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The Council

REPORT OF THE GOVERNMENTAL AFFAIRS DIVISION

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Oversight - New Homeless Shelter Eligibility Process for Single Adults

On November 9, 2011, the Committee on General Welfare, chaired by Council Member Annabel Palma, will hold a hearing on the new homeless shelter eligibility process for single adults that the Department of Homeless Services (“DHS”) plans to enact on November 14, 2011. DHS Commissioner Diamond, representatives from the Legal Aid Society and the Coalition for the Homeless, and other concerned members of the community are expected to testify.

Background

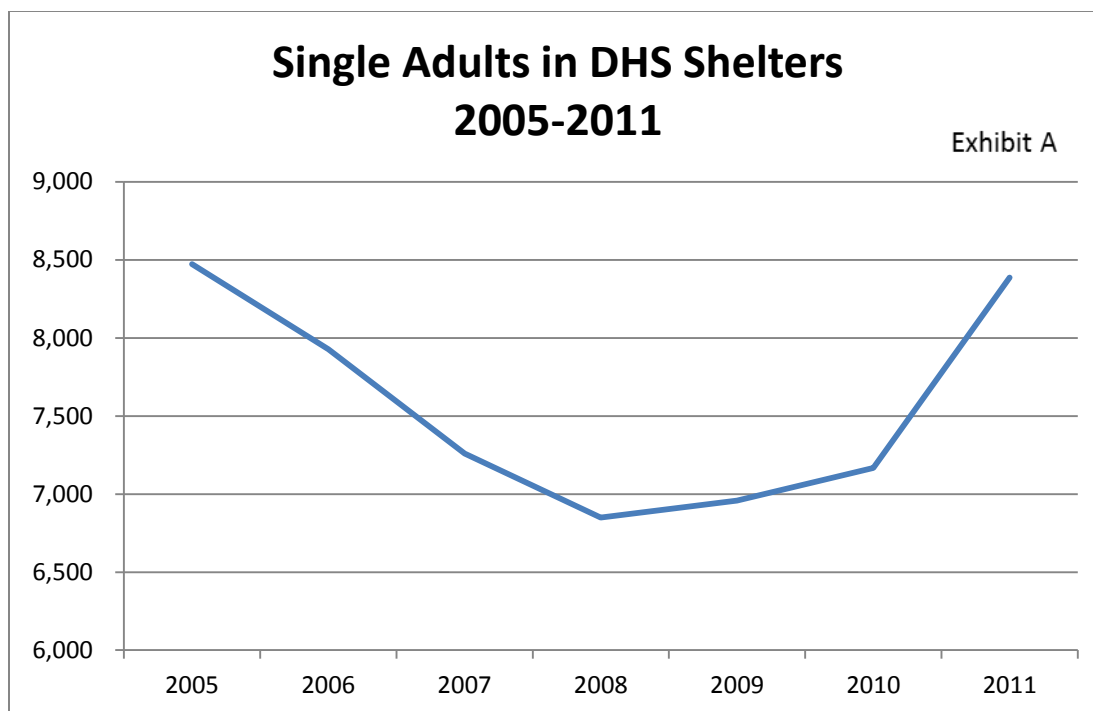
Homelessness Rates

The overall number of people in the DHS shelter system has increased in recent years. The Department of Homeless Services publishes data on the number of individuals and families staying in their shelter system. DHS' Daily Report for November 3, 2011 shows 39,293 individuals in the traditional¹ shelter system, which represents an increase of 23% since 2006.²

DHS' Daily Report also shows that there were 9,343 single adults in the shelter system on November 3, 2011, which includes 8,464 in traditional shelter beds, 502 individuals in Safe Haven (low-threshold shelter) and 377 in veterans short term housing. Exhibit A shows the annual average shelter usage of traditional single adult DHS shelters for the past several years. The single adult shelter population decreased from 2005 to 2008 by 19 percent. Most recently, however, the number of homeless single adults has risen significantly. Since 2008, the population increased by 22 percent.

¹ Notably, DHS does not include the number of people in Safe Haven facilities, veterans facilities, or in stabilization beds in this figure because, according to the agency, these are non-traditional type of emergency housing.

² <http://www.nyc.gov/html/dhs/html/home/home.shtml> (last visited Nov. 7, 2011); see also DHS Critical Activities Report, available at <http://www.nyc.gov/html/dhs/html/about/car.shtml> (last visited Nov. 9, 2011)



The Process for Applying to Shelter

Currently, the homeless shelter intake process differs for single adults and families. In 1979, in the Callahan v. Carey case, the Supreme Court of the State of New York ordered that the City and State must provide shelter for homeless men.³ Two years later, the Callahan case was settled by consent decree (“Callahan Decree”), which established a legal right to shelter for homeless men. Specifically, under the consent decree, New York City must provide shelter and board to homeless men who apply for shelter, provided that 1) they meet the needs standard to qualify for public assistance, as established by the State, or 2) they need temporary shelter due to physical, mental, or social dysfunction.⁴ The Callahan Decree also sets forth minimum standards New York City must maintain for single adult shelters, including health and safety standards, locations and operation hours for intake centers, and standards for the dissemination of public

³ Callahan v. Carey, No. 79-42582 (Sup. Ct. N.Y. County, 1979).

⁴ http://www.escr-net.org/usr_doc/callahanconsentdecree.pdf.

assistance benefits information to applicants.⁵ In 1982, the court in Eldredge v. Koch incorporated a right to shelter and equal shelter standards for homeless women into the Callahan Decree.⁶ Since then, the Legal Aid Society has sued the City several times to enforce various parts of the consent decree. Most recently, in 2009, Legal Aid alleged that the City had failed to provide an adequate number of beds to accommodate the increasing numbers of homeless adults and as a result, the City added hundreds of shelter beds to increase capacity within the single adult system.⁷

Homeless adults seeking shelter must first go to an intake facility. There is one intake facility for men at East 30th Street, while there are two intake points for women, one in the Bronx and one in Brooklyn. A client's needs are assessed including those related to mental health or substance abuse, in order to determine the appropriate shelter placement. While DHS "strongly suggests" that adults bring some type of identification to intake, it is not required.⁸

Legally, pursuant to a court order in the Boston v. City of New York litigation, the City must also provide shelter to families and children who lack housing.⁹ Homeless families, however, undergo a different intake process than single adults. Homeless families seeking shelter must visit the Prevention Assistance and Temporary Housing Office ("PATH") intake center in the Bronx.¹⁰ Services at PATH are provided to families with children under 21, pregnant women, or families with a pregnant woman.¹¹ Adult families with no children younger than 21 must go to the Adult Family Intake Center ("AFIC"), located in Manhattan. Families applying for shelter are prescreened to verify that they are in fact requesting services at the

⁵ Id.

⁶ http://www.escri-net.org/usr_doc/righttossheltertimeline.pdf.

⁷ <http://www.legal-aid.org/en/mediaandpublicinformation/inthenews/cityhasrunoutofshelterspace.aspx> (last visited Nov. 7, 2011)

⁸ <http://www.nyc.gov/html/dhs/html/homeless/adultserv.shtml> (last visited Nov. 7, 2011).

⁹ Boston v. City of New York, Index No. 402295/08 (Sup. Ct. NY Cty Dec. 12, 2008).

¹⁰ See Department of Homeless Services, Welcome to PATH, at 1 (on file with the Committee on General Welfare).

¹¹ Id.

appropriate intake center.¹² All family members must be present with general identification materials and proof that the household is a family. After the prescreening process, applicants must complete a health form for the entire family, which should indicate pregnancy, special medical issues, conditions making applying for shelter difficult, and if the homelessness was due to seeking refuge from domestic violence.¹³ Those indicating any health related issues are transferred to the Triage Nurse, who is on site at PATH.¹⁴ Those who report household violence are referred to No Violence Again (NOVA) workers, who specifically assist victims of domestic violence.¹⁵

After the initial screenings, referrals are made to Diversion, where Human Resources Administration (“HRA”) staff assist applicants who may not need to enter the shelter system because they are eligible for City or State assistance.¹⁶ At Diversion, applicants may be offered rental assistance if they have been evicted, rent arrears grants, relocation assistance to friends and family, housing subsidies from the Administration for Children’s Services (ACS) for families with children in foster care, assistance with placing a child in foster care, or assistance for foster care youth who are aging out.¹⁷ Staff from the Department of Education (“DOE”) are also on-site at PATH to assist families who have any questions related to their child’s enrollment in school.¹⁸

If the family applicant does not qualify for any of the diversion alternatives, the applicant is interviewed by a DHS Family Worker/Team Leader who investigates whether there are other

¹² Id. at 2.

¹³ Id. at 2.

¹⁴ Id. at 3.

¹⁵ Id. at 2-3.

¹⁶ Id. at 3.

¹⁷ Id. at 3-4.

¹⁸ Id. at 4.

alternatives to shelter.¹⁹ Families who have safe and appropriate places to stay are not eligible for shelter services.²⁰ Eligibility is determined by an investigation of all the locations where applicants have lived over the past two years, which applicants are required to list on their applications for shelter.²¹ In addition, applicants must explain why they left each location, and personal resources such as friends, family, or others who applicants believe can offer living arrangements must be disclosed on the application and to the Family Worker/Team Leader as well.²² DHS staff will consider documentation such as letters from landlords, managing agents, people with whom the applicant has lived, other documentation listing reasons for the inability to reside in previous locations, eviction papers, marshals' 72-Hour notices, and other medical reports or statements from doctors to support the need for shelter.²³

Field Special Investigators visit previous homes listed on the applications to determine eligibility for temporary housing.²⁴ An interim eligibility assessment conference takes place five days into the investigation where Family Workers/Team Leaders request additional paperwork or information from applicants.²⁵ At this point, family applicants also obtain information about preliminary findings.²⁶

After the ten-day period, a family applicant is deemed eligible or ineligible for shelter. Those who are found eligible remain in their current shelter placement, which was previously conditional.²⁷ Those who are deemed ineligible are referred to the Resource Room where "experienced Social Workers" offer a variety of services, including family mediation, crisis

¹⁹ Id. at 5.

²⁰ Id. at 8; see also Department of Homeless Services, Family Services, Who is Eligible, available at <http://www.nyc.gov/html/dhs/html/homeless/famserv.shtml> (last visited Nov. 7, 2011).

²¹ See Welcome to PATH, supra note 11, at 5-6.

²² Id.

²³ Id. at 6.

²⁴ Id.

²⁵ Id. at 7.

²⁶ Id. at 8.

²⁷ Id. at 10.

counseling, and referrals to other resources such as employment and training, child care, financial services, and immigration services.²⁸ Those deemed ineligible are informed of their right to a DHS Legal Conference, a State Fair Hearing, and the right to reapply.²⁹

New Eligibility Policy for Single Adults Applying for Temporary Housing Assistance

On November 3, 2011, DHS issued a new Single Adults Eligibility Procedure (“Eligibility Procedure”), which it plans to implement on November 14, 2011.³⁰ While families have had to undergo a formal eligibility determination process, until now, single adults did not.³¹ Instead, the new Eligibility Procedure sets forth standards that intake specialists at single adult facilities must follow in order to determine whether an individual applying for Temporary Housing Assistance (“THA”) is eligible.³² Single adult applicants must complete a Temporary Housing Application and an Intake or Eligibility Determination Questionnaire (“EDQ”) that collects a two-year housing history.³³ The purpose of the Eligibility Procedure is to ensure that shelter is being provided “only to persons who have no other available housing or the means to secure other housing.”³⁴

The Eligibility Procedure explicitly states that applicants are required to cooperate with DHS’ eligibility process; failure to produce required documentation without a valid reason constitutes a failure to cooperate and shelter will not be granted.³⁵ Applicants bear the burden of proving they are homeless. The Eligibility Procedure follows the New York State Office of

²⁸ Id. at 9-10.

²⁹ Id. at 8-9.

³⁰ Department of Homeless Services, Single Adults Eligibility Procedure, Procedure No. 12-400, Nov. 14, 2011.

³¹ <http://www.nyc.gov/html/dhs/html/homeless/adultserv.shtml#shelter> (last visited Nov. 7, 2011).

³² Department of Homeless Services, Single Adults Eligibility Procedure, Procedure No. 12-400, Nov. 14, 2011.

³³ Id. at 7.

³⁴ Id. at 1.

³⁵ Id. at 2.

Temporary and Disability Assistance's ("OTDA") guidelines for applying for THA, which statethat

All applicants must demonstrate by clear, convincing and credible evidence that they have actively sought and are unable to access any other temporary or permanent housing, including housing in which they had previously resided and temporary accommodations provided by friends or relatives.³⁶

OTDA further states that "the credibility of the applicant and the primary tenant all must be considered and a determination of eligibility made based upon the totality of the circumstances."³⁷ DHS will document its eligibility determinations and findings in the applicant's case record and provide the applicant with written notice of its findings.³⁸ In all cases, a DHS supervisor must review the findings of the investigation and approve the determination.³⁹

Eligibility Criteria

DHS will investigate all residences where the individual has resided in the year prior to the date of application, and where the individual resided "previous to the year prior to the date of application."⁴⁰ According to the Eligibility Procedure, an individual cannot "elect" to be homeless by not utilizing other resources to obtain housing.⁴¹ For example, a viable housing option may be "a house owned by the applicant where the applicant has not lived for more than one year."⁴² DHS may propose actions to help individuals or primary tenants make housing options on a temporary or permanent basis.⁴³ Such proposed actions "include reconfiguring

³⁶ Id. at 3.

³⁷ Id. at 3.

³⁸ Id. at 2.

³⁹ Department of Homeless Services, Single Adults Eligibility Procedure, Procedure No. 12-400, Nov. 14, 2011, at 8.

⁴⁰ Id. at 4.

⁴¹ Id. at 4.

⁴² Id. at 8.

⁴³ Id. at 4.

furniture or sleeping arrangements.”⁴⁴ A primary tenant’s express claim that the applicant can no longer reside in a viable housing option, as determined by DHS, is insufficient by itself to establish that the housing is no longer available.⁴⁵

If an applicant suffers from mental or physical impairment that is impairing his or her ability to participate in the application process, a licensed social worker at the DHS intake facility will determine if the applicant is able to cooperate.⁴⁶ If a licensed social worker is not available, the applicant’s need for immediate shelter will be met until the assessment can occur.⁴⁷ If the applicant is deemed ineligible, DHS will, when necessary, arrange transportation to the housing option and arrange for support services.⁴⁸

DHS will determine that an applicant has a viable housing option under several circumstances. If an applicant has tenancy rights at any housing option, the applicant will be deemed ineligible for housing provided that there is no imminent threat to health or safety.⁴⁹ Residential treatment and detoxification services, supportive housing, a nursing home, or other community living situation will be considered available housing options, unless there is an imminent threat to health or safety to the applicant.⁵⁰ Eviction proceedings against applicants are “not sufficient to show unavailability of the viable housing option since a court has not yet ruled on the landlord’s petition for relief.”⁵¹ And if an applicant vacates a housing option voluntarily, prior to eviction, DHS may consider this address as a viable housing option.⁵² In fact, DHS will expect the applicant “to retrieve their previously submitted keys from the landlord and reside at

⁴⁴ Id. at 4.

⁴⁵ Id. at 3.

⁴⁶ Id. at 3.

⁴⁷ Id. at 3.

⁴⁸ Department of Homeless Services, Single Adults Eligibility Procedure, Procedure No. 12-400, Nov. 14, 2011, at 3.

⁴⁹ Id. at page 4.

⁵⁰ Id.

⁵¹ Id. at 5.

⁵² Id.

that address until the event of a formal eviction actually occurs.”⁵³ DHS will investigate pending eviction claims by calling the Marshal.⁵⁴ If an applicant states that he or she cannot return to a viable housing option because his or her name is not on the lease, DHS “will assess whether this is a valid occupancy restriction that would render the viable housing option unavailable.”⁵⁵ DHS will also investigate claims by the applicant that the viable housing option is overcrowded or unhealthy⁵⁶ and it DHS may conduct field investigations at its discretion.⁵⁷

Similar to the existing policies for families seeking shelter, if an applicant alleges that she is the victim of or at risk of domestic violence, DHS will immediately refer applicants to HRA’s No Violence Again (“NoVA”) unit for an interview and the applicant may be placed in shelter pending NoVA’s determination.⁵⁸ During this time, DHS will suspend its investigation and if NoVA finds the adult to be in need of domestic violence services, but there is no room at a domestic violence shelter, then the applicant will be found eligible for shelter.⁵⁹ When an applicant alleges that the viable housing option is unhealthy or unsafe, DHS will investigate and refer the applicant to the appropriate medical or social services professional for evaluation, “to determine whether the applicant or the [primary tenant] has an impairment that would render the housing option unavailable to the applicant.”⁶⁰

DHS will assess an applicant’s income and assets to determine eligibility. Applicants who are not eligible for safety net assistance due to income may be deemed ineligible for

⁵³ Id.

⁵⁴ Id.

⁵⁵ Id.

⁵⁶ Id.

⁵⁷ Id. at 8.

⁵⁸ Department of Homeless Services, Single Adults Eligibility Procedure, Procedure No. 12-400, Nov. 14, 2011, at 5-6.

⁵⁹ Id. at 6.

⁶⁰ Id.

temporary housing assistance.⁶¹ Additionally, DHS expects that those with over \$2,000 in assets will use those resources before seeking shelter.⁶² In addition to requesting bank statements and other evidence, DHS will use other data sources, such as WorkerConnect, to find unreported assets.⁶³

DHS Conference and Fair Hearings

DHS staff must inform ineligible applicants that they are entitled to a DHS conference, where a DHS official who was not directly involved in making the eligibility determination will review the determination, allow the applicant to present new information, and accept documents submitted by the applicant.⁶⁴ DHS may uphold the prior determination, render a different decision, or provide the applicant with shelter while DHS investigates the new information.⁶⁵ DHS shall also inform applicants that they have the right to request a fair hearing, but applicants will not be granted shelter while the hearing is pending.⁶⁶

Reapplications

Applicants who were denied shelter and then reapply within a 90-day time period will be assessed based on whether the re-applicant has submitted sufficient information, whether material changes have taken place since the previous application, and whether the re-applicant is subjected to health or safety risks.⁶⁷ DHS will provide shelter in cases where the re-applicant is a victim of domestic violence and the perpetrator lives with the re-applicant, or where a re-applicant (or the primary tenant) has been evicted.⁶⁸

⁶¹ Id.

⁶² Id.

⁶³ Id. at 7.

⁶⁴ Department of Homeless Services, Single Adults Eligibility Procedure, Procedure No. 12-400, Nov. 14, 2011, at 10.

⁶⁵ Id.

⁶⁶ Id. at 10.

⁶⁷ Id.

⁶⁸ Id.

Issues and Concerns

According to a recent media report, last week, on November 3, DHS announced that, in order to achieve a cost savings of \$4 million, it is changing its policy this month to require single adults to prove that they do not have other housing options. According to the DHS Commissioner, Seth Diamond, the City needs to reserve the resources they do have for those who need it most, and 60% of people in the homeless system come from other homes. The Commissioner reported that people who have alternative places to stay are not homeless and should return to those homes, even if they are only temporary options. Accordingly, when this policy goes into effect, applicants will be required to answer questions about their recent housing history; DHS will deny shelter to anyone who has friends or relatives they can stay with. Furthermore, according to DHS, the demographics of people seeking shelter are changing and now there are more people with recent work experience applying for shelter. As more people apply, and shelters approach capacity, officials need to enforce stricter guidelines to determine eligibility.

DHS' new policy raises concerns for several reasons. First, DHS has been criticized in the past for failing to accurately assess families' eligibility. Reapplication rates for families suggest that there are families deemed ineligible by DHS who do in fact require shelter. At a General Welfare Committee hearing on October 24th, 2007, entitled, "Oversight: Department of Homeless Services' New Policy for Family Intake and Overnight Placements" (October 2007 hearing), representatives from the Legal Aid Society testified that "there is a problem with the

eligibility process if you look at it in terms of people when they reapply.”⁶⁹ According to the FY ’11 DHS Critical Activities Report, the percent of eligible families who submitted multiple applications has been increasing: the number of eligible families who submitted two applications has increased from 9.5% in FY ’10 to 10.4% in FY ’11, the number of eligible families who submitted three applications increased from 4% in FY’10 to 4.2% in FY ’11, the number of families who submitted four applications increased from 1.7% in FY’10 to 2.0% in FY ’11, and the percent who submitted six or more applications increased from 1.6% in FY ’10 to 1.7% in FY ’11.⁷⁰ These figures suggest that DHS mistakenly denied eligibility in the first instance with some frequency.

In addition, media reports have documented instances where DHS has failed to accurately assess eligibility, causing families to sleep in public spaces. According to *The New York Times*, when DHS implemented a change in its intake procedure for families in 2007, eight families were deemed ineligible during the first week of the policy’s enforcement, some of whom slept on the floor of a church near PATH, and one of whom spent the night in a hospital emergency room.⁷¹ The Committee is therefore concerned that under the new Eligibility Procedure single adults seeking shelter will be turned away, have nowhere else to go, and be required to reapply for shelter, further delaying access to the services they urgently need.

Furthermore, testimony at the October 2007 hearing described the inability of DHS to determine if a viable housing option was in fact viable. For example, one family was told to live

⁶⁹ See October 24, 2007 General Welfare Hearing Transcript, *available at* <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=447701&GUID=2D52E541-F90F-428D-BFEE-FD85A1362D2E&Options=Advanced&Search=> (Last visited Nov 4, 2011) at 136.

⁷⁰ See DHS Critical Activities Report, *available at* <http://www.nyc.gov/html/dhs/downloads/pdf/familyfy10.pdf> (last visited Nov. 7, 2011)

⁷¹ *The New York Times*, **No Room for Homeless Families**, Oct. 21, 2007, *available at* <http://www.nytimes.com/2007/10/21/opinion/nyregionopinions/CIhomeless.html> (last visited Nov. 7, 2011)

at a relative's New York City Housing Authority (NYCHA) apartment. The relative had multiple health conditions and a letter was submitted to DHS from her doctor stating that the family could not reside with her. The family was still determined ineligible for shelter even after the doctor's note was provided.⁷² The Committee is concerned that single adults will face similar unreasonable housing assessments, which may lead to an increasing number of homeless individuals sleeping on subway platforms and on the street. As noted earlier, if an individual in a middle of an eviction proceeding voluntarily moves out prior to a final determination and applies for shelter, DHS will expect that the individual return to the apartment, ask for her keys back from the landlord—the same landlord who brought the eviction proceeding in the first place—and ask that she be allowed to live in the apartment while the eviction proceedings are finalized.

A main concern with DHS' implementation of the new policy is that adults seeking shelter bear the burden of proving they do not have a viable housing option, many of whom suffer from mental illness and substance abuse. According to a study conducted by the Department of Health and the Department of Homeless Services in 2005, the death rate for those who used the single adult shelter system was 2.19%, more than double the death rate for New York City's adult population and significantly higher than the 1.57% death rate of adults who used the family shelter system between 2001 and 2003⁷³. Substance use was the third leading cause of death for single homeless adults, with a death rate nearly triple that of adults using family shelters. Nearly one-third of all deaths of those who used the single adult shelter system

⁷² See October 24, 2007 General Welfare Hearing Transcript, *available at* <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=447701&GUID=2D52E541-F90F-428D-BFEE-FD85A1362D2E&Options=Advanced&Search=> (Last visited Nov 4, 2011) at 139.

⁷³ See Health of the Homeless Report, *available at* http://www.nyc.gov/html/dhs/downloads/pdf/homeless_adults_health.pdf, at pp. 7, 11.

were due to substance use or HIV/AIDS.⁷⁴ Overall, substance use, alcohol use, and mental illness accounted for 69% of hospitalizations among homeless adults.⁷⁵ According to a more recent report conducted by the Department of Health and Mental Hygiene, from July 2009 to June 2010 the leading cause of homeless deaths was heart disease (26%) followed by drug overdose (18%). Proving homelessness is already difficult for healthy individuals, let alone those suffering from mental illness. Additionally, individuals will not be given shelter while DHS determines their eligibility. Some advocates have expressed concern that this is a particularly troublesome policy to implement before Thanksgiving and the winter because it will result in more New Yorkers sleeping on the streets.⁷⁶

At today's hearing the Committee seeks to understand the implications of the new Eligibility Procedures for single adults and how DHS plans to address concerns related to its implementation.

⁷⁴ See New York City Department of Health and Mental Hygiene Fifth Annual Report on Homeless Deaths, at 1 (on file the Committee on General Welfare).

⁷⁵ New York City Dept. Health and Mental Hygiene and Department of Homeless Services, The Health of Homeless Adults in New York City (Dec. 2005), *available at* http://www.nyc.gov/html/dhs/downloads/pdf/homeless_adults_health.pdf.)

⁷⁶ Melissa Russo, "NYC Shelter Seekers Must Prove Homelessness Under New Policy," NBC New York, Nov. 3, 2011, *available at* <http://www.nbcnewyork.com/news/local/Homeless-Shelter-Policy-Change-Temporary-Housing-Requirement-Court-133213703.html> (last visited Nov. 7, 2011).