have been repeatedly violated. I faced  
21 discrimination in a variety of ways for more than a  
22 year. There is no process in place for me to get a  
23 reasonable accommodation. The hospital that  
24 discharged me to my shelter wrote in my notes in  
25 early February that I needed a special bed because

1 bed because of my wounds. I was told that DHS was  
2 working on it. There is one person with disabilities  
3 who is severely obese, and has a wider bed provided.  
4 This the only exception I have seen that is made for  
5 a person because of a disability. Residents are  
6 advised that they can obtain reasonable—are not  
7 advised that they can obtain reasonable  
8 accommodations or how do so. They are not told how  
9 to complain if they do not get reasonable  
10 accommodations. I do not have a bed that I can get  
11 in and out of. The bed is lower than my wheelchair  
12 seat. This means I could easily fall and become  
13 injured while attempting into the bed. It also means  
14 that once I'm in bed, and I can't safely transfer  
15 into my wheelchair seat. This has necessitated my  
16 sleeping in my chair. As a result, I've been  
17 hospitalized for stage 3 pressure sores three times  
18 since I've been at Clark Thomas. These sores, which  
19 risk my health, were obtained at Clark Thomas, and so  
20 was the infection. The sores are not getting better  
21 because I am unable to lie down. I need a bed that  
22 raises or lowers or is at the height of my wheelchair  
23 seat so I can transfer safely. Also, there are not  
24 enough outlets next to the beds for people who have  
25

1 power chairs and cannot charge—they, therefore,  
2 cannot charge their chairs at night. For those who  
3 attempt to charge them during the day, they need to  
4 be able to charge long enough for their chair to hold  
5 the charge for long enough. People with physical  
6 disabilities, approximately 25 of us, are housed on  
7 the first floor because there are stairs to the upper  
8 floors, and where there is an elevator we are not  
9 allowed to use it. The first floor has a single  
10 “accessible restroom” for all 25 of us. When you  
11 enter the supposedly accessible toilet stall, you  
12 cannot get into the cubicle enough to be able to  
13 close the door and lock it. You are required to  
14 toilet with the door fully open. Further, in the  
15 bathroom, the shower cubicle does not have grab bars.  
16 It has a backless shower bench. However, I cannot  
17 transfer to it and from it. The sinks have pipes  
18 that are not wrapped insulation. Therefore, I’ve  
19 burned my knees in the so-called accessible bathroom  
20 trying to get close enough to the sink to wash my  
21 hands. The restroom is slippery and filthy. This is  
22 a problem for me as I must use my hands to turn the  
23 wheels of my chair, and the wheels are resting on  
24 filth on the floor of the bathroom. I’ve had two  
25

1 appointments with shelter housing—shelter housing  
2 specialists. The first encounter was to show me an  
3 apartment that was physically in accessible. There  
4 was an elevator, but I would have had to climb two  
5 flights of stairs dragging my wheelchair along to get  
6 to the elevator. A second encounter was to invite me  
7 to a meeting telling that I would be moving out  
8 immediately. However, when I attended the meeting  
9 along with 25 other people including people using  
10 wheelchairs, it was a meeting with a drug treatment  
11 program called Miracle House. The representative of  
12 the program advised us that we could be moved into a  
13 room with a roommate, and then if we proved  
14 ourselves, we could move into a one-bedroom unit in  
15 drug rehab facility. The problem is I don't use  
16 drugs and alcohol, and I do not have a history of  
17 doing so. Shoveling people with ambulatory  
18 disabilities into drug treatment housing programs to  
19 prove themselves is outrageous. I don't need this  
20 treatment. I need a place to live. Housing workers  
21 come and go. The last one was formerly a building  
22 janitor in the building. I am unaware of what  
23 specific training housing workers have regarding  
24 finding accessible housing. Others with physical  
25

1 disabilities have been here longer than I have. One  
2 person who uses a wheelchair, Rudy, has been in the  
3 shelter 11 years. I have only met one person who has  
4 a—who is a wheelchair user whose been housed in over  
5 one year. The cubicles for caseworkers are not large  
6 enough to permit wheelchair access. Therefore, when  
7 I meet with a caseworker my chair is in the hallway.  
8 Another two residents who have scooters, which are  
9 longer cannot get in at all. There is no turning  
10 radius for people who use wheelchairs in this space.  
11 At the front entrance there is a staffed booth that  
12 we're supposed to go to if we need help. However,  
13 the booth window is not at chair height. If someone  
14 in a chair—therefore, someone in a chair would have  
15 to stand and should to get attention from someone  
16 inside the booth. To meet requirements, the booth  
17 should have a window at chair height. I'm unable to  
18 do my laundry without assistance because the washer  
19 and dryer are front loaded but the place to put in  
20 the soap is at the top of the machine and I cannot  
21 reach it from my chair. Workers are not interested  
22 in helping, and need to be yelled at and threatened to  
23 get them to assist. Recently, there was a power  
24 outage at the Clark Thomas Shelter. A man who uses a  
25

COMMITTEE ON MENTAL HEALTH, DISABILITIES AND  
ADDICTION JOINTLY WITH COMMITTEE ON GENERAL WELFARE

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1 motorized scooter was trapped in the cafeteria during  
2 this seven-hour blackout on a heat emergency day. His  
3 chair was not charged. He could not get food and  
4 water on his own. Given the power outage, he had no  
5 air conditioning. Also, there are fire drills in the  
6 morning, but residents are not brought out of the  
7 building instructions on what to do if there is a  
8 fire. When there was a gas leak in the building we  
9 were told not to evacuate the building and were sent  
10 to the cafeteria. It is not clear that there any  
11 policies and procedures to address how people with  
12 disabilities are to be evacuated with their equipment  
13 in an emergency. We have a door to the loading dock.  
14 However, they are using that area for storage. If  
15 this door was the only means of evacuation, then  
16 while people with no ambulatory disability could  
17 leave by climbing over, people in wheelchairs would  
18 not be able to evacuate. If one could leave through  
19 this door, one would be on a dock above ground level  
20 with no way to evacuate down to the ground using the  
21 stairs. Thank you for permitting me to speak. I'm  
22 available for your questions.

23  
24 CHAIRPERSON LEVIN: Thank you very much.

25

ROBINSON PAOLO: Councilman. Thanks.

Good afternoon everyone. My name is Robinson Polo and I become homeless about a month ago. Actually, I'm very excited. I just have to mention that it's really hard for me what I'm going to say because I— for what I already heard probably DHS is not that interested into taking care of people who disabled, and that's really sad because they have the opportunity to do something for others. They have the opportunity to do right, but weren't permitted. I am totally independent. I am blind. I became blind a few years ago. Thank God that I am totally independent but there is other people who are not independent like the way I do. I travel by myself. I shower by myself. One of the questions they give me when I just almost get into the shelter if I can shower by myself, if I can move around. You just have to look at me. I don't have a cane. So, it's real easy that, of course, I'm going to have—I'm going to be—I'm going to be traveling to work around any place. The thing is that I have to learn how to do it, and then I can do it by myself. Well, in the time that I've been in the shelter there is a couple of things like for me that I am blind. I've been

1 issued. There is a lot of people. I am in the  
2 medical dorm and work. There is a lot of people who-  
3 who doesn't have--incontinent. So, there is many  
4 accidents there every single day. So, I mean it'd  
5 almost every single day. So I cannot exaggerate but  
6 it's about 40 people that we sleep there. We are  
7 having the situation that sometimes on the floor  
8 there is a staff that, of course, so I step on them,  
9 and the relatives are really cruel and the cruel is  
10 that, you know, people have-inconvenienced to go to  
11 the bathroom. They make a mess, and it's not because  
12 they want it, it's because they have an issue. They  
13 cannot--they have incontinence so sometimes that kind  
14 of things, you know, they're--they're--I'm sorry to say  
15 this, but the poop is on the floor and urine, too.  
16 and the other day for example one of the people who  
17 was supposed to be here who is in the--in the hospital  
18 right now, he was taking a shower and he just--she was  
19 trying to go to the toilet while she was in the  
20 shower. He couldn't do it. He's in a wheelchair so  
21 he fall on the floor, and all his--his staff was  
22 around because the shower was on. So all his staff  
23 was around. It was really a bad situation that, of  
24 course, make him feel so embarrassed in front of  
25

1 everybody, and that was there for hours because  
2 nobody want to clean, and like—like I'm blind but I  
3 can move around well, but like there is a lot of  
4 noise. Sometimes I—I—you know, I bump into other  
5 people with chairs, and—and other people with cane,  
6 and sometimes like we are in a shelter. There is  
7 different kind of people there. There is people who  
8 doesn't like to even—even if it's not your intention,  
9 but you touch them with—with my cane for example,  
10 they have really bad reactions. That's why I tried  
11 to take a shower when everybody—when they feel that  
12 everybody is done, you know. I run to take a shower  
13 because I don't want to pass next to someone because  
14 people start having reactions when—if I get close to  
15 someone, something that is really ignorant but there  
16 is—there is a stop light that is run on the shelter.  
17 Actually, the reason why I'm here is because there is  
18 other people who are not that independent like me,  
19 and I'm not saying anything. I'm not over here  
20 telling you—telling you that I'm amazing. No, not  
21 like that, but I already know that people who is  
22 blind that they cannot dress by themselves. That  
23 sometime they cannot shower by themselves. They have  
24 problems to work around. So, what's going to happen  
25

1 with it? They don't have the right to be—to be in a  
2 shelter if they needed one in their life. Like for  
3 example at the end of the day, if you look at someone  
4 who is blind, someone who is in a wheelchair, some  
5 who is in a bed that they cannot move their body at  
6 all. I mean if you look, that was—if you look to  
7 them and then you look at yourself in the middle,  
8 what you had see. I did different. I was different  
9 than others, and I'm not saying that because I—I feel  
10 like people made me feel different. No, it's not  
11 that. The reason why I'm saying that is because it is  
12 impossible to believe that New York City the capital  
13 of the world, I mean there will be people who because  
14 they are sick or they have any kind of disability  
15 that they are going to be without a shelter and, of  
16 course, if we are in a city where they can get the  
17 funds to do it. I'm not—probably I'm not part of it.  
18 You will not see my face anywhere the rest of your  
19 life, but I'm just going to say that if there is a  
20 way that DHS can cover us, can incorporate and other  
21 organizations. I don't know exactly where the funds  
22 get, but I mean that if they can probably help DHS to  
23 do their job better, probably that will be also  
24 because totally it's not their fault. There is—in  
25

1 the shelter that I am there is a lot of people who  
2 has good intention, but they are not prepared to deal  
3 with people, to dealing with people who is disabled  
4 and that is not their fault. They are not getting  
5 paid to serve people who are disabled. Nobody told  
6 them told to do that. Nobody prepared them to do  
7 that, and—and actually there is things that could be  
8 changed and—and I think if all of us we're here right  
9 now because we want to do something positive. I mean  
10 if we're here now I mean why—why don't—don't do it.  
11 Actually, I have—I just have a concern about people  
12 who—people who really—I mean there is some questions  
13 that they were reading in the beginning. They gave  
14 those questions and, of course, I have to say yes to  
15 everything what they asked me because I was afraid if  
16 I say no they are going to leave me without shelter,  
17 and they gave me that question. They did it. If I  
18 can walk around, if I can shower, if I can go to—if  
19 happen to my bed. That mailed that kind of  
20 questions. So, of course, I have I have to say yes  
21 like other people who is my dorm that I—that I  
22 already know, they had to say yes also because  
23 otherwise they are not going to have a shelter. So,  
24 I just which are the best—which are the best. I just  
25

1 can say that, you know, do the best, and-and  
2 [speaking foreign language] or God, our Divinity can  
3 do the-can do the rest and-and try to do something  
4 for people who really need it because we like didn't  
5 asked to be homeless. Nobody asks to be homeless.  
6 That could happen to-even though if you are-if you  
7 are drug addicted even though if you are a person  
8 that never did drugs in your life that could happen  
9 to anyone like happened to me. So, I mean I just  
10 want to say that if you have the opportunity to do  
11 something that DHS can incorporate.  
12

13 CHAIRPERSON LEVIN: Thank you.

14 ROBINSON PAOLO: Yeah, just tanks a lot.

15 CHAIRPERSON LEVIN: Thank you very much  
16 Mr. Paolo. Thank you.

17 ADA COLOGNE: Hi. Good afternoon.

18 CHAIRPERSON LEVIN: Sorry. Can you push  
19 the-the button, too? The-the-the button. It should  
20 be on red.

21 ADA COLOGNE: Thank you. Hi. Good  
22 afternoon everyone. My name is Ada Cologne. I am a  
23 Social Worker at Barrier for Living Freedom House. I  
24 work at the domestic violence site. I'm here  
25 representing Ms. Rosa Amparo, and as you mentioned,

1 earlier she couldn't make it because she was in the  
2 hospital, but I have been work with Ms. Amaparo and  
3 she gave me the okay, to be representing here today  
4 and I am honored to be here on her behalf. So, I  
5 just want to talk about what happened when she went  
6 to Franklin. She was discharged from the shelter.  
7 On May 21<sup>st</sup> she went to the Franklin Women's Shelter  
8 for placement. Once we—the first thing that happened  
9 when we entered the shelter system, we were stopped  
10 there by one of the guards and the guard basically  
11 when—when he asked. Ms. Amaparo and I went—Ms.  
12 Amaparo was there and also her home aid who escorted  
13 her. Once we entered the guard, you know, asked to  
14 put everything through the detector, the metal  
15 detector, and the guard said well you—you have to  
16 wait her until the supervisor comes to grant you  
17 access, and this happened because of some powerhouse  
18 medicine in her bags as she's a diabetic, and there  
19 was also other stuff like the glucose meter and other  
20 items that she had there. One of the things that we  
21 also mentioned is that we had food in the bags  
22 because Ms. Amaparo have to eat constantly to keep  
23 her sugar levels, you know, balanced, and there was a  
24 huge sign. As soon as you enter you can see the  
25

1 sign. It says no food or drink allowed. So I made  
2 sure to explain that to the guard. Once we were able  
3 to speak t the supervisor she came and asked who's  
4 here for placement? I spoke on behalf of Ms. Amaparo  
5 because she doesn't speak English, and I said Ms.  
6 Amaparo is here for placement and—and the person next  
7 to her is her home health aid, and as soon as I  
8 mentioned there was a home health aid, the supervisor  
9 says, come here. So, I go to her, and I found that a  
10 little awkward that she just called me, but I went to  
11 her, and I said yes, what's going on? She said, you  
12 just said the magic word, and I said what do you  
13 mean? She said, she can't be here because has home  
14 health aids to come into the shelter. And my  
15 response to this was: Well, Ms. Amaparo needs her  
16 home health aid to get through the day, and do her  
17 ADLs, and she said, well, I will have to hand this  
18 over to the director, and we will take it from there.  
19 At the point that the director took over, she us into  
20 one of the offices, and she was addressing me the  
21 time. She wouldn't be speaking to Ms. Amaparo  
22 because again she didn't speak English. So, she was  
23 facing me the entire time, and I said to the director  
24 we understand that Ms. Amaparo cannot be held here  
25

1 because she has a home health aid. How is that  
2 possible? So, the director—so this is what happened  
3 with the Director. She says, we cannot take her  
4 because she has Home Health Aid, and people with Home  
5 health aids cannot be here because they are not  
6 independent and the aid will not allowed to come into  
7 the shelter to help her, and she asked me how is the  
8 home health aid helping Ms. Amaparo, and I'm told her  
9 in details. She's helping her with her ADLs, and I  
10 give her a list of things that she was helping her  
11 with, and then she says, you see? That's what I  
12 mean. She cannot be alone here because she needs  
13 help. She needs someone to do things for her, and we  
14 cannot allow the aid to come inside. I was very  
15 frustrated by her response, and I thought that it was  
16 really unfair for Ms. Amaparo. Then I explained to  
17 her that Ms. Amaparo is connected to the disabilities  
18 right of New York, and that she had a legal advocate  
19 that was aware of what was going on, and that the  
20 legal advocate had told us that Ms. Amaparo has the  
21 right to have her home health aid at Franklin. So, at  
22 this point I even offered to have the—the legal  
23 advocate speak to the director, and also the  
24 supervisor at Franklin, but they refused to speak to  
25

1 her. And, the Director said, You should take your  
2 legal advocate and go to 31<sup>st</sup> Street to DHS and  
3 advocate there.  
4

5 CHAIRPERSON LEVIN: I agree with that.

6 ADA COLOGNE: At this point they said, is  
7 she connected to any PCP or any hospital? I said—I  
8 already knew what she was going to say, and I said,  
9 Ms. Amaparo was already at the Emergency Room at the  
10 Mount Sinai. The hospital is not going to help her  
11 to get placement. She said, well, she won't get  
12 placement through the hospital because that is the  
13 same thing that we would have done here. She said  
14 she cannot stay here. You got to go to the nearest  
15 hospital, which was the Bronx Lebanon. So we did as  
16 they told us. We went to the hospital. There we got  
17 connected with a social worker, and the hospital is  
18 not a place to get housing. They can't do anything  
19 for Ms. Amaparo there. So, prior to get to the  
20 hospital, Ms. Amaparo had a nervous breakdown because  
21 of all the stress that she being put through. You  
22 know, so she was testing her sugar levels and  
23 everything in the streets. It was just a horrible  
24 situation. The aid was like on one side. I was on  
25 the other side just calming her down. It was very

1 traumatic for her. Once at the hospital, nothing  
2 happened. We were there for hours. Even shortly we  
3 got connected with the hotline. They couldn't do  
4 anything. I ended up calling back my Director of the  
5 shelter explaining the situation, and we had to go  
6 back into shelter with Ms. Amaparo because ethically  
7 and morally, we couldn't leave this woman in the  
8 street. She has a lot of medical issues, and she had  
9 a walker. She has physical impediments, and it was  
10 just inhumane to leave Ms. Amaparo in the streets.  
11 So, we brought her back into the DV Shelter and  
12 that's what happened.

14 CHAIRPERSON LEVIN: Thank you very much  
15 for—for that testimony. I think that—I mean it's—  
16 it's tragic and very sad, and we should learn from  
17 her experience how to not let that ever happen again.  
18 I want to thank this whole panel. Unfortunately, I  
19 don't think we time to do questions for you all, but  
20 I wanted to hear everybody's—what everybody had to  
21 say in full, and we will follow up with you all and I  
22 think that there's a lot that can come out of this  
23 hearing, and a lot of work that we can collectively  
24 do, and I want to thank you so much for your  
25 testimony, but unfortunately we—we have to be out.

1 We have two more panels and we have to be out by, you  
2 supposed to be out by 4:00 I don't know if that's  
3 going to happen. But again, I want to thank all the-  
4 all of you. Thank you for your courage in testifying,  
5 Ms. Carallo, and Mr. Paolo. Thank you very much for  
6 your testimony here, and-and Ms. Cologne thank you  
7 for-for your-your-your amazing work with-with you're  
8 your client. Thank you.

10 ADA COLOGNE: Thank you.

11 CHAIRPERSON LEVIN: Okay, the next panel.

12 Did you have anything else? Susan Dooha I think will  
13 testify on her own behalf or on behalf of CIDNY.

14 Beth Hoffmeister and Jacqueline Simone, the Legal Aid  
15 Society and the Coalition for the Homeless, Jenny  
16 Veloz, New York Lawyers for Public Interest, and I  
17 think from here on out we are going to have to do  
18 people, we are going to have to use the clock.

19 Sorry. [pause] Okay, let's begin.

20 SUSAN DOOHA: Thank you very much.

21 CHAIRPERSON LEVIN: And there's a 3-  
22 minute clock.

23 SUSAN DOOHA: Yes. Thank you for the  
24 opportunity to appear before you today. As you know,  
25 CIDNY was involved with Legal Aid Society and

1 Coalition for the Homeless in a lawsuit seeking to  
2 bring the Department of Homeless Services into  
3 compliance with civil rights law, the ADA. In  
4 signing the stipulation the city agreed to accomplish  
5 a number of things within five years: Retrofit  
6 existing facilities, ensure accessibility in future  
7 facilities, provide reasonable accommodations, ensure  
8 that people are not segregated because of their  
9 disability, ensure that emergency plans include  
10 particular needs of people with disabilities.

11 However, we have noticed a number of persistent and  
12 emerging issues. DHS has stated the capital  
13 improvement design and construction in the pipeline  
14 and newly opened sites that are privately owned will  
15 meet all building codes. However, according the Fair  
16 Housing Justice Center, State Building Code is not  
17 deemed to be a safe harbor, and while builders must  
18 follow the state building codes, they must also  
19 follow the Fair Housing Act requirements. Homeless  
20 shelters whether operated by a city or a non-city  
21 entity under contract must comply with requirements  
22 related to service animals, modifications, wheel  
23 chair access, accessible entrances to public and  
24 common areas, doors, bathroom, et cetera. If this  
25

1 were happening now then there would not be so much  
2 successful litigation against building owners,  
3 managers and architects. People with disabilities  
4 have the right to live in the most integrated  
5 setting. DHS provided services for people with  
6 disabilities who need assistance with ADLs providing  
7 a small number of beds at a shelter called Barrier  
8 Free. This facility has an excellent reputation for  
9 very good reason. However, it has been closed and  
10 the city's actions played a role in its closure.  
11 Although it was a wonderful program, though, it was  
12 segregated. People with disabilities must be able to  
13 participate in an integrated program. They may not  
14 be refused housing in any shelter because they need  
15 assistance with activities of daily living, and they  
16 may not be excluded altogether because of requiring  
17 this assistance. Needing assistance with activities  
18 of daily living is not the same as having a medical  
19 need. It is simply assistance with dressing, holding  
20 a tray, transferring from a chair or into a bed.  
21 These are not medical issues. There is no hospital  
22 and no nursing facility that will keep people simply  
23 because they need assistance with activities of daily  
24 living. That is not the world we live in. Nor  
25

1 should they be there. [bell] We are alarmed that  
2 the city is proposing to stop serving people who need  
3 assistance with activities of daily living. We work  
4 with people who are in nursing facilities and  
5 hospitals every single day to help them get  
6 discharged safely into an appropriate place into  
7 their own home. However, there is no easy out.  
8 Discharge planners do not do discharge planning in  
9 hospitals and nursing facilities. They simply make a  
10 call and do a packet for a homeless shelter. If the  
11 homeless shelter doesn't take someone, then they  
12 simply are—are left by the nursing facility, and  
13 we've seen this happen. Yes, there's a need to push  
14 back at nursing homes and hospitals, but not at the  
15 expense at people with disabilities being left on the  
16 street. The OPWDD Program is not an emergency  
17 shelter program. There is nothing like that  
18 available. Most people with disabilities do not meet  
19 OPWDD criteria either and, therefore, would not be  
20 eligible. The Olmstead Housing Subsidy helps people  
21 get out into housing with the housing subsidy and  
22 assistance with looking for housing. However,  
23 because of the housing situation, once someone is  
24 accepted in the program it takes a year to two years  
25

1 to get them out into housing. No nursing facility is  
2 going to house people for this length of time much as  
3 we may push them. Reasonable accommodations must be  
4 provided, and they have to be provided in a timely  
5 way. They cannot be from a set menu that is  
6 exclusive. Reasonable accommodations are to be  
7 individually negotiated. That is the law. It is no a  
8 take it or leave it situation. It is not a matter  
9 where somebody can say you come to the door, and I'm  
10 going to give you large print only because that's  
11 what I have and you're blind. That is not going to  
12 be effective communication. So, you have to give an  
13 effective reasonable accommodation in that event.  
14 People who are coming into shelters are not being  
15 advised that they have rights to reasonable  
16 accommodations. They are not getting notice. They  
17 have no notice that they have a right to complain if  
18 they don't get one, or that it should be negotiated.  
19 I am particularly alarmed by Mr. Jones having been---  
20 his accounts of fire drills and power outages, which  
21 are life and death issues. Should there really have  
22 been a fire or an explosion due to a gas leak or some  
23 other event? People with disabilities would have  
24 been trapped in that facility and died. There is  
25

1 absolutely no excuse for this. There—the ADA  
2 requires inclusive planning, inclusive emergency  
3 preparedness and disaster response planning, and  
4 there are a whole host of requirements that I’ve  
5 outlined in my testimony. Last year we served nearly  
6 40,000 people. Those that we served are living in  
7 poverty on a long-term basis. The poverty rate among  
8 people with disabilities is 35%. It’s higher than at  
9 the state or federal level, much higher than for  
10 people with no disability. Many of those we see in  
11 homeless shelters we try to help come out into the  
12 community, but we need assistance from the city to  
13 resolve this matter. We need continuing inquiries  
14 into the city’s efforts to come into compliance with  
15 *Butler*. I want to thank you for listening. I  
16 appreciate it.

18 CHAIRPERSON LEVIN: Thank you very much  
19 for your testimony and for your work.

20 BETH HOFFMEISTER: Hi, Chairs Levin and  
21 Ayala. Thank you so much for the opportunity to  
22 testify today. I’m Beth Hoffmeiseter, and I’m from  
23 the Legal Aid Society. In an effort to stay within my  
24 time frame I just want to amplify a couple of points.  
25 Obviously, Susan did a beautiful job laying out a lot

1 of the issues as we're seeing them as did our clients  
2 and the prior panel and other clients that different  
3 providers are working with. But it's clear that the  
4 reasons that we filed *Butler* there are still issues  
5 with the compliance and with real time issues that  
6 are coming up here and there with individual clients  
7 that we're still have to do all this advocacy as far  
8 the implementation rolls out. This has been my  
9 testimony, but I did want to flag that in the interim  
10 before you hit the five or possibly more year mark  
11 when the entire settlement is actually finalized.  
12 There is an opportunity for advocates to reach out to  
13 us directly to help with reasonable accommodations  
14 that aren't being met at the time, and you can email  
15 us at [bultercase@legalaid.org](mailto:bultercase@legalaid.org) or contact us at the  
16 hotline, which is 1-800-649-9125. So, I wanted to  
17 make sure that that was at least put out, but we can  
18 help other individuals during this interim stage. I  
19 want to again underline and underscore what Susan  
20 said about ADLs not being necessarily a medical  
21 issues that disability and medical issues are  
22 different, and there are times where like very  
23 occasionally and diagram they might overlap a little  
24 bit, but the ADL issues are not necessarily related  
25

1 to a hospital stay or medical issue. So, I just  
2 thing it's important as we talk about dealing with  
3 those issues that-that it-that it be amplified and  
4 restated again because I think they were-it was a  
5 little bit confusing in some of the testimony today  
6 about how that interacted. Because of *Butler*, we've  
7 filed on behalf of all client in shelter who have  
8 disabilities sand sometimes some people may need some  
9 accommodations related to specific medical issues,  
10 but those two things are distinct form one another  
11 and it's important to make that-make that clear. It's  
12 also worth nothing that we-and we did this in our  
13 testimony that really household composition can often  
14 be the difference between someone is able to have a  
15 home health aid, and is able to give assistance with  
16 all of the activities of daily living, and some other  
17 things, and that, you know, as-as we continue to move  
18 forward with the implementation of a settlement and  
19 continue to offer comments on the various policies,  
20 plans and procedures as DHS lays them out for us in  
21 the-in the guidelines of the settlement, this is an  
22 issue that we are continuing to look at. I think I  
23 just want to close real quick before Jackie continues  
24 for Coalition for the Homeless, and just say that we  
25

1 are very appreciative of the Counsel's continued  
2 focus on this issue, and we are always welcome to  
3 have continued meetings, and answer any questions  
4 particularly about the settlement as it's continuing  
5 to be rolled out.  
6

7 JACQUELYN SIMONE: Good afternoon. My  
8 name is Jacquelyn Simone, I'm a Policy Analyst at  
9 Coalition for the Homeless, [bell] and we submitted  
10 joint testimony with Legal Aid Society. I want to  
11 thank especially all of the clients who came out here  
12 today to share their first hand experiences. It was  
13 not—it was not easy for them to get to Lower  
14 Manhattan. Often they were coming from shelters very  
15 far away, and I think it was really amazing to have  
16 their voices heard. I also want to say that while  
17 improving shelter conditions is vitally important, we  
18 should also be focused on supporting this client  
19 population by expanding the sat-asides for truly  
20 accessible and low-income housing as Chair Levin  
21 mentioned. No one has to wait for the *Butler*  
22 *Settlement* process to proceed to ensure that New  
23 Yorkers with disabilities in shelter have access to  
24 permanent housing. We saw in the Mayor's Management  
25 Report that was released this week that residents are

1 staying in shelters and, in fact, the average length  
2 of stay in shelters for single adults is 401 days in  
3 Fiscal Year 2018, which is up nearly 100 days from  
4 Fiscal Year 2014, and we know from people that we  
5 serve at the Coalition that often people with  
6 physical disabilities have the longest lengths of  
7 stay in the shelter system. You know, it's-it's  
8 worth noting that some newly constructed buildings  
9 are physically accessible, certainly not all of them,  
10 but they may be better able to accommodate residents  
11 with disabilities who already have smaller pool from  
12 which to access affordable housing and, in fact, two  
13 of the named plaintiffs in the *Butler* case are  
14 currently living in accessible units that are part of  
15 that HPD set-aside process. This is part of the  
16 reason why we along with other members of the House  
17 our Future NY Campaign continue to call on the Mayor  
18 to allocate at least 10% of his Housing New York 2.0  
19 Plan to homeless New Yorkers including 24,000 units  
20 created through new construction and we encourage the  
21 Council to continue to explore advocacy around  
22 permanent as a means to support this population, and  
23 get them out of shelters. Thank you.

1  
2 CHAIRPERSON LEVIN: Thank you,  
3 Jacqueline.

4 JENNIE VELOZ: Hello. Good afternoon.  
5 First off, I would like to thank Chairperson Levin  
6 and Chairperson Ayala for the opportunity to present  
7 testimony today. My name Jennie Veloz. I am  
8 advocate in the Disability Justice Program and New  
9 York Lawyers for the Public Interest, and our  
10 disability justice program works to advance civil  
11 rights and ensure equality of opportunity, self-  
12 determination, and independence of New Yorkers with  
13 disabilities. NYOPI disability advocates have  
14 presented—have represented thousands of individuals  
15 and have won campaigns improving the lives of  
16 hundreds of thousands of New Yorkers. Through our  
17 work we have witnessed the impact inaccessible  
18 shelter have on families where a member of the family  
19 has a disability. A mother living with her 18-year-  
20 old daughter who has Cerebral Palsy, and uses a  
21 wheelchair, takes her daughter up and down the stairs  
22 everyday all by herself so that she can go to school  
23 because the shelter does not have an accessible  
24 entrance. They have been the shelter system for  
25 years, and they're having a challenging time finding

1 an apartment because no one will accept their  
2 voucher. They currently have a LINC Voucher. This  
3 mother does not have case management services to  
4 assist her in securing permanent housing for herself  
5 and her daughter. This is just one of many examples  
6 of how the shelter system is failing not only  
7 individuals with disabilities, but their families as  
8 well. There is an appalling lack of accessibility  
9 for people who have disabilities in the New York City  
10 shelter system. Individuals with physical, mental  
11 and intellectual disabilities are not provided the  
12 appropriate services and supports in these homeless  
13 shelters. People who use wheelchairs are placed in  
14 shelters that are wholly inaccessible. Federal, state  
15 and city law mandate equal access for persons with  
16 disabilities in these shelters, but accessibility  
17 expands beyond physical modifications. Accessibility  
18 means providing resources such as qualified  
19 counselors and case managers. Accessibility also  
20 means making sure that individuals especially those  
21 with disabilities are given the tools to maintain  
22 permanent housing. For example, getting assistance  
23 with finding an apartment. Assuring that individuals  
24 are not discriminated against because they have a  
25

1 voucher, and providing whole shelter case management  
2 to make sure that individuals remain self-sufficient  
3 and do not return to the shelters. Often times  
4 people are given vouchers and told to look for  
5 apartments within a specified amount of time, usually  
6 without any guidance. Their attempts to find housing  
7 are unsuccessful because they are told by landlords,  
8 realtors and management companies that their vouchers  
9 will not be accepted. They are then forced to return  
10 to the shelters with no assistance on how to proceed.  
11 They have no recourse but to continue to stay in  
12 shelters for the unforeseeable future. New York  
13 Lawyers for the Public—New York Lawyers for the  
14 public interest in order to ensure that New York City  
15 meets its obligations to ensure that people with  
16 disabilities are provided with equal access in law  
17 have a few recommendations. [bell] Finance and  
18 incentivized construction to improve accessibility of  
19 current shelters—of current facilities; properly  
20 screen individuals to ensure that individuals with  
21 disabilities are sent to accessible shelters;  
22 providing counseling for individuals with mental and  
23 intellectual disabilities; providing case management  
24 services during and after shelter stay with emphasis  
25

1 on preventing discrimination based on a person having  
2 a voucher; ensure enforcement of vouchers by  
3 landlords and management companies, also create a hot  
4 line to report landlords and management companies  
5 that do not accept these vouchers. Thank you for  
6 your time.  
7

8 CHAIRPERSON LEVIN: Thank you for your  
9 testimony. I want to thank this entire panel for  
10 your testimony and for all that good work that you do  
11 everyday advocating for a better shelter system, for  
12 a better city, and for the people that—that—that need  
13 assistance, and so I greatly appreciate all the work  
14 that you. I look forward to continuing to work with  
15 you. I think there is a lot of work that we can do in  
16 the coming couple of years coming out of—of this  
17 hearing. So, I greatly appreciate the opportunity to  
18 work with you all on moving forward.

19 JENNIE VELOZ: Thank you.

20 CHAIRPERSON LEVIN: Thank you. [pause]  
21 The final panel Towaki Komatsu, Sophia Zenovia Mann,  
22 (sp?) Elizabeth Betsy Lyman, Ronald Braxton, and Paul  
23 Feuerstein. Last but not least. [pause] And we'll be  
24 on the three-minute clock. We have written testimony  
25

1 I think from everybody as well. So, whoever wants to  
2 begin. Paul, you want to start?

3  
4 PAUL FEUERSTEIN: My name is Paul  
5 Feuerstein. I'm the Founder and CEO of Barrier Free  
6 Living. It's been spoken about today. We actually  
7 opened the first singles not-for-profit shelter in  
8 the homeless system in November of 1990. We were  
9 part of the group that was funded by Ed Koch in his  
10 Capital Homeless Housing Program, and we were the  
11 first to open at that period of time. Those bragging  
12 rights also meant that we had one of the lowest  
13 reimbursement rates in the city. When we met with  
14 Gilbert Taylor--

15 CHAIRPERSON LEVIN: [interposing] Lucky  
16 you. Lucky you, yeah.

17 PAUL FEUERSTEIN: Yeah, lucky me. When  
18 we meat with Gilbert Taylor shortly after Mayor De  
19 Blasio was--was elected we looked at our budget and it  
20 was \$1,000 less than when we started in Fiscal '91.  
21 In the Bloomberg years, our funds were cut. Every  
22 capital request we made was denied over that period  
23 of time and as a result, our building deteriorated.  
24 We knew when we met with Commissioner Taylor that we  
25 needed new elevators. We couldn't get parts for our

1 old elevators. They—they were importing hand made  
2 parts from China at this point to keep our elevators  
3 going. It was kind of a ridiculous things. There  
4 were about \$1.2 million worth of work we needed—we  
5 knew needed to be done. He suggested an engineering  
6 survey. We met with him at the end of April. We had  
7 bids by some time in May. It took until December to  
8 get approved and the engineers who looked at our  
9 building in April and then came back in January to do  
10 a thorough study found that there were—there were  
11 floors that had dropped three quarters of an inch  
12 between the time they had firsts come in and the time  
13 they were doing their examination. I'm not an  
14 engineer, but I understand that's a pretty big deal.  
15 Ultimately, we came up with \$4.4 million plan as well  
16 as a plan to be able to fix the building so it would  
17 be operational for another 25 years because we know  
18 that's the deal when we take capital money. The city  
19 said we don't have \$4.4 million for you. We can't be  
20 helpful. We went to the state for money, Homeless  
21 Housing Assistance Corporation. We had to do two  
22 applications because the first time around we were  
23 too late. The second was blocked by HRA because they  
24 essential said we would like you to expand your  
25

1 program, and be part of the Gateway program, create  
2 permanent housing on the side site that you had  
3 shelter, and for two years we looked for alternate  
4 space. Every space we found was denied. I had  
5 suggested reaching out to Health and Hospitals  
6 Corporation to DHS. They finally did that. We were  
7 shown two spots. One was a psychiatric ward in  
8 Woodhull, which was totally inaccessible. The other  
9 was a totally empty wards at Kohler. Not in years,  
10 hadn't been in use for a number of years. [bell] It  
11 would have been ideal. However, two or three weeks  
12 later we got a call from New York One and the local  
13 paper saying we understand you're opening halfway  
14 house on Roosevelt Island, and we said we have  
15 nothing to report because we were nowhere near  
16 talking with anybody about, but there was 180 degree  
17 turn in terms of the attitude of Health and Hospitals  
18 after that happened. We went to your colleague Ben  
19 Kallos. He helped us with other electeds. We got  
20 support from Community Board 8, and it was only  
21 afterward we were told it was really about, you know,  
22 Super Storm Sandy and flood plains and everything  
23 else. I don't know what happened to that empty ward,  
24 but it would have been big enough for us to move our  
25

1 program. We were successful at getting over 750  
2 severely disabled people put in permanent housing in  
3 New York City, and we had one of the lowest  
4 recidivism rates in the homeless system. It was a  
5 successful model. We didn't get the support we  
6 needed to be able to move forward. When we talked  
7 about the Gateway process, the last meeting we had  
8 with DHS we were told by the number 2 person at DHS  
9 we're no longer interested in working with people as  
10 disabled as your folks. We want to—want you to work  
11 with more independent people with disabilities, and  
12 board essentially said thanks but no thanks. The  
13 other piece of it—

14  
15 CHAIRPERSON LEVIN: Is that in writing,  
16 by the way?

17 PAUL FEUERSTEIN: No, that was a verbal  
18 conversation.

19 CHAIRPERSON LEVIN: Okay.

20 PAUL FEUERSTEIN: The other piece of it  
21 was at the end of the day we were mandated by a court  
22 in Upstate New York to take a Level 3 sex offender  
23 into our program, which was co-ed. He had been in  
24 prison and then in a psychiatric facility for ten  
25 years because he was deemed as being too out of

1 control to be safe in the community. DHS lawyers  
2 tried to object. Our lawyers tried to object, but  
3 the—the court held strong on that, and I essentially  
4 said to DHS staff, if we are having permanent housing  
5 for survivors of domestic violence and permanent  
6 housing for severely disabled people in this same  
7 building and the Gateway model, we have no appetite  
8 for future referrals by registered sex offenders, and  
9 what I was told was if we get him, you get him. And  
10 that went pretty much between the independent issue  
11 and the sex offender issue was the poison pills that  
12 led us to say: We're not going to proceed in doing  
13 another shelter there.

14  
15 CHAIRPERSON LEVIN: Okay. Well, I think  
16 there's a lot—a lot to go to move forward on there,  
17 and you certainly have my commitment that I will  
18 advocate for a re-establishment of the program. I  
19 interpreted willingness from DSS and DHS to be open  
20 to that it seemed from this testimony today. So,  
21 let's see where it goes.

22 PAUL FEUERSTEIN: Let's see where it  
23 goes. One issue, which I think is a learning piece  
24 that hasn't quite come through, we were told we could  
25 get a 20-year mortgage, a 20-year contract to service

1 as a margin. I said, What about capital reserves,  
2 and we still said, no we don't do that. I wouldn't  
3 do another building without the ability to have  
4 capital reserves because it's the only way you can  
5 keep the fabric of the building going, and that's a  
6 problem that hasn't been addressed yet by the non-  
7 profit resiliency committee--

9 CHAIRPERSON LEVIN: [interposing] Yes.

10 PAUL FEUERSTEIN: --in terms of the cost  
11 of keeping buildings open for not-for-profits.

12 CHAIRPERSON LEVIN: Well, let's keep  
13 talking. Thank, Paul.

14 PAUL FEUERSTEIN: Okay.

15 CHAIRPERSON LEVIN: Thank you.

16 Good afternoon. Thank you for the  
17 opportunity to testify today. I am Elizabeth Lynam.  
18 I am the Chief Program Officer of HHRC New York City.  
19 As you may know, we are one of the largest non-profit  
20 provider organizations in the nation. We serve  
21 15,000 people yearly that have intellectual and  
22 development disabilities. Our budget is about \$300  
23 million a year. So, we have a wide array of services  
24 that we offer: Residential, clinical, educational,  
25 day supports, employment supports, et cetera. I

1 wanted to talk to you a little bit today from the  
2 perspective of the OPWDD system. We have in the past  
3 had very strong relationships with OPWDD. In the  
4 shelter system there may be many, many adults who are  
5 disabled, as you've all heard today up to 42% I think  
6 by some estimates, and we support wholeheartedly the  
7 implementation swiftly of the Butler Settlement, but  
8 we also encourage the shelter system to think a  
9 little bit more broadly about disability. The  
10 footprint is not just around physical disability or  
11 mobility issues, but we've heard a lot today about  
12 accommodations with daily living, and other sorts of  
13 accommodations for blind individuals and—and  
14 disabilities of all sorts. So, when we talk about  
15 our population that we serve at HRC New York City, we  
16 serve individuals that have a wide variety of needs  
17 and especially in the shelter system are vulnerable  
18 and significantly vulnerable. So, we have three  
19 points we would like you to consider today as we  
20 think about that more broadly, and that is the  
21 responsibility for kids in the shelter system. There  
22 are many children in the shelter system that could  
23 benefit from services and also from screening for  
24 developmental delays. Right now, there are  
25

1 significant problems maintaining the continuity of  
2 services. In special education, for example, there  
3 are as many as 4,000 kids who probably should get  
4 special ed services in the pre-school system that do  
5 not for a variety of reasons including the transient  
6 nature of their accommodations. We know that the  
7 department has looked trying to do a little more care  
8 coordination, look at the addresses, and try to make  
9 the constant correspondence that comes out more  
10 available to parents, but it is really critically  
11 important, as everyone knows to screen kids for  
12 developmental delays and attach appropriate services  
13 so that they can have early intervention, and have a—  
14 have a reduced lifelong need as much as possible from  
15 those early inventors—early interventions services.  
16 So, there's an important child find responsibility  
17 there, which needs to take place, and to make—make  
18 sure that once children are identified they get  
19 referred, and get appropriate services. Two, I  
20 wanted to speak about adults. Many [bell] adults  
21 with IDD in the system may not be getting appropriate  
22 referral, and there we need to re-engage strong  
23 government partners like the OPWDD partners in the  
24 region who need to take responsibility for helping  
25

1 adults find appropriate accommodation and housing  
2 throughout the New York City area. Thais can be a  
3 challenge, but it is a partnership that in the past  
4 we felt was a strong one that needs to be  
5 reinvigorated. For example, there used to be a  
6 liaison who would come out, and screen within 36 hours  
7 from the regional office any adults suspected of IDD  
8 within the shelter system. That has not happened in  
9 recent years. So, we encourage you to look at the  
10 responsibility to adults for appropriate referral,  
11 and placement into systems that we've heard a lot  
12 about today that may be more appropriate for their  
13 support. Finally, I'd like to say that there are  
14 many individuals with disabilities who fall through  
15 the cracks in the current safety net. As we know,  
16 we've heard about adults with mental illness, and  
17 behavioral health issues. Some of those are duly  
18 diagnosed with intellectual and developmental  
19 disabilities. They are in particular difficult to  
20 find placement for. They don't fit squarely into  
21 either system, OPW or the Office of Mental Health and  
22 Hygiene's purview. So, we need to look at creative  
23 and flexible ways to develop options for them. We  
24 also have high functioning, increasingly autistic  
25

1 individuals who need certain kinds of accommodation  
2 and supports that don't fit squarely into either  
3 system. So we need to look very explicitly at  
4 certain groups within the safety net, and try to  
5 develop creative and flexible alternatives for those  
6 groups in particular. So, thank you very much for the  
7 opportunity to testify. I will close on that note.  
8 You also have my written comments there with you.  
9 Than you.

11 CHAIRPERSON LEVIN: Thank you.

12 SOPHIA MANN: Hello, my name is Sophia  
13 Mann. I am here as a Community Board 10 member,  
14 which represents Central Harlem from 110 to 155<sup>th</sup>  
15 from 5<sup>th</sup> Avenue over, and also I work in non-profit  
16 in development specifically with the DOE Fund. So,  
17 they deal with homelessness as well as finding  
18 services and alternatives for people who have  
19 experienced homelessness, and are dealing with re-  
20 entry into society from prison. And also, I am here  
21 as an advocate because my brother has severe autism,  
22 cerebral palsy, seizure disorder, et cetera. So, I  
23 am very familiar with OPWDD. I am very familiar with  
24 dealing with Medicare and Medicaid as a family, and  
25 also the dangers when it comes to when people might

1 fall through the cracks or when the voluntary  
2 agencies that handle services for people with  
3 disabilities are not able to provide for them come an  
4 emergency situation, and just bring to the attention  
5 the fact that although it was mentioned many times  
6 today as an alternative just vey quickly like oh,  
7 yeah, you can access OPWDD. It's—it's not that easy,  
8 and families don't necessarily have access to  
9 individuals should an emergency arise or their  
10 housing situation is compromised in any way. So,  
11 particularly in the context of inclement weather  
12 season coming up, I wanted to realize that this is  
13 very relevant because although people with  
14 intellectual disabilities may have housing through  
15 their agency, I know from my experience with Sandy,  
16 my brother was—their generators failed. They didn't  
17 have adequate care while they were in the housing,  
18 which—which wasn't—it was not feasible to also access  
19 him as well being out in housing in Canarsie. And so,  
20 I think it's very helpful if there was increased—I  
21 know representatives are not here now—coordination  
22 between your committee, Department of Homeless  
23 Services and these voluntary agencies to make them  
24 aware that should it come up that (a) if someone  
25

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1 needs homeless services for any reason whether it's a  
2 death in a family and services are not accessible to  
3 them or however, that it's not an option now, or it's  
4 not a feasible option now, and that also if anyone  
5 needs to access shelter services come any failing  
6 regarding weather or whatever, that it's also not  
7 feasible for agencies to turn to the shelter system  
8 for emergency—emergency help. Also, as a community  
9 board member we consistently deal with public safety  
10 complaints about people loitering and the answer is  
11 always, oh, Department of Homeless Services does do  
12 outreach to these individuals and they might decline  
13 services. However, they might make a turnaround and  
14 come back, and as you know, many people who might  
15 need homeless services are dealing with many  
16 different challenges—one more second—including mental  
17 health [bell] disability, et cetera. So, it would be  
18 really wonderful. I know it was said it was  
19 disseminated, but to again bring that conversation to  
20 light because just last night we had a public safety  
21 meeting, and I was definitely the genuine concern of  
22 many people how to adequately help community members  
23 and also give—give real answers to concerned  
24 community members who say we have this issue, but we  
25

1 also don't want to just refer them to anybody. So,  
2 that would be wonderful if that conversation could be  
3 had with community boards and--and local  
4 representatives. That's it.

5  
6 CHAIRPERSON LEVIN: Thank you so much for  
7 your testimony. Thanks.

8 TOWAKI KOMATSU: Hi. I'm Towaki Komatsu.  
9 I've testified at your meetings previously to no  
10 avail. With regards to your committee, I think there  
11 are 11 people on the committee, but I see only about  
12 three of you. So, regards to the due process rights  
13 of the people who enter the chamber to--chamber--  
14 chamber--oh, chamber today to be heard, where are your  
15 colleagues to actually honor people's fundamental due  
16 process rights. This meeting is about disabilities,  
17 ensuring that people with disabilities are getting  
18 the services and stuff they deserve. Let's take a  
19 look at this video that I recorded of military  
20 veteran in the building where I was--where I reside.  
21 So, I'm a crappy public speaker, and he's not getting  
22 the services that he needs. He needs repairs.  
23 They're not being met. I talked Fred Banks who left  
24 the Chamber earlier today. The last time I talked to  
25 him was on August 22<sup>nd</sup> and he basically blew me off.

1 So, you guys can watch this video or at least listen  
2 to the audio.

4 VIDEO PLAYING:

5 TOWAKI KOMATSU: So, Robert, I'm  
6 recording the video.

7 ROBERT: I don't know.

8 TOWAKI KOMATSU: So, you're a disabled  
9 Marine, right?

10 ROBERT: Well, we're in a community. You  
11 know the state are often here to go. I got two of  
12 them awards. (sic)

13 TOWAKI KOMATSU: Okay, can I record you on  
14 video?

15 ROBERT: You will hear me?

16 TOWAKI KOMATSU: I'm not—I'm saying can  
17 I--

18 ROBERT: Who is that?

19 TOWAKI KOMATSU: Can I record you on  
20 video?

21 ROBERT: Yes, sir.

22 TOWAKI KOMATSU: Can I record you on  
23 video?

24 ROBERT: Yes, you got—that is the camera.

1  
2 TOWAKI KOMATSU: This is Robert and  
3 you're a Marine and you're disabled?

4 ROBERT: An ex-Marine.

5 TOWAKI KOMATSU: An ex-Marine, and these  
6 repairs--

7 ROBERT: Right.

8 TOWAKI KOMATSU: And these repairs you're  
9 not getting them--

10 ROBERT: And these repairs have been--all  
11 of them.

12 TOWAKI KOMATSU: We got a coalition  
13 meeting? (sic) I think that's--I got it.

14 ROBERT: That's the Army and you can get  
15 those.

16 TOWAKI KOMATSU: Okay. So, that's a--

17 ROBERT: They--they got through and they  
18 wanted to--they wanted to take my things. (sic)

19 TOWAKI KOMATSU: So, now your apartment  
20 is before me. This shows an area of his floor in the  
21 living room. That needs repairs. He's been waiting  
22 two years for the repairs.

23 ROBERT: They haven't come in. They  
24 haven't come in this month.

25

1  
2 TOWAKI KOMATSU: [interposing] He's been  
3 paying rent. Now, let's got to the bathroom and see  
4 those ceilings. So, okay. So, you have a defective  
5 ceiling in his bathroom you're seeing now. How is  
6 your bathroom exactly?

7 ROBERT: You know, it is working.

8 TOWAKI KOMATSU: Okay, anyway, we can cut  
9 to the chase. I have a federal lawsuit with the  
10 city. I also have New York State Supreme Court  
11 lawsuit against HRA directly. Both of them are  
12 active. I also have separate litigation involved  
13 OTDA, the New York State Office of Temporary and  
14 Disability Assistance. So, basically I have a three-  
15 point lawsuit against HRA and the city. I testified  
16 at your public hearings repeatedly to no avail. So  
17 let me just give a shout out to Federal Judge Gabriel  
18 Gorenstein who is presiding over my federal lawsuit.  
19 [bell] So, my intent is essentially to put a  
20 stranglehold for all the funding that's being given  
21 to HRA to conduct its operations, and essentially  
22 forcibly have Mr. Banks fired. That's the conclusion  
23 of my testimony.

24 CHAIRPERSON LEVIN: Is there anything  
25 anyone else wants to add?

1  
2 PAUL FEURENSTEIN: One or two other  
3 pieces. The last time there was a survey of nursing  
4 homes in New York City by HHS, 9,200 people who were  
5 living in nursing homes in the city said that they  
6 would rather be living in the community. The average  
7 cost of a nursing home in New York according to the  
8 Health-State Health Department right now is \$147,828  
9 a year.

10 CHAIRPERSON LEVIN: Right.

11 PAUL FEURENSTEIN: So, we're spending a  
12 tremendous amount of money to keep people in  
13 institutions, and we—we created supportive, but  
14 people who were in rehabilitation facilities, people  
15 who were in institutions didn't qualify for  
16 supportive housing because they weren't considered  
17 homeless.

18 CHAIRPERSON LEVIN: Uh-hm.

19 PAUL FEURENSTEIN: They had to be in a  
20 homeless shelter or on the streets for a year of the  
21 last two or two of the last four. There were a whole  
22 group of women veterans who were victims of sexual  
23 assault that we wanted to move into--

24 CHAIRPERSON LEVIN: Uh-hm.

1  
2                   PAUL FEURENSTEIN: --our Supportive  
3 Housing Program. We couldn't because they were in a  
4 rehab facility, and that wasn't considered homeless.

5                   CHAIRPERSON LEVIN: Okay. So, I want to  
6 thank this panel for your testimony. I want to thank  
7 everybody that stayed throughout this--the course of  
8 this hearing. Thank you for your testimony. Thank  
9 you for your insight into this issue. Clearly,  
10 there's a lot of work that needs to be done here. I  
11 look forward to working with my colleague Chair Ayala  
12 moving forward, and Chair, do you have anything you  
13 want to add?

14                   CHAIRPERSON AYALA: Well, I just wanted  
15 to thank you all for attending today's hearing.  
16 Thank you so much.

17                   CHAIRPERSON LEVIN: Okay, this hearing is  
18 adjourned. [gavel]

19  
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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date September 28, 2018