



**Testimony of Bruce Jordan, Chief Homelessness Prevention Officer  
Human Resources Administration  
Office of Homelessness Prevention Administration**

**Before the New York City Council, Committees on General Welfare and Civil and Human Rights  
Oversight – Rental Assistance and Source of Income Discrimination  
September 15, 2020**

Good morning Chairs Levin and Eugene, and members of the General Welfare and Civil and Human Rights Committees. Thank you for the opportunity to testify today on the topic of rental assistance and source of income discrimination programs. My name is Bruce Jordan and I am the Chief Homelessness Prevention Officer at the Human Resources Administration (HRA) and I am joined by Erin Drinkwater, Deputy Commissioner for Intergovernmental and Legislative Affairs at the Department of Social Services (DSS). The Homelessness Prevention Administration’s mission is to keep New Yorkers stably housed and ensure they are connected to resources like rental assistance and legal services. Within the Homelessness Prevention Administration are the Housing and Homeless Services/Initiatives Division, the Rental Assistance Program, the Legal Services Initiatives unit, and the Early Intervention Outreach Team, all of which are vital partners in assisting New Yorkers in need and contributing to the first pillar of the Mayor’s Turning the Tide Plan, to prevent homelessness wherever possible.

**A System Built Up Over Time Against a Backdrop of Affordable Housing Scarcity, Structural Inequality and Severely Rent Burdened New Yorkers**

The reforms and initiatives we are implementing are taking hold, despite prior decades of underinvestment in affordable housing and rental assistance. DSS serves three million clients each year. Poverty and homelessness are often attributed to individual decision-making and individual circumstances, rather than underlying structural inequality. However, structural inequality is a reality for the families and individuals we serve every day. We are making progress, our census for 2017, 2018 and 2019 has remained flat year over year for the first time in more than a decade at approximately 60,000. Today, the New York City Department of Homeless Services census is fewer than 55,000, but we still have much more work to do to address the problems that built up over many years.

As I begin my testimony, it's important to briefly provide some historical context. From 1994 to 2014, the shelter population in NYC increased 115 percent. And between 2011 and 2014, following the abrupt end to the Advantage rental assistance program, the DHS shelter census increased by 38 percent. During this same time, New York City faced increasing economic inequality as a result of stagnant wages, a lack of affordable housing, and an increased cost of living – rents increased more than 18% while wages increased by less than 5% and 150,000 rent regulated apartments were lost. Combined, these and other trends meant that by 2015 the city had only half the housing it needed for about three million low-income New Yorkers. And while the city’s rental vacancy rate of 5 percent poses a problem for people across all

incomes, renters who are only able to afford an apartment costing \$800 or less must search in a market with a vacancy rate of a mere 1.15 percent in 2017, down from 1.8 percent in 2014. Today, roughly three out of every ten of New York City's renters are severely rent-burdened, spending more than 50 percent of their income on rent. Many of these individuals and families facing rent burden are also those who cycle in and out of poverty, living just one personal crisis away from homelessness, COVID19 has only exacerbated this crisis.

## **PREVENTING HOMELESSNESS WHENEVER WE CAN**

A prevention first model has been key to our addressing the homeless crisis that has built up over four decades by stopping homelessness in the first place. Our prevention model includes three key initiatives—an expansion of the network of neighborhood-based Homebase offices in all five boroughs, and Universal Access to Counsel through the Office of Civil Justice and rental assistance.

### **HomeBase**

Homebase is a community-based prevention program and serves as the first point of entry for those at risk of becoming homeless. Under this Administration, we expanded the number of Homebase locations from 14 in 2014 to 26 in 2020. This expansion increased access so that people can be served close to home. At these locations, our contracted providers work with families and individuals to determine the prevention and diversion tools for which they are eligible, including: onsite processing and triage for public assistance and rental assistance, landlord and family mediation, educational advancement and employment opportunities, and financial literacy services. The number of households served by Homebase served 28,700 in FY20, almost tripling the 11,900 households served in FY14. Through Homebase we also increased access to payment of emergency rent and utility arrears to assist New Yorkers at risk of eviction remain in their homes and to cover the increasing costs of rent. To date, this Administration has provided emergency rent arrears to approximately 50,000 households each fiscal year since FY15 and over a quarter million grants to households since 2014. The average payment per case between July 2019 to April 2020 was \$4,231. We also made the payment process more efficient and quicker by replacing the old system of generating checks at each individual HRA Job Center with a centralized rent arrears processing unit. Moreover, we have implemented an electronic benefits payment system for Housing Authority rent arrears payments and we are developing a similar payment system for private landlords. Using ACCESS HRA, clients can confirm that the rent was paid to their landlords, a reform we worked to codify in State law.

Under this Administration, we exponentially expanded free legal assistance for New Yorkers facing eviction and landlord harassment. Funding for legal services for tenants increased more than 20-fold since 2014, from roughly \$6 million to more than \$128 million currently, growing to \$166 million in the baseline budget when the right to counsel program is implemented fully. With this investment, residential evictions by marshals declined by 41% since 2013. In 2019 alone, evictions decreased 15 percent—the largest single-year decrease since the launch of the City's Universal Access to Counsel program. In FY19, OCJ funded legal organizations provided legal assistance to over 41,000 households across New York City facing housing challenges, comprising over 105,000 tenants and their household members. This reflected a 24% increase in households served compared to the prior year and a 74% increase compared to FY17, before the formal launch of Universal Access. As of December 2019, nearly 400,000 New Yorkers received free legal representation, advice, or assistance in eviction and other housing-related matters since 2014

through tenant legal services programs administered by the Human Resources Administration's Office of Civil Justice in the Homelessness Prevention Unit.

### **Rental Assistance: Streamlined Programs, Policy and Process Changes**

HRA's rental assistance programs help individuals and families move out of shelter or avoid homelessness by providing monthly rent supplements which bridges the gap between rents and income. After the City and State cut the Advantage rental assistance program in 2011, homelessness grew by an additional 38%. Upon taking office in 2014, this Administration jumped in aggressively to fill the gap and rebuilt rental assistance and rehousing programs from scratch in order to provide families and individuals with the vital support needed to secure housing or remain housed. Today, HRA's rental assistance programs are a critical component of a multi-pronged social service strategy that responds to unmet affordable housing supply needs. In 2018, HRA streamlined City funded rental assistance programs for households in or at risk of going into shelter, collapsing 7 unique programs into one making it easier for landlords and clients alike. The CityFHEPS program design is consistent with settlement with the State in *Tejada* with respect to State FHEPS. We recognize rental assistance is a critical tool to move families and individuals out of shelter and to prevent entry into shelter, CityFHEPS is entirely funded through city tax levy.

To be eligible for CityFHEPS, households must have a gross income at or below 200% of the federal poverty level and meet one of the following five (5) criteria:

1. The household includes someone who served in the U.S. Armed Forces and is at risk of homelessness; OR
2. The household has an unexpired LINC, CITYFEPS, or SEPS letter at the time CityFHEPS eligibility is requested (not available after 2/28/2019); OR
3. The household gets LINC VI or Pathway Home benefits and would be eligible for CityFHEPS if they were in DHS or HRA shelter; OR
4. The household was referred by a CityFHEPS qualifying program, and DSS determined that CityFHEPS was needed to avoid shelter entry; OR
5. The household is facing eviction in court (or was evicted in the past year)

#### **AND:**

- Includes someone who has previously lived in a DHS shelter; OR
- Includes someone who has an active Adult Protective Services (APS) case or is in a designated community guardianship program; OR
- Lives in a rent-controlled apartment and will use CityFHEPS to stay in that apartment.

One of the goals of streamlining multiple rental assistance programs was to increase our ability to combat discrimination faced by prospective renters using subsidized vouchers in the housing market, referred to as source of income discrimination. The streamlining of rental assistance programs has resulted in more landlords and brokers opening doors for our neighbors in need, while also enabling HRA to better track and attack SOI discrimination.

### **Fair Housing Litigation Unit (FHLU)**

The process of securing a rental assistance voucher is an important first step towards achieving permanent housing for our clients. Searching for an apartment in New York City can be arduous for many people,

however it is particularly difficult when some landlords are actively discriminating against you based on your source of income.

In New York City, it is illegal for landlords or real estate brokers to refuse to rent to current or prospective tenants who use any form of public assistance to pay their rent, including Section 8, Supplemental Security Income (SSI), HIV/AIDS Services Administration (HASA), Family Homelessness and Eviction Prevention Supplement (FHEPS), CITYFHEPS, among others. It is also unlawful for landlords and housing agents to publish any type of advertisements refusing to accept these programs, including online or print.

In May of 2017, the Department of Social Services (DSS) Source of Income Discrimination Unit (SOI) was established to combat illegal practices that prevent New Yorkers from securing housing opportunities. Today the unit has been expanded and renamed the Fair Housing Litigation Unit. The unit's primary focus remains combatting source of income discrimination, but it has been renamed in recognition of the fact that SOI discrimination is often intertwined with other forms of discrimination. The Unit works to prevent and prosecute instances of housing discrimination based on lawful source of income via a multi-pronged approach that includes education and outreach, pre-complaint intervention, investigations, and filing and prosecuting complaints on behalf of the City alleging a pattern or practice of source of income discrimination. When other forms of discrimination are identified in an SOI case, the unit will take steps to address those issues as well.

On behalf of renters utilizing rental assistance, the Fair Housing Litigation Unit takes decisive legal action against landlords (including in NYS Supreme Court) for discrimination based on sources of income, by intervening whenever and wherever those seeking housing may encounter barriers in the housing process, from inquiry and application through lease signing.

The unit's creation sends a powerful message to City landlords that refuse to rent to New Yorkers receiving public assistance to pay their rent. We are here to work with all landlords but will not stand for discrimination. We have lawyers working to address this illegal, discriminatory behavior and we are prepared to intervene and prosecute, to ensure all New Yorkers can access the housing opportunities that are rightfully theirs as they get back on their feet. Coupled with our rental assistance programs, DSS' Source of Income Discrimination Unit has proven to be a formidable tool in fighting housing discrimination fueling homelessness in our City.

**FHLU prevents and prosecutes instances of housing discrimination using a multi-pronged approach:**

- **Education and Outreach.** The unit provides training on fair housing across the five boroughs for legal service providers, not-for-profit, community-based organizations, tenant advocacy groups and DSS/HRA and DHS. The unit will also address advocate inquiries relating to fair housing concerns.
- **Pre-complaint Intervention.** The unit reviews complaints and, as appropriate, conduct interventions including negotiating with brokers and landlords in leasing for any city resident seeking tenancy.
- **Robust Fair Housing Testing and Investigations.** The unit manages an extensive citywide testing operation that will use "secret shoppers" to identify all types of housing discrimination.

- **Filing and Prosecuting Complaints on Behalf of the City Alleging Pattern-or-Practice Discrimination.** Through a designation from the New York City Law Department, the unit is authorized to file cases alleging pattern-or-practice discrimination on behalf of the City.

Since its establishment, FHLU (DSS SOI Unit) filed several cases against landlords in New York State Supreme Court for discrimination based on source of income. In June 2018, the unit filed its first two cases against New York City landlords in New York State Supreme Court for discrimination based on source of income. In the first case, *City of New York v. St. Marks Hamilton LLC and Oxford Realty Group LLC*, property management company Oxford Realty told multiple callers seeking housing that vouchers were not accepted at the Seaview Estates rental apartment complex in Staten Island. In the second case, *City of New York v. Everton Campbell, Atlas Realty Associates, Inc.*, DSS initiated an investigation that found advertisements containing discriminatory language for units located in the Bronx being published on multiple real estate websites including apartmentfinder.com, hotpads.com and apartments.com. The discriminatory language included such phrases as: “NOT ACCEPTING ANY VOUCHERS,” “NO VOUCHERS ARE BEING ACCEPTED FOR THIS APARTMENT” and “THIS APARTMENT IS NOT ACCEPTING ANY VOUCHERS.”

In July 2019, the DSS SOI Unit filed its third case in New York State Supreme Court for discrimination based on source of income. In this case, *City of New York vs. Samson Management LLC, 700 Victory Boulevard LLC, Neuhaus Realty, Inc., and Li Liu AKA Lily Liu*, an investigation found that one Lily Lu, the exclusive broker for the Parkview Apartments, a 200+ unit building on Staten Island owned by 700 Victory Blvd LLC and managed by Samson Management LLC., was systematically denying housing opportunities to prospective tenants with vouchers by failing to follow up with them regarding available apartments, while following up with non-voucher holders regarding the same apartments. Samson Management LLC owns or manages over 5,000 residential units across NYC, and has been the subject of multiple federal investigations and class action lawsuits regarding discrimination for decades. This case was initiated by the Fair Housing Litigation Unit, developed solely through in-house capabilities and then referred to the Fair Housing Justice Center (FHJC) for additional field testing required to initiate litigation.

The Fair Housing Litigation Unit takes action on matters received via intake referral, as well as unit-initiated investigations, pursuing litigation where a pattern and practice of SOI discrimination is uncovered. Litigation is a necessary tool that the unit brings to the table, but is considered a tool of last resort, as the unit’s top priority is helping DSS clients utilizing rental assistance to secure housing. We do this through immediate, rapid-response intervention in individual cases of SOI discrimination, leveraging all housing placement assistance and social service tools that the Department of Social Services brings to bear to help New Yorkers in need get back on their feet. The unit’s first and fastest goal is “turning a ‘No’ into a ‘Yes’” so that New Yorkers in search of housing can be connected to that housing swiftly in order to stabilize their lives and maintain stability.

At DSS/HRA we understand that intentional policies and practices perpetuate segregation and inequity across the country and in our city, and it will take concerted effort from all levels of government, working with our partners in the private and non-profit sectors, to undo that legacy.

### **Breaking Trajectory and Headed in the Right Direction, Beginning To Reverse The Trend**

While the devastating impacts of economic inequality and past inaction from prior administrations led to the homeless crisis we face today, the initiatives of the Department of Social Services (HRA and DHS) are

beginning to reverse the trend. After nearly four decades of an ever-increasing homeless population in NYC, we have broken the trajectory of growth in the homeless census and the new programs, reforms, and investments we are implementing are headed in the right direction. Currently, the DHS census is 54,490 in comparison to 59,561 a year ago, with the number of children and adults in DHS shelters for families with children at its lowest point of 10,404 families with 32,194 individuals in these families since December 2012 (34,497). Over the past months we've been closely monitoring the census, and what we've seen is a steady decline in family homelessness and a steady increase in single adult homelessness – as COVID-19 has magnified the realities of housing instability for single adults in New York City. In a five-month period from November 2019 to April 2020 the number of New Yorkers who have moved out of shelter into permanent housing or remained in their homes as a result of our rental assistance programs and supports increased by 9% from 139,328 to 147,700 and through June of 2020 we have assisted more than 150,000 individuals move out of shelter or avoid entry into shelter.

While we know there is still much work to be done, the data shows that our strategies to address this crisis that has built up over 40 years are beginning to take hold. For example:

- **Prevention first** - We are keeping more New Yorkers in their homes by expanding access to legal assistance through our first-in-the-nation right-to-counsel program for eviction cases, with evictions by marshals pre-COVID dropping by 41% since 2013, while evictions are up all across the country.
- **Rehousing**: Helped more than 150,000 New Yorkers move out of shelters or avoid homelessness altogether through our rental assistance and rehousing programs. Even in the midst of the COVID-19 pandemic, HRA has continued to focus on permanent housing placements, which are the best long-term option for our clients. We have rolled out a virtual walk-through permanent housing inspection process to continue move outs. We are also creating new housing opportunities for households experiencing homelessness through master leasing and collaboration with the Department of Housing Preservation and Development.

## Legislation

Intro. 146, this bill would require that any individuals or families receiving rental assistance vouchers established by the Department of Social Services, would continue to receive the assistance so long as the household continues to meet any other eligibility requirements. The bill would also require that the maximum rent toward which rental assistance vouchers may be applied annually increases at the same rate as the fair market rents set by the United States Department of Housing Preservation and Development. The requirements set by the bill would be subject to appropriation.

As we have testified to, our rental assistance programs are one of many tools used to address homelessness and housing instability. Every year thousands of households exit shelter with a voucher or receive vouchers in the community. Tens of thousands households are currently using vouchers. Raising to FMR will increase the cost of these vouchers, but not generate savings and that cost grows over time as the previously placed population renews leases at the higher rent. Additionally, raising the cost above the value of State rental assistance could inadvertently lead to property owners unlawfully playing favorites by picking the higher-value City vouchers over State vouchers. We are concerned about fiscal implications given the current budget realities facing the city. Consistency across programs helps prevent

source of income discrimination and ensure equal opportunity for voucher-holders trying to get back on their feet.

Intro. 2018, this bill would require the Department of Homeless Services (“DHS”) to provide services to domestic violence survivors in all DHS shelters. Services would be coordinated by a social worker. We look forward to working with the sponsor to address the goals of this legislation, and we anticipate that there will be discussions at a staff level concerning any legal issues that may be implicated by this bill. DHS works very closely with HRA’s Domestic Violence program as well as the Mayor’s Office to End Domestic and Gender-Based Violence. Our chief priority is to ensure clients are able to access services in confidential locations and to ensure strong pathways for referrals, including those to the NYC Family Justice Centers (FJCs) and to diverse network of community-based providers.

Intro. 1020, this bill would require that Department of Homeless Services and the Human Resources Administration track and report certain data regarding rental assistance programs, including outcomes of the Family Homelessness & Eviction Prevention Supplement (FHEPS) and any future rental assistance program created for New York City residents.

We are interested in working with the sponsor to address the goal and intent of the legislation. The agency already submits regularized reports to the Council at each fiscal plan as agreed upon in the monitors report concerning rental assistance.

Intro. 1339, this bill would require the New York City Department of Social Services (DSS) to arrange for the provision of a written notice to applicants who are found potentially eligible for rental assistance programs administered by DSS. The notice would provide information about protections under the New York City Human Rights Law related to discrimination on the basis of a person’s lawful source of income.

We support the goal of this legislation and want to work with the sponsor to align with our current work. DSS currently has information about protections under the New York City Human Rights Law related to discrimination on the basis of a person’s lawful source of income and SOI info is included on the CityFHEPS shopping letter.

Preconsidered T2020-6576, this bill would require the Department of Social Services (DSS) to provide more information about its rental assistance program, CityFHEPS, online. Specifically, DSS would be required make the status of an application or renewal request available to applicants online. DSS looks forward to working with the sponsor on this legislation. Currently, DSS provides a great deal of information to clients through ACCESSHRA and we currently have an RFP in the field to continue to improve this tool. Given procurement rules we are limited in what we can discuss today.

Thank you again for this opportunity to testify and I welcome your questions.



PUBLIC ADVOCATE FOR THE CITY OF NEW YORK  
**Jumaane D. Williams**

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**TESTIMONY OF PUBLIC ADVOCATE JUMAANE D. WILLIAMS  
TO THE NEW YORK CITY COUNCIL COMMITTEE ON CIVIL AND HUMAN  
RIGHTS AND COMMITTEE ON GENERAL WELFARE  
SEPTEMBER 15, 2020**

Good morning,

My name is Jumaane D. Williams, and I am the Public Advocate for the City of New York. I would like to thank Chairmen Mathieu Eugene and Stephen Levin for holding this hearing today. Housing is a basic human right, and it should be safeguarded during this public health pandemic. I commend my Council colleagues whose bills are being heard today, for bringing forth these pieces of legislation that aim to address housing discrimination and improve the way rental assistance programs are administered in our City.

The Fair Housing Act of 1968 was a landmark legislation. It prohibits discrimination against homebuyers or renters on the basis of race, national origin, religion, sex or disability. However, the law does not explicitly prohibit discrimination of prospective homebuyers or tenants who have criminal records, therefore this biased practice has taken place in New York City for many years. Landlords who reject housing applicants for simply having a prior criminal record, results in racial discrimination, as Black and brown New Yorkers are disproportionately affected by the criminal justice system. Int. No. 2047, sponsored by Chair Levin, seeks to address the collateral consequences of criminal records by prohibiting housing discrimination in rentals, leases, subleases, or occupancy agreements in New York City, on the basis of arrest or criminal record. I am proud to be a co-sponsor on this bill. Councilman Powers' Preconsidered T2019-4051, would expand prohibitions of housing discrimination based on lawful source of income to housing accommodations of three or more units. For far too long, housing applications in New York have been rejected due to criminal records and prospective tenants' sources of income, which shows that the Administration has not safeguarded the right to housing for our residents. We need to do better, and our City will be better off thanks to these pieces of legislation.

Before the State implemented the shelter-in-place in March, New York City courts had 200,000 pending housing court cases and eviction warrants for 14,000 families. The number of housing court cases and eviction warrants will likely to increase, as 1.6 million New Yorkers have filed for unemployment since March. While the State extended the eviction moratorium once more, until September 20th, there is still an influx of New Yorkers in need of rental assistance. Without further action the housing crisis will only be exacerbated. We need bills like Int. No. 0146 and

Preconsidered Int. No. T2020-6576 by Chair Levin, Int. No. 1020 by Councilwoman Ampry-Samuel, and Int. No. 1339 by Councilwoman Ayala now more than ever.

Int. No. 0146 would require that any individuals or families receiving rental assistance vouchers, would continue to do so, as long as they meet eligibility requirements. Most importantly, this legislation would also mandate the maximum rent toward which rental assistance vouchers may be applied on an annual basis to increase at the same rate as the fair market rents set by the U.S. Department of Housing Preservation and Development. Many landlords increase rent on a yearly basis and we want to ensure that those who need financial assistance to make ends meet can continue to do so. Int. No. 1020 would require the Department of Homeless Services and the Human Resources Administration to track and report certain data regarding rental assistance programs, including the outcomes of the Family Homelessness & Eviction Prevention Supplement (FHEPS) and any future rental assistance program created for New York City residents. This legislation would enable us to monitor and provide transparency of how well the City is moving members of our shelter population into permanent housing. For many individuals and families, CityFHEPS rental assistance is not enough to avoid eviction or to be able to move from a homeless shelter to permanent housing in New York City. At the moment, the maximum rent supplement provided by CityFHEPS is \$1,213 for one person and \$1,515 for a family of 4. In a city with a homeless population of nearly 60,000, the level of rental assistance is just not sufficient. Int. No. 1020 would provide the data necessary to prove that our City needs to do better in securing housing for homeless New Yorkers.

I also want to recognize the importance of Int. No. 2018 by Councilwoman Rosenthal, which requires the Department of Social Services to provide domestic violence services at all shelters. Many domestic violence victims go to shelters because they often lack the resources to support themselves and their children. So having on-site information about counseling, legal services, access to employment, housing, and childcare would give domestic violence survivors the resources necessary to have a sustainable life once they leave their abuser.

Our City is slowly returning to normal after experiencing the worst part of the Coronavirus pandemic. But there are still many residents who remain unemployed and on the brink of eviction, in shelters, or on the streets. We cannot forget about them during this recovery period. Thank you.



**Testimony**  
**New York City Council**  
**Committee on General Welfare Jointly with the**  
**Committee on Civil and Human Rights**  
**Tuesday, September 15, 2020**

Submitted by Antonio Garcia  
Department Director – Preserving Housing  
Catholic Charities Community Services

Good morning and thank you for the opportunity to testify on Catholic Charities’ eviction prevention services and how proposed changes to the City’s rental assistance programs can help us serve those who are at risk of homelessness due to loss of employment, unexpected expenses, or high rent burden.

My name is Antonio Garcia, and I am the director of Preserving Housing, a homelessness prevention program of Catholic Charities Community Services. Through our Preserving Housing program, CCCS operates four HomeBase offices in the Bronx, and one office in Harlem, all funded by the City and the State of New York. Using housing subsidies such as CITYFHEPS, LINC, and SEPS, we assist families and individuals who left the shelter system by providing aftercare services that include relocation to other apartments. Were it not for these subsidies supplementing the inadequate shelter allowance provided by the Family Assistance and Safety Net programs, public assistance recipients could not afford to pay the current rent levels in New York City.

Nevertheless, current fair market values have outpaced these subsidies’ maximum rental allowances, leading applicants and housing advocates to have little success finding suitable apartments within these limits. Landlords continue to deny apartments to tenants because these subsidies’ rent levels are too low, and others enter so-called “side deals” that are detrimental to the housing stability of the voucher holders.

Finding suitable and affordable apartments for families and individuals coming out of the shelter system is an integral part of the homelessness prevention work that Catholic Charities Community Services does. We know how difficult it is to find apartments that are affordable for the working poor of New York City, especially for those receiving public assistance, and how increasingly important these subsidies will be as families recover from lasting economic and medical consequences of the COVID-19 pandemic. That is why we support Int. 146, which will allow the maximum rent of New York City’s housing subsidies to increase annually at the same rate as HUD’s Fair Market Rents (FMR) and remove limits on how long otherwise eligible households could receive rental assistance. By providing the means for

families to access and maintain safe, stable and affordable housing, Int. 146 will help usher in a period of sustained and equitable recovery.

In voicing support, we wish to emphasize that vigilance will be required each year to ensure that consistent funding is appropriated to maintain the efficacy of the City's rental subsidies and the fiscal health of the programs with which the City works to administer them. By making sure that subsidies keep pace with FMR and that nonprofits receive the direct and indirect resources needed to reach the greatest number of recipients, the City reinforces its commitment to "prevent homelessness and assist families and individuals in need in maintaining stable, affordable housing in their communities."<sup>1</sup> We look forward to continuing to partner with the City to provide vulnerable New Yorkers with the assistance they need.

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<sup>1</sup> <https://www1.nyc.gov/site/hra/help/homelessness-prevention.page>

Testimony of Dana Sussman  
Deputy Commissioner for Policy and Intergovernmental Affairs  
New York City Commission on Human Rights  
Before the Committee on General Welfare and  
Committee on Civil and Human Rights  
September 15, 2020

Good morning Chair Levin, Chair Eugene, Public Advocate Williams, and members of the Committees on General Welfare and Civil and Human Rights. Thank you for convening today's hearing and for your commitment to improving access to affordable, fair housing in our city. I am Dana Sussman, Deputy Commissioner for Policy and Intergovernmental Affairs at the New York City Commission on Human Rights. I am joined today by my colleague, Senior Policy Counsel Zoey Chenitz. We will be testifying today in support of the pre-considered, unnumbered bill<sup>1</sup> that would expand source of income protections under the City Human Rights Law, and Intro. 2047, which would prohibit housing discrimination based on arrest or criminal record. My testimony will focus primarily on the proposed expansion of source-of-income protections, and the Commission's work in this area.

As you likely know, the Commission is the local civil rights enforcement agency that enforces the New York City Human Rights Law, one of the broadest and most protective anti-discrimination and anti-harassment laws in the country, now totaling 27 protected categories across nearly all aspects of city living: housing, employment, and public accommodations, in addition to discriminatory harassment and bias-based profiling by law enforcement. By statute, the Commission has two main functions. First, the Commission's Law Enforcement Bureau enforces the City Human Rights Law by investigating complaints of discrimination from the public, initiating its own investigations on behalf of the City, and utilizing its in-house testing program to help identify entities breaking the law. Second, through the Community Relations Bureau, which comprises Community Service Centers in each of the City's five boroughs, the Commission provides free workshops on individuals' rights and businesses, employers' and housing providers' obligations under the City Human Rights Law and creates engaging programming on human rights and civil rights issues. In the last five and a half years, since Commissioner and Chair Malalis began her tenure, the Commission has implemented 31 amendments to the City Human Rights Law, including the nation's broadest ban the box criminal history discrimination protections in employment, the nation's first salary history ban, expansions of protections and new requirements relating to sexual harassment and lactation accommodations, among many others.

The Commission's work has not paused because of the COVID-19 pandemic. To the contrary, our work has continued, expanded, and pivoted to address current challenges, including racial disparities in access to healthcare, housing, and essential needs; the needs of frontline workers who have disabilities or are pregnant and need accommodations to continue to do their jobs safely; and the rise in anti-Asian bias and discrimination. As we just announced yesterday, the

<sup>1</sup> Council file number T2019-405.

Commission has assessed a record \$7.5 million in damages and penalties for violations of the City Human Rights Law in Fiscal Year 2020. This represents a 550% increase in damages and penalties since Commissioner Malalis took over the agency in 2015. These figures exceed the damages and penalties in Fiscal Year 2019 by 18 percent and nearly double the damages and penalties compared to Fiscal Year 2018. Further, the Commission works to resolve cases not just for monetary relief in the form of damages and penalties, but has applied creative approaches informed by restorative justice offering to repair the harm experienced by both individuals and communities impacted by the discrimination. For example, the Commission has negotiated resolutions that require respondents to invest in paid internship, apprenticeship, or employment pipeline opportunities for underrepresented groups and to create new high-level positions to oversee such efforts; or to engage with community-based organizations to recruit workers or prospective tenants. And the Commission has maintained the cooperative approach to businesses and public accommodations it established five years ago; in many instances involving first-time violators of the City Human Rights Law where there is no complainant harmed by the violation, the Commission has sought to educate businesses about their legal obligations and work with them in creating non-discriminatory policies and practices, rather than levying bracing fines. Many small business owners and landlords themselves experience different forms of discrimination in other areas of their lives, and our approach in certain situations to educate rather than penalize had greater impact in furthering the understanding and adoption of human rights in the City.

While assessing a record level of damages and penalties, the Commission also closed a new high of 1,066 cases and reduced the average case processing time by 100 days, an incredibly challenging feat, especially under current circumstances and within a telework environment. The Commission's Law Enforcement Bureau filed 525 new cases in FY 2020 and completed 403 successful emergency interventions. The Commission settled 267 cases and completed 43 mediations, both representing increases from the prior fiscal year. These increases are a testament to the dedication of the Commission's staff who remained steadfast in their efforts to vindicate New Yorkers' human rights, though many of our staff lost parents, grandparents, and other family members in the last few months and/or were forced to contend with pandemic-related challenges for themselves and their families. The agency also received an increased number of reports of discrimination in FY 2020, from 9,804 in FY 2019 to 10,015 in FY 2020. Consistent with past years, the protected categories of disability, gender, and race were the top three most-reported areas of discrimination.

#### The Commission's Work on Source of Income Discrimination

Combatting discrimination based on lawful source of income has been a major priority for Commissioner Malalis from the very beginning of her tenure. In Commissioner Malalis's first year, the Commission quadrupled the number of investigations into lawful source of income housing discrimination, filing 90 cases—a 300% increase from the prior year's 22 cases. In 2016, the Commission issued its highest civil penalty in a source of income discrimination case in Commission history, fining Best Apartments Inc., a management company with control over more than 1,000 units throughout the City, \$100,000 for refusing to show a prospective tenant an apartment after he revealed he had a Section 8 voucher.

In January 2017, the Commission announced five Commission-initiated cases filed against large landlords and brokers that collectively control approximately 20,000 units for repeatedly discriminating against prospective tenants based on their use of housing vouchers, a violation of the NYC Human Rights Law. The complaints, which the Commission filed on behalf of the City, followed proactive Commission-led investigations developed from tips from prospective tenants as well as the Commission's testing program. The landlords and brokerage firms charged with discriminatory practices include Parkchester South Condominiums (Bronx), River Park Residences (Bronx), Goldfarb Properties (Manhattan, Bronx, Queens), Martini Properties (Bronx), and ABECO Management (Brooklyn).

Then, in 2018, the Commission announced the launch of a groundbreaking, dedicated source of income unit to provide rapid response advocacy and interventions for people experiencing discrimination while seeking housing using vouchers. The unit undertakes emergency interventions to stop discrimination in its tracks: our staff contacts the landlords or brokers who are in danger of violating our law directly to educate them and advocate for the rights of tenants. In the last two fiscal years, the unit has completed 400 emergency interventions on behalf of New Yorkers with housing vouchers, which includes getting them into housing they had been denied, along with filing nearly 150 cases and conducting testing and Commission-initiated investigations. Since 2014, the Commission has assessed over \$1.2 million in damages and penalties in source of income cases of which over \$450,000 were assessed in Fiscal Year 2020 alone.

The Commission's Law Enforcement Bureau has taken an expansive approach to address landlords' use of other requirements, like minimum income requirements and credit checks, to exclude voucher holders. In 2018, the Commission published materials that explicitly prohibit the use of credit checks when a voucher covers 100% of the rent. In addition, the Commission's materials also state that where the tenants' rental portion is calculated based on the tenants' income, it is a violation of the City Human Rights Law to impose any additional income requirements on applicants for housing. The Commission's materials, which include three separate documents with specific frequently asked questions targeted to landlords, brokers/agents, and voucher holders, are available in multiple languages on our website.

And earlier this year, based on a case the Commission initially brought, a New York State appeals court held that vouchers for security deposits are, as the Commission asserted, a lawful source of income, and landlords must accept them. The Commission brought the case in 2017 against the LeFrak Organization on behalf of a woman who was denied an apartment because she was seeking to use a security voucher to pay the security deposit. The Commission's case built on a Decision and Order issued by Commissioner Malalis earlier that year finding that the denial of a prospective tenant's security voucher was source of income discrimination. The appellate court decision ensures that security vouchers can continue to be administered by HRA and individuals who use them are protected under the City Human Rights Law.

In the last fiscal year, the Commission has pioneered a new requirement in source of income discrimination resolutions: mandating that landlords found to have violated the City Human Rights Law's source of income protections reserve, or "set aside," a specific number of units in their housing stock for voucher holders. This novel strategy applies the Commission's

commitment to restorative justice to source of income discrimination cases: not only does it repair the harm to the impacted complainant by ensuring they obtain housing along with damages, but it also creates a structural response to the broader crisis of access to housing for voucher holders, and reduces the likelihood of future tenants facing the same kind of discrimination. This new approach was just profiled in an article in The Gothamist last week.<sup>2</sup>

### Selected Case Resolutions

- **June 2020:** Complainant, a Section 8 recipient, filed a complaint alleging that her landlord refused to allow her to begin using her Section 8 voucher after she became eligible for the voucher during her tenancy. The Commission’s Law Enforcement Bureau investigation revealed that Respondents intentionally failed to process the legally required paperwork for Complainant’s Section 8 voucher. After the Law Enforcement Bureau issued a probable cause finding, the parties entered into a conciliation agreement in which Respondent agreed to pay Complainant \$15,000 in emotional distress damages; waive over \$14,000 in rent arrears and other fees; train employees with job duties related to reviewing or evaluating rental applications on the NYC Human Rights Law and source of income discrimination; revise their tenant screening policies, and display the Commission’s “Fair Housing, It’s the Law” poster at any and all of the buildings in their portfolio.
- **February 2020:** A prospective tenant who received rental assistance through Section 8 filed a complaint alleging that a broker would not allow her to apply for an apartment because of her rental voucher. At the time, the complainant was a homeless mother. Respondents cooperated fully with the Commission’s investigation. Complainant and Respondents entered into a conciliation agreement requiring Respondents to pay \$25,000 in emotional distress and lost housing opportunity damages to Complainant and \$15,000 in civil penalties. Respondents also updated their policies on source of income discrimination and agreed to attend an anti-discrimination training.
- **October 2019:** The Commission settled a case involving source of income discrimination by Michael Partridge Realty Corp., in which a frontline staffer of the realty company told a prospective tenant that vouchers were not accepted. The Commission negotiated \$5,000 in emotional distress damages to the victim and ordered anti-discrimination training for the Respondents and the creation of an anti-discrimination policy.
- **August 2019:** The Commission ordered a landlord with 15 buildings to pay \$20,000 in emotional distress damages and \$4,000 in civil penalties for refusing to accept a prospective tenant’s Section 8 voucher. The tenant had lost her voucher as a result of the discrimination and had to seek alternative housing options. In addition to her voucher restoration, the landlord agreed to train all employees with job duties related to reviewing and accepting prospective tenants, and to post the Commission’s Fair Housing poster in all their buildings in New York City.

<sup>2</sup> Sydney Pereira, The Gothamist, NYC Is Requiring Landlords Set Aside Apartments For Voucher Tenants Under New Approach To Enforcing Human Rights Law, September 11, 2020, <https://gothamist.com/news/nyc-requiring-landlords-set-aside-apartments-voucher-tenants-under-new-approach-enforcing-human-rights-law>.

| Year      | Inquiries | Complaints | Commission-Initiated Investigations | Successful Pre-Complaint Interventions |
|-----------|-----------|------------|-------------------------------------|--|
| 2015 (CY) | 89        | 90         | 18                                  | Not reported                           |
| 2016 (CY) | 375       | 129        | Not reported                        | Not reported                           |
| 2017 (CY) | 356       | 85         | 177                                 | 12                                     |
| 2018 (FY) | 328       | 98         | 185                                 | 30                                     |
| 2019 (FY) | 485       | 99         | 222 (entities tested)               | 206                                    |
| 2020 (FY) | 493       | 50         | 136 (entities tested)               | 179                                    |

The Commission’s Community Relations Bureau has also engaged in deep community outreach and engagement to educate New Yorkers on their rights to be free from discrimination based on lawful source of income. During Fair Housing Month each year, the Commission hosts a symposium, and over the past several years, source of income discrimination has been a key focus. We’ve built relationships with community-based organizations doing critical work on the ground, who make direct connections to our team, and help us spread the word about our work, including Neighbors Together, Housing Court Answers, Community Action for Safe Apartments, Legal Hand, Nazareth House, Part of the Solution, Asian Americans For Equality, St. Nicks Alliance Community Development Corporation, Northwest Bronx Community and Clergy Coalition, North Brooklyn Housing Task Force, and Met Council. In Fiscal Year 2020, the Commission conducted over 40 fair housing workshops, held seven on-site mobile housing rights clinics, and participated in over 50 additional fair housing-related events.

The Commission supports the proposal to reduce the current six-unit minimum for jurisdiction on source of income cases to three units, which will help ensure access for New Yorkers with vouchers to a broader range of affordable housing stock. As you may be aware, last year, New York State passed source of income discrimination protections state-wide that are broader than current protections under the City Human Rights Law, and we support more closely aligning the two statutes.

I will turn it over to my colleague, Zoey Chenitz, to discuss Intro. 2047. Thank you for the opportunity to speak today. The Commission believes that access for all New Yorkers to affordable housing, free from discrimination, is key to the City’s wellbeing and we look forward to working with you further on these bills.

Testimony of Zoey Chenitz  
Senior Policy Counsel  
New York City Commission on Human Rights  
Before the Committee on General Welfare and  
Committee on Civil and Human Rights  
September 15, 2020

Good morning Chairs Levin and Eugene, Public Advocate Williams, and members of the General Welfare Committee and the Committee on Civil and Human Rights. Thank you for convening today's hearing. I am Zoey Chenitz, Senior Policy Counsel at the New York City Commission on Human Rights, and I am pleased to represent the Commission today in support of Intro. 2047, which would amend the New York City Human Rights Law to prohibit most housing providers from inquiring about and discriminating against applicants based on their arrest or conviction history.

Intro. 2047 aligns with the Commission's longstanding commitment to racial justice and greater social equity. As we have been reminded by recent events, including the public health crisis caused by the pandemic and widespread social activism seeking to end systemic racism, too frequently disparities in our city play out along lines of race, whether we are talking about issues of poverty, access to healthcare, health outcomes, food security, or involvement in the criminal legal system. Policies like Intro. 2047 have been enacted in cities across the country. They are growing in popularity because cities recognize that given the long history of racial discrimination in the criminal legal system, arrest or conviction histories ought not to bar people from accessing stable housing for themselves and their families. Policies like this one represent a step toward ensuring that – whether they are recently returning to their communities from custody or if their records are older – New Yorkers with arrest and conviction histories and their families are given the best possible opportunity to thrive. Our conversations with residents and advocates in communities across the city consistently reaffirm the desire for such support.

Our support for this legislation also stems from the Commission's long track record of enforcing protections in the employment context for New Yorkers with a history of criminal system involvement. The first such protections were added in 1977, when the Commission was given joint enforcement authority with the New York State Division of Human Rights over Correction Law Article 23-A.<sup>1</sup> Over the years, additional protections were added to the New York City Human Rights Law,<sup>2</sup> most notably with the passage of the Fair Chance Act in 2015, which prohibits most employers, labor organizations, and employment agencies from inquiring about or considering a job applicant's criminal history until after a conditional offer of employment has been made, and guarantees that job applicants receive proper notice and an opportunity to be heard before they may be rejected from a job based on an individualized assessment of their criminal history.

<sup>1</sup> N.Y. L. 1976, c. 931, § 5 (effective Jan. 1, 1977).

<sup>2</sup> See, e.g., N.Y.C. Local L. 39 (1991); N.Y. S. 1505-C (2019) (amending Exec. L. § 296(16), which is incorporated by reference into the New York City Human Rights Law by N.Y.C. Admin. Code § 8-107(11)).

Since 2015, the Commission has filed 486 complaints alleging employment discrimination based on criminal history, and as of last week, has 145 open matters related to employment discrimination based on criminal history. The Commission has conducted a total of 1,261 tests related to the Fair Chance Act from Fiscal Year 2016 through to the present and filed a total of 100 Commission-initiated complaints resulting from investigative testing. In Fiscal Year 2020, the Commission assessed approximately \$800,000 in damages and civil penalties arising from claims of employment discrimination based on criminal history. The Commission's Law Enforcement Bureau has also been successful in obtaining far-reaching policy reforms that address employment discrimination based on criminal history in systemic ways, with a focus on restorative justice remedies. For example, as the Commission testified in January, the Bureau has settled cases in which respondents have, among other things, agreed to partner with reentry organizations to intentionally include people with criminal histories in the job applicant pool; to incorporate New York City's "ban the box" policies in their job applications for offices nationwide; and to voluntarily disregard certain categories of convictions that are not otherwise subject to such restrictions when assessing job applicants (including all convictions more than seven years old; marijuana convictions over two years old; convictions where the person participated in a diversion program; and juvenile convictions).<sup>3</sup> The Commission is also grateful for its close partnerships with many advocates and community groups that work with us to educate New Yorkers about their rights under the Fair Chance Act, including the Legal Aid Society, Legal Services NYC, the Legal Action Center, VOCAL-NY, the Community Service Society, the Fortune Society, and the Osborne Association, among others.

Despite the absence of specific housing protections based on criminal history, in 2018, the Commission succeeded in resolving a case on behalf of New Yorkers who had been denied housing based on their criminal histories, utilizing a disparate impact theory of discrimination. The case was against PRC Management, LLC, a housing management company that controls 100 buildings with 5,000 units citywide and that had a policy of categorically denying housing to applicants with criminal histories. The Commission charged that this policy had a disparate impact based on race, color and national origin, since Black and Latinx New Yorkers are disproportionately impacted by arrest, conviction, and incarceration rates citywide, and applicants were not afforded an individualized assessment. (The theory of the case was consistent with Fair Housing Act enforcement guidelines issued in 2016 by the United States Department of Housing and Urban Development (HUD).) Under the terms of the settlement, PRC Management agreed to pay \$55,000 in emotional distress damages to a victim impacted in the case and \$25,000 in civil penalties; revise its application and screening policies; train staff on its new policies and the law; and invite applicants with criminal histories who were previously denied housing to reapply.

The Commission strongly supports Intro. 2047, which would provide the first-ever housing protections for New Yorkers specifically based on criminal system involvement. Because disparate impact claims, such as those in the case against PRC Management, can be

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<sup>3</sup> See Testimony of Dana Sussman, Deputy Commissioner for Policy and Intergovernmental Affairs, Before the Committee on Civil and Human Rights (Jan. 22, 2020), [https://www1.nyc.gov/assets/cchr/downloads/pdf/CCHR\\_Testimony\\_FCA\\_1.22.2020.pdf](https://www1.nyc.gov/assets/cchr/downloads/pdf/CCHR_Testimony_FCA_1.22.2020.pdf).

harder to investigate and prove than claims of direct discrimination, this addition to the law would significantly strengthen protections in this area.

Intro. 2047 would effectively prohibit discrimination against prospective tenants who have criminal records by making it an unlawful discriminatory practice under the New York City Human Rights Law for a real estate broker, landlord, or their employee or agent to inquire about or take an adverse action based on a rental applicant's arrest or conviction history. Adverse actions would include denial of a rental application, higher application fees, failure to take action on an application, or the imposition of additional requirements or less favorable lease terms. The bill would also prohibit housing providers from directly or indirectly expressing a limitation based on a rental applicant's arrest or conviction history, for example, by stating in ads and application materials that they will not approve tenants with criminal records. The bill exempts from its coverage any action taken pursuant to a federal or state law or regulation that requires consideration of criminal history for housing purposes. It also would not apply to people renting out a room in their or their family's home, or to people seeking a roommate. Importantly, the bill does not restrict housing providers' ability to pursue legal remedies if a tenant's conduct violates their lease terms. Intro. 2047's simple, straightforward prohibition on inquiries and adverse actions based on criminal history provides clear guidance for housing providers, including smaller and less sophisticated actors, concerning their obligations under the law.

New York City often leads the nation in introducing and implementing new legal protections strengthening human rights. In this area, it is time to amend our law to join the slate of other jurisdictions who have already passed these protections. These jurisdictions include: Seattle,<sup>4</sup> Berkeley,<sup>5</sup> Oakland,<sup>6</sup> the District of Columbia,<sup>7</sup> Los Angeles,<sup>8</sup> San Francisco,<sup>9</sup> Detroit,<sup>10</sup> and Oregon,<sup>11</sup> among others. Intro. 2047 would place New York City among those jurisdictions, including Seattle, Berkeley, and Oakland, with the strongest housing protections based on criminal history.

Expanding the New York City Human Rights Law to protect against housing discrimination based on criminal history would offer multiple potential benefits for the wellbeing of our city. Such protections help to limit disparities in access to stable housing for protected classes of people who already face discrimination in housing and who are overrepresented in the criminal legal system. This includes Black and Latinx people,<sup>12</sup> LGBTQI people,<sup>13</sup> people with

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<sup>4</sup> Seattle Municipal Code § 14.08.050 (2016).

<sup>5</sup> Ordinance No. 7,692-N.S., Berkeley Municipal Code Chapter 13.106 (2020).

<sup>6</sup> Ordinance No. 13581, Oakland Municipal Code Chapter 8.25 (2020).

<sup>7</sup> Code of the Dist. of Columbia § 42-354.01-10 (2017).

<sup>8</sup> Los Angeles, Calif., AB-396 (2015).

<sup>9</sup> San Francisco, Calif., Ordinance § 17-14 (2014).

<sup>10</sup> Detroit City Code, Ch. 26, Art. V (2019).

<sup>11</sup> Oregon Rev. Statutes § 90-303 (2015).

<sup>12</sup> See Michael Schwartz, Michael Winerip & Robert Gebeloff, The Scourge of Racial Bias in New York State's Prisons, N.Y. TIMES (Dec. 3, 2016); New York Independent Budget Office, *NYC's Jail Population: Who's There and Why?* (2013), <https://ibo.nyc.ny.us/cgi-park2/2013/08/nycs-jail-population-whos-there-and-why/> (noting 90 percent of New York City's daily jail population was Black or Hispanic).

<sup>13</sup> See Ilan H. Meyer, et al., *Incarceration Rate and Traits of Sexual Minorities in the United States*, 107 AM. J. PUB. HEALTH: TRANSGENDER HEALTH 234, 234 (2017),

mental health disabilities,<sup>14</sup> victims of sexual violence,<sup>15</sup> and, increasingly, women and mothers.<sup>16</sup> By reducing the collateral consequences of criminal history in the housing context, this bill can help to alleviate problems of housing discrimination and segregation.

Intro. 2047 can also help to address rates of homelessness and housing instability within the city. According to the Coalition for the Homeless, in 2018, at least 20 percent of adults who entered New York City shelters did so directly from a jail or prison,<sup>17</sup> and research shows that jail and prison stays tend to increase the risk of homelessness.<sup>18</sup> As we know, a stable home is the foundation for a person’s wellbeing, as well as the wellbeing of their families and communities. A stable home enables people to find and maintain employment<sup>19</sup> and promotes better health outcomes, since people with a stable home are better able to receive health treatments and to care for children and other dependents.<sup>20</sup> Increasing access to housing also

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[https://www.corrections.com/system/assets/0000/1303/Meyer\\_Final\\_Proofs.LGB\\_In\\_.pdf](https://www.corrections.com/system/assets/0000/1303/Meyer_Final_Proofs.LGB_In_.pdf); Nat’l Ctr. for Transgender Equal., *LGBTQ People Behind Bars A Guide to Understanding The Issues Facing Transgender Prisoners And Their Legal Rights* 5 (2018),

<https://transequality.org/sites/default/files/docs/resources/TransgenderPeopleBehindBars.pdf>.

<sup>14</sup> See N.Y.C. Dep’t of Corr., CAPS and PACE Backgrounder, <https://www1.nyc.gov/site/doc/media/caps.page>; ThriveNYC, Understanding New York City’s Mental Health Challenge, <https://www1.nyc.gov/nyc-resources/thrivenyc.page>.

<sup>15</sup> Rachel Leah, *86 Percent of Women In Jail Are Sexual-Violence Survivors*, Salon (Nov. 11, 2017), <https://www.salon.com/2017/11/11/86-percent-of-women-in-jail-are-sexual-violence-survivors/>.

<sup>16</sup> Nat’l Hous. L. Project, *An Affordable Home on Reentry: Federally Assisted Housing and Previously Incarcerated Individuals* 5 (2018), <https://www.nhlp.org/wp-content/uploads/2018/08/Rentry-Manual-2018-FINALne.pdf> (women are the fastest growing segment of the United States prison population); Women’s Prison Assoc., *Quick Facts*, <https://www.wpaonline.org/resources/quick-facts> (“most women in prison are mothers. Women are more likely than men to be the primary caregiver of their children before and after incarceration.”); Dan Levin, *As Mothers Fill Prisons, Children Suffer a “Primal Wound”*, N.Y. Times, Dec. 28, 2019, <https://www.nytimes.com/2019/12/28/us/prison-mothers-children.html> (“the number of incarcerated women has grown by more than 750 percent, at a rate twice that of men” since 1980; “at least 5 million children—or about 7 percent of American youth—have an incarcerated parent”).

<sup>17</sup> Coalition for the Homeless, *State of the Homeless 2020*, <https://www.coalitionforthehomeless.org/state-of-the-homeless-2020/> (these numbers include only people returning from state prison and people returning from Rikers who are subject to the *Brad H.* settlement, concerning former inmates with mental health disabilities, and thus are likely an undercount of returnees entering New York City shelters following incarceration).

<sup>18</sup> Lucius Couloutte, *Nowhere to Go: Homelessness Among Formerly Incarcerated People*, Prison Policy Initiative (Aug. 2018), <https://www.prisonpolicy.org/reports/housing.html#:~:text=The%20revolving%20door%20%26%20homelessness&text=But%20people%20who%20have%20been,from%20their%20first%20prison%20term> (showing that people who are formerly incarcerated experience homelessness at a rate ten times higher than does the general public).

<sup>19</sup> See Matthew Desmond & Carl Gershenson, *Housing and Employment Insecurity among the Working Poor*, Social Problems (2016), <https://scholar.harvard.edu/files/mdesmond/files/desmondgershenson.sp2016.pdf?m=1452638824> (finding loss of housing “to be a strong and robust predictor of job loss” and identifying “housing insecurity as an important source of employment insecurity among low-income workers”); U.S. Interagency Council on Homelessness, *The Importance of Housing Affordability and Stability for Preventing and Ending Homelessness* (May 2019), [https://www.usich.gov/resources/uploads/asset\\_library/Housing-Affordability-and-Stability-Brief.pdf](https://www.usich.gov/resources/uploads/asset_library/Housing-Affordability-and-Stability-Brief.pdf) (“A stable home provides a platform for improved outcomes around employment, health, and education.”).

<sup>20</sup> See Lauren Taylor, *Housing And Health: An Overview Of The Literature*, Health Affairs (June 7, 2018) <https://www.healthaffairs.org/doi/10.1377/hpb20180313.396577/full/> (“providing access to stable housing can improve health and reduce health care costs”); Nat’l Healthcare for the Homeless Council, *Homelessness & Health: What’s the Connection?* (Feb. 2019) <https://nhhc.org/wp-content/uploads/2019/08/homelessness-and-health.pdf>

significantly reduces rates of child poverty,<sup>21</sup> and rates of recidivism.<sup>22</sup> In short, we all stand to benefit when barriers are removed to stable, affordable housing for our fellow New Yorkers. While this bill will not, on its own, solve all of the challenges facing people with a criminal history, we believe it is an essential step toward helping our city move toward a brighter future.

For all the reasons I have discussed, the Commission strongly supports Intro. 2047 and we look forward to working on it with you. Thank you.

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<sup>21</sup> Mary K. Cunningham, *Reduce Poverty by Improving Housing Stability*, The Urban Inst. (June 26, 2016), <https://www.urban.org/urban-wire/reduce-poverty-improving-housing-stability>; Misha Sharp and Nathan Myers, *Stable Housing, Stable Health: Addressing Housing Insecurity Through Medicaid Value-Based Payment*, United Hospital Fund, <https://uhfnyc.org/publications/publication/stable-housing-stable-health-addressing-housing-insecurity-through-medicaid-value-based-payment/> (“research consistently show[s] how unstably housed or homeless individuals are more likely to experience high rates of emergency department use, frequent and costly hospital admission, and adverse health outcomes such as drug and alcohol dependence, mental illness, infectious disease, injuries, and unmet health care needs.”).

<sup>22</sup> Nat’l Hous. L. Project, *An Affordable Home on Reentry: Federally Assisted Housing and Previously Incarcerated Individuals* 6 (2018), [http://nhlp.org/files/Page%204%20Doc%201%20Prisoner\\_Reentry\\_FINAL.pdf](http://nhlp.org/files/Page%204%20Doc%201%20Prisoner_Reentry_FINAL.pdf).

**Intro. 2047-2020**

**Proposed Local Law prohibiting housing discrimination on the basis of arrest or criminal record.**

**Testimony against** the above referenced proposed local law:

While this proposed legislation might be well-intended, it could have tremendous negative ramifications on NYC tenants and owners.

As a small NYC property owner and a RSA member, I believe that if this bill passes, we won't know who's living next to us — whether it's a dangerous criminal or not.

Not only our tenants have a right and should expect to feel safe in their homes, as apartment-owner I have a duty to provide them with such a safe and secure place to live. When selecting a new tenant, I feel it's my duty to select someone who will be able to live in harmony with all our existing long-term residents.

I can see the value in giving everyone a second/third/fourth/etc. chances, but as a small regulated property owner I am just not equipped to handle potential violent crime recidivists.

Thierry Bonnet

[thierrybonnet@hotmail.com](mailto:thierrybonnet@hotmail.com)

212-620-4112

# NOVA PROPERTY MANAGEMENT

P.O. Box 150366, Van Brunt Station  
Brooklyn, NY 11215  
(718) 768-8888

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September 15, 2020

Re: Int 2047-2020 Prohibiting housing discrimination on the basis of arrest or criminal record.

To the City Council Committee on Civil and Human Rights and the Committee on General Welfare:

Please accept this testimony regarding the proposal to ban landlords from inquiring into a prospective tenant's criminal past and banning the use of the results of these inquiries to reject rental application.

It is indisputable that certain types of people pose significant threats to others. Most jurisdictions require those convicted of sex offenses to register as a sex offender precisely because sex offenders pose a risk to others. Additional kinds of people pose risks, such as arsonists, murderers, and rapists. Again, this cannot legitimately be disputed.

Landlords have obligations to their tenants to take reasonable steps to provide them with safe living environments. Ascertaining the prior criminal conduct of potential tenants is such a reasonable step. By way of example, if a convicted arsonist moves into a building with 100 apartments and 150 children, and the arsonist sets the building on fire, the lives of 150 innocent children are at risk. If a convicted child molester moves into a building with 100 apartments and 150 children, all 150 of those children are at greater risk of being molested than if the convicted child molester did NOT move into the building. Landlords should not be disallowed from protecting the most vulnerable residents in their buildings from such predators.

For this, among many other reasons, this proposal should not pass.

Sincerely,

Eric Michael



## **Council of New York Cooperatives & Condominiums**

### **TESTIMONY TO THE NEW YORK CITY COUNCIL COMMITTEE ON CIVIL AND HUMAN RIGHTS**

#### **In Opposition to Int. 2047 - Prohibiting Inquiry into an Applicant's Criminal History September 15<sup>th</sup>, 2020**

The Council of New York Cooperatives & Condominiums (CNYC Inc.) is a membership organization providing information, education and advocacy for housing cooperatives and condominiums located throughout the five boroughs of New York City and beyond. More than 170,000 New York families make their homes in CNYC member buildings, which span the full economic spectrum from very modest, income-restricted housing to solid middle class apartment complexes to upscale dwellings. The New Yorkers who make their homes in New York cooperatives and condominiums are not only the collective OWNERS of their buildings, they are also the electors of their communities' governing boards and the neighbors who share the dwelling units and its common spaces. As homeowners, they often remain in place for decades, stabilizing and contributing to their neighborhoods. The safety and security of every member of a cooperative or condominium community are of utmost importance to any board when making management decisions, including the review of new resident applications. As such, we must oppose Int. 2047 as written.

Int. 2047 would make it an unlawful discriminatory practice for any cooperative or condominium board, or any individual unit owner to ask a potential resident about his or her criminal history as part of an application. While we appreciate the Council's commitment to criminal legal reform and protecting the rights of disenfranchised New Yorkers, we must oppose this overly broad legislation as antithetical to sound management and resident safety.

With every admission application, boards seek to ensure that the applicant is financially able to pay his or her share of carrying charges. This is more true today than ever, when boards are anticipating significant increases in their budgets to cover costs related to the COVID-19

Pandemic and likely property tax increases. Boards also seek assurances that the candidate understands all responsibilities associated with cooperative living, will be a contributing member of the community, and will not harm the or jeopardize the safety of the community in any way. Inquiring about an applicant's criminal background permits a board to rule out a history of white collar crimes such as financial fraud or terrorist activity, violent or sexual crimes that could put neighbors at risk, and property crimes such as arson which pose both financial and safety threats to the community.

It is important to point out that we do NOT take the position that prior involvement with the criminal justice system should automatically disqualify applicants for housing. Certainly, among the hundreds of thousands of residents in our member buildings across the five boroughs, there are many such individuals residing peacefully and productively among their neighbors. Our concern is that cooperative homeownership communities continue to have the ability to manage and regulate their operations and finances, including making thoughtful admissions decisions within the parameters of the existing human rights law.

We note that Int. 2047 does NOT apply to “rental of a room or rooms in a housing accommodation where the owner resides”. Just as the drafters and sponsors of Int. 2047 appear here to understand that the resident owner of a house or small multiple dwelling would like to be able to consider criminal history in deciding whether to rent a room or rooms, so, too, are all the owners who live together in housing cooperatives and condominiums entitled to such important information about potential neighbors. Indeed, carving out this exception confirms that this is useful information for proper vetting of ANY applicant.

Furthermore, carefully crafted reform legislation with similar goals such as the “ban the box” law still allow for the consideration of certain, relevant criminal history as part of an employment application process. However, this legislation as written does not allow for any consideration of any criminal history at any time in the process. We urge the City Council to look at other similarly progressive jurisdictions such as Oakland, Berkeley, Detroit, Seattle, and Chicago which allow for screening for certain types of convictions as part of the application process and provide redress for potential acts of discrimination. We hope that the Council will seek to find a better balance between the rights of persons with a criminal history and property owners' ability to provide safe housing to tenants. We urge the City Council to refrain from passage of this legislation as written.

Mary Ann Rothman

Executive Director



**Testimony to City Council on Committee on General Welfare (Jointly with the Committee on Civil and Human Rights)**

*To submit to Committee on General Welfare (Jointly with the Committee on Civil and Human Rights) on September 15, 2020*

*Prepared by Dance/NYC*

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**On behalf of Dance/NYC, a service organization which serves over 5,000 individual dance artists, 1,200 dance-making entities, and 500 nonprofit dance companies based in the New York City area, including BIPOC (Black, Indigenous, People of Color) dance workers, immigrants, and disabled dance workers. I join colleague advocates working across creative disciplines in thanking the Committee for your leadership during this time and in requesting:**

- 1) The City to include the Arts and Culture communities in rent relief legislation (e.g, subsidized housing, cancel rent, rent relief subsidies) to protect our organizations and workers.**
- 2) The City provides financial relief for organizations and artists being affected by the affordability crisis and without business interruption insurance.**
- 3) The City pays living wages and funds programs that allow for the payment of living wages for dance and cultural workers.**

Dance is central to NYC's cultural soul and performances are a key part of the City's tourism appeal. For example, the holiday season is a critical time for tourism with many dance performances being time honored NYC holiday traditions, drawing families and tourism spending from near and far. NYC cannot afford to lose these cultural organizations that have existed for decades as a part of the arts and culture ecosystem; and rent relief legislation is critical for these organizations to keep their doors open. We have collected quantitative and qualitative anecdotal data from individual freelance workers, organizations and small businesses



(e.g., dance studios). They have all mentioned the pressing need for rent relief, both commercial and individual. The risk is highest for smaller for-profit family owned dance studios which together with arts education instruction provided via the Department of Education are a critical part of the dance ecosystem. Without our local dance studios, we risk losing a key developmental aspect of the industry that helps to create many of the artists we see on our Broadway stages.

Dance and the arts are significant contributors to the economic health of NYC, contributing over \$300 million to the NYC economy. However, in order to maintain social distancing and public health guidelines many live performances, rehearsals and projects have been canceled impacting the Arts and Culture sector's ability to generate enough income to meet the increasingly high rent demands in the City. Furthermore, many studios and spaces that are starting to reopen as outlined in the governor's reopening procedures are being closed or fined due to poor information provided by City officials who do not understand our industry putting these groups in further risk. Small businesses, arts and culture and artists are critical in bringing the city back.

Dance/NYC is conducting comprehensive research on the impact COVID-19 is having on the dance sector, particularly its impact on organizations. Arts organizations have received no rent relief subsidy or stimulus for them to stay alive and are closing due to insurmountable rent prices, inability to pay their workers, and inability to earn income from in-person gatherings. Although the Payment Protection Program (PPP), EIDL and other government loans were provided at the start of the pandemic, this money is quickly running out. Our research has shown that a driving force behind these closures is the inability to pay rent. For example, one respondent's plight shared "[I am...] attempting to minimize my bills and debts along with rent, but unfortunately am still required to pay rent from my management company. I am accruing more credit card interest due to loss of income and inability to pay my bill at this time until my



unemployment and additional funding resources come in.” This field, its workers, and organizations were already struggling to pay living wages due to limited access to general support grants and little access to unionization and are floundering due to the COVID-19 pandemic. This could be alleviated if the City pays living wages to its dance workers and ensures that City funded programs pay living wages to any arts worker it contracts. Failure to do so will further exacerbate the migration pattern of our artists leaving the City. Our data highlights the trend of the arts workforce leaving the City because they are experiencing overwhelming difficulties in paying their rent. One respondent noted “I had employment starting in March that was going to take me all the way through till December 29 of this year. All of that has canceled due to the virus. I'm very very afraid about paying rent each month.” This a culture drain that is occurring due to the unprecedented weight of rent, and no real relief, together with the affordability crisis of extremely high rents. Dance/NYC has already provided nearly \$1 million in relief support to individual freelance dance workers and organizations but this only alleviates the short term needs and comprehensive rent relief legislation is desperately needed to ensure long term survival.

For example, SMU DataArts recently estimated an aggregate -\$6.8 billion net effect of the COVID-19 crisis on the nonprofit arts and culture sector equates to a deficit equivalent to 26% of expenses for the average organization, over the course of a year. Smaller organizations, groups and projects are likely to sustain significant negative financial impact, projecting losses that amount to up to 82% of their operating budgets which is affecting their sustainability and ability to meet high rent demands. Only 8% of organizations reported having business interruption coverage and even those who have it are having a hard time collecting on it. Our research has identified that one of the most critical needs for these organizations is rent relief. For example, one organization shared “we will not be able to pay our rent, staff, artists or bills and -- without



financial help or some kind of intervention -- we will be forced to close.” When these organizations permanently close it will affect the NYC economy and its cultural and social landscape. Many of these organizations have been at the forefront of NYC cultural life for decades, without comprehensive rent relief legislation we risk losing them forever.

Furthermore, we stand with our arts and non-profit colleagues in requesting rent relief for individual artists. With an average annual income of \$32,886, near the poverty line, individual dance workers suggest they will lose at least 18% of their annual income due to the COVID-19 pandemic. Individual dance workers reported a cumulative loss of at least \$4.2M in income related to 28,705+ cancelled engagements. Dance workers are the least unionized of the performing arts in NYC and receive the lowest wages of arts workers. The social and economic impact of the ongoing pandemic continues to build, with a delayed return to in-person performances even after a vaccine. The pandemic has disproportionately affected dance workers who identify as disabled, BIPOC, and genderqueer/nonbinary as well as older dance workers, and immigrant dance workers. We need to have important conversations about how paying rent will be supported, or else we’re going to have to pay a lot of money to bring our artists back later, if we don't take care of the artists we have now.

The exodus of the arts workforce poses a direct and pervasive threat to the survival of the Arts and Culture communities in the City. Locally, rent relief legislation is needed to ensure our City’s arts and cultural institutions survive so they can remain the bloodline of NYC and help with the economic recovery. Dance/NYC strongly advocates for a vision rooted in inclusivity, equity, and sustainability for the arts and culture industry. Artists are necessary workers and in order to continue to be a driving part of the NYC workforce, comprehensive rent relief legislation is needed to ensure that they can continue to live and thrive as members of our City.



**For Dance/NYC and its constituents, the most urgent priorities are:**

- 1) Rent relief for individual freelance dance workers, fiscally sponsored artists, and dance organizations who are most severely impacted by the ongoing COVID-19 pandemic and recession.
- 2) Create structures that focus on creating affordable housing to address the affordability of housing crisis that New Yorkers are facing and to root this in justice, equity and inclusion of all New Yorkers. Create structures that allow for subsidized housing for artists and those who are BIPOC, genderqueer/nonbinary, and immigrants who are disproportionately affected by the affordability crisis and increased rent demands brought on by the COVID-19 pandemic.
- 3) Although we are appreciative of the Emergency Rent Relief Act, one time assistance programs are not the answer. We call for long term rent relief in order for our cultural and arts institutions to weather the pandemic.

We applaud New York's city efforts to curb the pandemic but in order to continue properly social distancing and public health guidelines, people require housing. We stand in solidarity with our arts and nonprofit colleagues in demanding rent relief legislation. With proper legislation and support we can navigate both the COVID-19 pandemic and affordability of housing crisis and ensure the survival of the arts and cultural sector of NYC. We thank the City Council members for their time and efforts in ensuring affordable housing and rent for all New Yorkers.

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danger and in need of safe housing. Programs are client-centered with a focus on managing crisis and trauma of domestic violence, and strengthening coping skills and enhancing self-sufficiency. Services include individual counseling, advocacy, psych educational groups, and trauma focused interventions that address the dynamics of domestic violence.

Intro 2018-2020 would amend the administrative code of the city of New York to require the department of social services to provide domestic violence services at all shelters, including DHS sites. We commend the City for seeking to enhance coordination services at DHS shelters, and feel that this can be achieved by increasing staff training at DHS sites in order to support deeper understanding and awareness of domestic violence, improve screening and assessment skills, and identify and implement appropriate referrals to domestic violence residential and nonresidential providers in the community.

Collaboration among housing and homeless providers and domestic violence providers is essential. DHS shelter providers should focus on the primary reasons a family has become homeless, and if domestic violence is a factor, the family should be referred to more appropriate services, such as a domestic violence shelter or a nonresidential domestic violence provider in the community that has specialized expertise with specially trained staff and resources.

We look forward to sharing our expertise and knowledge with our colleagues in the DHS homeless shelter provider community, including the development of linkage agreements and training opportunities, in order to better serve victims of domestic violence throughout NYC.

We thank the New York City Council for their consideration and support of the work of the Coalition and the domestic violence advocacy community, and thank you for this opportunity to speak before you today.



**Testimony of Judi Kende  
Vice President and New York Market Leader  
Enterprise Community Partners, Inc.**

**For the New York City Council  
Committee on General Welfare  
Committee on Civil & Human Rights**

**Joint Hearing on Oversight - Rental Assistance and Source of Income Discrimination**

**September 15th, 2020**

My name is Judi Kende, and I am the Vice President and Market Leader for the New York office of Enterprise Community Partners. Enterprise is a national affordable housing nonprofit whose mission is to create opportunity for low- and moderate- income people through affordable housing in diverse, thriving communities. We invest capital to create and preserve quality affordable homes, reinvest revenues to develop programmatic solutions, and scale these solutions through policy change. Since our New York office opened in 1987, we have invested over \$3.8 billion across New York State helping build or preserve more than 63,000 affordable homes for over 167,000 New Yorkers.

On behalf of Enterprise, I would like to thank Chair Levin and Chair Eugene for the opportunity to submit testimony on this series of bills related to source of income discrimination, justice-involved housing and rental assistance, three top priorities for our organization which are more important than ever now amid the Covid-19 pandemic. Given the absence of sufficient federal resources to address the unprecedented level of housing insecurity that our city is currently facing, New York City government must step up to ensure that all New Yorkers have access to safe, stable housing.

**Source of Income Protections:** Last year, the Statewide Source of Income Coalition, founded by Long Island-based ERASE Racism and now co-led by Enterprise, led a successful campaign to combat widespread source of income discrimination, resulting in new statewide protections for tenants who use nonwage income to pay for housing. Despite this win for fair housing, source of income discrimination remains pervasive and further action must be taken to enforce these protections and educate tenants and landlords about this new law.

- **Preconsidered Intro \_\_ (Powers)** Enterprise joins the full-service fair housing organizations across the state in supporting statewide consistency regarding the enforcement of source of income protections. We will support Councilmember Powers' introduction to amend New York City administrative code in relation to source of income

once the bill is amended to match only the exemptions in New York State Human Rights Law, as included in April 2019.

- **Intro 1339** We support Councilmember Ayala's introduction to require the Department of Social Services (DSS) to inform applicants eligible for rental assistance programs about their protections under New York City Human Rights Law related to lawful source of income discrimination. This bill would be an important measure to educate tenants on their fair housing rights.

**Rental Assistance:** New York City was facing a crisis of housing affordability and homelessness prior to Covid-19, and the pandemic has exacerbated housing insecurity to an unprecedented degree, with a disproportionate number of low-income renters and renters of color grappling with Covid-19 related job loss. Across the state, over 40% of renter households have reported being unable to pay rent as of July 15. Enterprise co-convenes of the Family Homelessness Coalition, a broad group of advocates, shelter and service providers and affordable housing owners working to combat family homelessness in New York City since before the current crisis. A top priority for our coalition is expanding access to affordable housing and allowing families to exit shelter faster. CityFHEPS voucher is a critical tool to help families in shelter find permanent, stable housing and we urge the City to make the voucher more accessible, more transparent and able to cover a larger portion of New York City rents so that voucher holders are able to access housing in a wider variety of neighborhoods.

- **Intro 146** We strongly support Councilmember Levin's bill to require that CityFHEPS maximum rent limits be raised to HUD's Fair Market Rent (FMR). While CityFHEPS is a critical tool to help families find permanent and stable housing, it is widely known that the voucher amount is simply too low for most private housing in New York City. There is not a single neighborhood across the five boroughs where median rent for a 2-bedroom is affordable with CityFHEPS' current rental limit. Raising the limit to FMR would increase the maximum rent by \$473 per month, significantly broadening access to permanent housing in many neighborhoods. Analysis from Women in Need (WIN) found that although Intro 146 would increase voucher costs by \$247 million in five years, it would help over 13,000 families exit shelter faster because of increased housing opportunities, reducing shelter costs by \$434 million, for a total savings of \$187 million over five years. At a time when shelters are over capacity and the city is facing severe budget cuts, we urge you to pass this legislation that will get more households in permanent homes and save the City money.
- **Preconsidered Intro \_\_ (Levin)** We support Councilmember Levin's bill to require DSS to make the status of a CityFHEPS application or renewal request available to applicants online. This bill would provide transparency to tenants and their landlords as they move through the complicated application and move-in process, and bring efficiency to the system, allowing families to exit shelter faster.

- **Intro 102** We support Councilmember Ampry-Samuel's introduction to require DSS agencies to track and report data on CityFHEPS voucher holders. In addition to being an invaluable resource for advocates, open and accessible data will help provide an accurate picture of CityFHEPS voucher recipients, allowing both DSS and housing providers to serve recipients more effectively.

**Justice-Involved Housing:** As part of our Regional Affordable and Fair Housing Roundtable, co-convened with the Fair Housing Justice Center, Enterprise advocates for the expansion of state and local protected classes to include arrest and conviction records. Justice-impacted people exiting jails and prisons face enormous barriers of discrimination to securing housing. Due to these barriers, one in five entrants to the New York City Department of Homeless Services (DHS) shelter system come directly from state prison, and up to 80% of people leaving Rikers enter DHS shelter in the year following their discharge. This is an issue of civil liberties with deeply racialized impacts, as 90% of people in jail in New York City are Black or Hispanic, a racial disparity even more stark than the rest of the United States, where one in three Black adult men has a felony conviction.

Amidst a pandemic, it is critical that we intervene in the prison-to-shelter pipeline to end the debilitating cycle of recidivism and to protect public health. Ending the use of background checks is a key step to removing discriminatory barriers to reentry housing for justice-involved people and families.

- **Intro 2047** We support Councilmember Levin's introduction to prohibit housing discrimination on the basis of arrest or criminal record in New York City as a step towards statewide fair housing protections. Individualized assessment based on offenses and "ban the box" style legislation often lead to more discrimination. Research shows that a conviction record reduces the probability of a landlord allowing prospective tenants to even view a rental apartment by more than 50%. A ban on background checks by housing providers is crucial to removing this barrier to safe, successful reentry for New Yorkers.

In closing, we would like to thank you again for the opportunity to testify today and for your continued leadership to address housing insecurity amid the Covid-19 pandemic. We look forward to working with you to ensure a robust and equitable recovery.



**Testimony of  
The Reverend Winnie Varghese  
On behalf of  
Trinity Church Wall Street and Faith Communities for Just Reentry  
Before  
The Council of the City of New York  
Committees on General Welfare and Civil and Human Rights Oversight Hearing:  
Rental Assistance and Source of Income Discrimination**

1. Faith Communities for Just Reentry

My name is Winnie Varghese. I am a priest at Trinity Church Wall Street, an Episcopal Church in lower Manhattan. Trinity Church is the convener of Faith Communities for Just Reentry, an interfaith coalition of 40+ faith leaders, representing over 120,000 New Yorkers across the five boroughs. Faith Communities for Just Reentry was formed to end the horrific cycle of homelessness and incarceration in New York City. This requires that Mayor de Blasio and the City Council take action to create a just reentry system that provides for the safety of individuals released, stable housing for justice-involved individuals and their families, and coordinated support services that are held accountable to the well-being of each person.

I want to thank the New York City Council for the opportunity to testify on Intro 2047-2020. Faith Communities for Just Reentry is grateful for the leadership of Councilmember Levin, Councilmember Lander, Councilmember Cornegy and Public Advocate Williams in proposing legislation that seeks to address rampant housing discrimination against New Yorkers with criminal justice records. A criminal justice record is not the measure of a person, nor should it be used to deny basic rights to housing for some of our most vulnerable neighbors.

We are proud to have partnered with many of you sitting here today and others on the Council on this incredibly important issue over the years as a member of the clergy and community advocate. Thank you for all you have done, and continue to do, to speak up on behalf of vulnerable New Yorkers who are struggling during these unprecedented times. I look forward to working together in the future.

2. Call to End Housing Discrimination

In New York City, fifteen to twenty thousand New Yorkers are caught each year in the cycle of homelessness and incarceration. Nationally, people who are formerly incarcerated are ten times more likely to experience homelessness compared to the general population. This cycle is perpetuated by the discrimination that our neighbors face during reentry from jail and prison and, in some cases, even before they are convicted of a crime.

Research shows that private landlords heavily discriminate against justice-involved individuals and their families through the use of background checks. In New York, the probability that an individual with a criminal record can even view an available apartment is 50%. While our City has taken action



through Ban the Box and the Fair Chance Act to remove discrimination in education and employment, our justice-involved neighbors are still discriminated against when trying to apply for and access housing.

That is why we need to pass this legislation now. We must end the cycle of poverty and homelessness induced by discrimination that so many formerly incarcerated New Yorkers face when they try to get their lives back on track. That cannot be done when they face legally-sanctioned discrimination.

We cannot stop there. While many New Yorkers may not know it, New York City Housing Authority (NYCHA) can legally discriminate against justice-involved New Yorkers.

NYCHA replicates the discrimination we see in the private market by preventing people with criminal records from returning home to their families. While federal law prohibits people convicted of certain violent crimes from residing in federally funded public housing, NYCHA uses broad discretion to deem residents as “dangerous,” leading to their eviction and separation from their families through a policy called permanent exclusion. At this moment, New York City is harsher in its treatment of people with criminal records than the Department of Housing and Urban Development under the Trump Administration.

NYCHA further discriminates against individuals who have interacted with the criminal legal system, but who have not been convicted of a crime. Upon arrest and prior to conviction, eviction proceedings can begin. In 2015, our partners at Brooklyn Defender Services shared with City Council the example of a NYCHA resident who faced eviction for an arrest that occurred more than a year after the reported criminal act and despite strong evidence to prove their innocence. It has been five years, and these practices are still in place today.

**We know that the housing discrimination described above is not equally experienced. Black and Latinx communities are subject to over-policing and are disproportionately incarcerated compared to their white neighbors.** The percentage of Black people in the population jailed at Riker’s Island is twice the percentage of Black people in population of the New York City. Meanwhile, though nearly a third (32%) of the population of New York City is white, this racial group makes up only 8% of the city’s jail population. 91% of public housing residents in New York are Black or LatinX, which means that NYCHA discriminatory policies, including permanent exclusions, disproportionately evict and/or separate families of color.

The racist legacy of our criminal justice is predictably only compounded by the permanent exclusion rule. A report from the Vera Institute of Justice found that 2,200 people formerly living at a NYCHA address, who were released from a city jail between 2010-2013, sought housing in a shelter. Hundreds of people continue to be impacted by this rule every year, with the average length of permanent exclusion for those submitting applications to be reinstated as tenants lasting nearly 10 years.



### 3. Necessary Reform

As faith leaders, we are called to proclaim the beloved community, defined as a society that takes particular care of the vulnerable, the unhoused, those without food, those in prison –from the times of our ancient texts, the fairness of systems of justice is important enough to be referenced as a sign of the communities faithfulness. Injustice equals a lack of love and fear of God.

Faith Communities for Just Reentry calls upon Speaker Johnson and members of the City Council to pass the Fair Chance Housing legislation proposed, putting an end to landlord discrimination against New Yorkers with a criminal record and their households. Let us lead with forgiveness and dignity rather than punishment and exclusion.

Finally, we ask that the City Council call for NYCHA to end discriminatory Permanent Exclusion policies that prevent residents with criminal records from returning to their homes in public housing and separate families upon arrest and prior to conviction. In a city where rents remain unaffordable for most New Yorkers, removing NYCHA housing as an option for justice-involved New Yorkers provides a sure path to housing insecurity and homelessness for them and their families. If we want to truly carry the mantle of being a progressive city, we cannot allow our own public housing authority to reinforce a broken status quo that has harmed far too many of our friends, family and neighbors.

I want to thank the Council again for their leadership on this issue. I am grateful for the opportunity to speak before you today.



NYC Council Committees on General Welfare and Civil and Human Rights Oversight Hearing  
*on Rental Assistance and Source of Income Discrimination*

**Testimony of Katie Schaffer**

Director of Advocacy and Organizing at Center for Community Alternatives

Good morning. My name is Katie Schaffer and I am the Director of Advocacy and Organizing at Center for Community Alternatives. Thank you to Councilmember Levin and Councilmember Eugene for the opportunity to present testimony today about Intro 2047-2020, legislation which would prohibit housing discrimination based on arrest or criminal record.

Center for Community Alternatives is an organization with offices across New York State, including New York City. Through direct services, organizing and advocacy, we support and build power with New Yorkers impacted by the criminal legal system and advocate for changes in New York laws and policies to end mass incarceration and mass criminalization.

The legislation before the Council today is of critical importance. Each day, members and clients of CCA are funneled into the shelter system because they are discriminated against in the public and private housing systems. When members of our community cannot live with their families in NYCHA housing or rent an apartment due to discrimination based on their record, they are forced into the shelter system or street homelessness.

This is unconscionable. Housing is a human right and we must treat it and protect it as such. We must also recognize that discrimination on the basis of arrest or conviction record is fundamentally racially discriminatory. Systemic racism in our policing and criminal legal system mean that Black and Latinx New Yorkers are stopped, searched, and arrested at far greater numbers. They are also far more likely to have unaffordable money bail set and be indicted on harsher charges, which often leads to the coercion of plea deals. This means that discrimination on the basis of these records disproportionately impacts Black and brown people.

This jail-to-shelter or prison-to-shelter pipeline also makes New York less safe. Shelters are traumatizing for people who have been in carceral settings. They pose a health risk, as COVID-19 has been made abundantly clear. For CCA leaders and participants struggling with substance use, homelessness makes recovery even harder.

Housing is the foundation of a stable life. Access to housing, like access to jobs and healthcare, is important for individuals, but also for their families, and their larger communities. When each of us has what we need to thrive, all of us are safer.



It is therefore critical that City Council reject the false and fear-mongering claims by landlord industry groups. Ensuring access to stable housing increases community safety.

While more work is needed at the city, state and federal level to pass automatic expungement laws and end permanent exclusion at NYCHA and other public housing authorities across the state, this bill is a critical step towards ensuring that all New Yorkers have a roof over their heads. Thank you.

Testimony of  
Wendell Walters  
Senior Policy Associate  
Osborne Center for Justice Across Generations  
Osborne Association

New York City Council  
General Welfare and Civil and Human Rights Committee Joint Hearing  
September 15, 2020

Re: T2020-6580, Int. 0146-2018, Int. 1020-2018, Int 1339-2019, and Int 2047-2020

My name is Wendell Walters, and I am the Senior Policy Associate with the Osborne Association's Center for Justice Across Generations. Osborne is one of the oldest and largest criminal justice organizations in the state, serving 12,000 participants each year. Our programs cover the full spectrum of services for those who are justice-involved and their families. From arrest to reentry, Osborne offers programming from four community sites, at 30 state prisons, and inside New York City's jails. We understand the obstacles that face returning citizens. Chief among those challenges is finding a safe and secure home. That is why we support T2020-6482, Int 0142-2018, Int 1020-2018, and Int 1339-2019, bills that were the subject of a hearing on September 15, 2020, in the General Welfare and Civil and Human Rights Committees. In particular, we support Intro 2047-2020 that forbids landlords from performing criminal background checks when considering an applicant for housing.

I want to thank the committees for allowing me the opportunity to submit this written testimony. We all know that New York City has been in an affordable housing crisis for many years now. Rents have dramatically increased as a result of high-end real estate development while household incomes have remained stagnant, leaving the available inventory of affordable units at such low levels that do not match the demand. High unemployment due to COVID-19 has only exacerbated this housing crisis. As a result, it is incumbent that elected officials and government agencies intervene to create affordable housing opportunities for those most vulnerable and in need.

People who have recently returned home from prison or jail and people with conviction histories are at very high risk for housing insecurity. These individuals have paid their debt to society. **In New York State, there are approximately 7 million individuals with conviction histories.** Each year, nearly 6,000 individuals return home from Rikers and state prisons and enter the NYC shelter system. An estimated **one in five people in NYC shelters came from a correctional institution.** It is not unusual for people who face significant housing discrimination to feel stuck in the shelter system even after securing gainful employment. Indeed, even once they have found a home and many years have passed since a conviction, it may take just one adverse life event—a significant rent increase, family disconnection, or an emergency expense—for them to lose their housing.

Add to this the racial injustice and inequities with far-reaching consequences. According to studies, one in three African-American adult men has a felony conviction, and Black and Brown people comprise forty percent of the country's homeless population. These dramatic statistics are just a few examples of the barriers people face in disadvantages for people of color and the inequities in society, including the ongoing punitive consequences of involvement in the justice system. Many Black men have a conviction history, and many are homeless and unable to overcome the twin crises of discrimination by race and criminal record. This distress also extends to the families of people coming home. Parents coming home from prison who cannot secure housing are at a disadvantage in their effort to reconnect with their families. We must address this vicious cycle of repression.

There are two proven drivers of stability for a returning citizen's successful reentry back into their community. One is finding a job, and the other is finding a home. We have made progress in our city and state to address employment discrimination for those with a conviction history by passing the Ban the Box legislation. We now must make the effort to allow this same group of people the opportunity to be free of discrimination by banning criminal background checks when applying for housing. Int. 2047, the Fair Chance for Housing bill before you does just that.

We know that opposition to the bill will primarily come from landlords who will cite safety concerns for tenants. But continuing to deny housing to those with criminal histories increases homelessness and the likelihood of increased crime. Having a home decreases recidivism and increases a person's ability to maintain employment and contribute to family and community. Forbidding housing discrimination for those with conviction histories makes neighborhoods *more* safe, not less safe.

In addition, Int 2047 does not forbid landlords (or their agents) from ensuring that an applicant is employed with enough income to afford the rent and has positive references. They can also evict any tenant that has threatened the safety of another tenant. Further, no landlord has ever been held liable for failing to do a criminal background check on a tenant.

The bill does create exceptions. Most notably, the bill does not cover the New York City Housing Authority (NYCHA) as it is governed by federal and state law. NYCHA exclusionary policies deny applicants with misdemeanors and other convictions for up to 6 years after they have been released. We must bring NYCHA into the conversation as it is the largest landlord in the city and manages the most affordable housing stock for people with low incomes.

Fair Chance for Housing is not a new concept. In housing markets similar to New York City, bills to ban criminal background checks in housing have passed local legislatures and been implemented in Seattle, WA, Oakland, CA, and Berkeley, CA. It is time for New York City to do the same.

Thank you for your time and consideration.



**Testimony of Fred Freiberg, Executive Director  
Fair Housing Justice Center (FHJC)**

**Hearing of the New York City Council Committees on General Welfare and Civil  
and Human Rights**

**September 15, 2019 – 10:00 a.m.**

My name is Fred Freiberg and I am a co-founder and the current Executive Director of the Fair Housing Justice Center, Inc. (FHJC). While I regret that I am unable to attend the hearing in person, I appreciate the opportunity to provide this written testimony to the New York City Council's Committee on General Welfare and the Committee on Civil and Human Rights regarding important legislative initiatives that are under consideration.

The FHJC is a non-profit civil rights organization based in New York City. Our mission is to eliminate housing discrimination, promote policies that foster open, accessible, and inclusive communities, and strengthen enforcement of fair housing laws. The FHJC provides counseling on fair housing rights, investigative assistance including testing, and referrals to administrative agencies and cooperating attorneys.

First, on the issue of source of income discrimination, we urge Council members to enact a bill that would make the City's source of income law consistent with the New York State source of income law that passed on April 12, 2019. The City should amend its Human Rights Law to provide a more expansive and inclusive definition of source of income as is found in the new state law and extend the coverage to exempt only owner-occupied housing of two units or less. This will make enforcement of both laws easier and create less confusion among housing providers and consumers about their rights and responsibilities.

We also write to strongly support Int. No. 2047 which would add "arrest and conviction record" to the list of protected characteristics under the City's Human Rights Law and prohibit housing discrimination on this basis. Arrest records should never be the basis to exclude anyone or treat anyone differently regarding housing and State law

currently prohibits inquiries about arrests. Using past criminal convictions as a basis to exclude someone from housing should also be illegal. This facially neutral tenant selection criterion has a disparate impact on African American and Latinx populations who are disproportionately represented in the justice-involved population.

African American people are significantly overrepresented in the U.S. prison population. Despite being only 13 percent of the overall U.S. population, 40 percent of those who are incarcerated are Black. On the other hand, whites make up 64 percent of the overall population but account for only 39 percent of those who are incarcerated. People of color are also more likely to become entangled in the criminal justice system. Among black males born in 2001, one in three will go to prison at some point during their lifetimes; one in six Latino males will have the same fate. By contrast, only 1 out of every 17 white males is expected to go to prison. A similar pattern exists among women: 1 in 111 white women, 1 in 18 black women, and 1 in 45 Latina women will go to prison at some point. Furthermore, an African American person is 2.5 times more likely to be arrested than a white person.

As part of the larger restorative justice movement in this nation, we need to restore the rights of formerly incarcerated people and give formerly incarcerating people a fair chance to obtain housing. Formerly incarcerated people are nearly 10 times more likely to be homeless than the general public, according to a 2018 report by the nonprofit Prison Policy Initiative. Rights have been restored in the area of employment and increasingly states around the country are restoring voting rights as well. Restoring fair housing rights is equally important.

In this moment, much of the nation is engaged in a conversation about racial justice and equity and trying to find ways to heal and repair the harm caused by systemic racism in education, housing, health care, and the criminal justice system. New York City should move forward and pass the most progressive legislation in the country on this issue. We strongly urge you to push for passage of Int. 2047.

Thank you very much.

**September 15, 2020**

**New York City Council**

**Joint Hearing Before the Committees on General Welfare & Civil and Human Rights**

**Re: Rental Assistance and Source of Income Discrimination**

**Int. Nos. 146-2018, 1339-2019, 2018-2020, 2047-2020 and T2020-6576**

**Written Testimony of The Bronx Defenders**

**By: Gillian Stoddard Leatherberry & William John, Civil Action Practice Staff Attorneys**

We are civil public defenders in the Civil Action Practice (CAP) at The Bronx Defenders (BxD).<sup>1</sup> Thank you for the opportunity to submit testimony on these important matters.

Housing justice remains illusive for many of our clients who face both criminal record discrimination, following interaction with the criminal legal system, and source of income discrimination, solely because they use rental assistance vouchers to pay some or all of their rent. Every day in CAP, we see how the lack of access to stable and adequate housing leads to or exacerbates the vicious cycle of court, system involvement, and poverty. CAP, now in its 20th year, is designed to defend against the many enmeshed civil penalties that arise out of multi-legal system involvement. In our work, we recognize that housing is one of the most fundamental building blocks of a stable life and that lack of access to adequate housing and homelessness increase the risk of incarceration, subsequent re-incarceration, and other legal system

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<sup>1</sup> BxD is a public defender non-profit that is radically transforming how people in the Bronx are represented in the legal system, and, in doing so, is transforming the system itself. Our staff of over 350 includes interdisciplinary teams made up of criminal, civil, immigration, and family defense attorneys, as well as social workers, benefits specialists, legal advocates, parent advocates, investigators, and team administrators, who collaborate to provide holistic advocacy to address the causes and consequences of law system involvement. Through this integrated, team-based structure, we have pioneered a groundbreaking, nationally-recognized model of representation we call holistic defense that achieves transformative outcomes for our clients. Each year, we defend more than 20,000 low-income Bronx residents in criminal, civil, child welfare, and immigration cases, and reach thousands more through our community intake, youth mentoring, and outreach programs. Through impact litigation, policy advocacy, and community organizing, we push for systemic reform at the local, state, and national level. We take what we learn from the clients and communities that we serve and launch innovative initiatives designed to bring about real and lasting change.

involvement. The Bronx in particular, made up of majority Black people and people of color,<sup>2</sup> has faced institutional racism, entrenched poverty, and a lack of access to opportunity and resources for decades.<sup>3</sup> BxD clients commonly face targeting from multiple legal systems - criminal, ACS, immigration, housing court and others. For example, a criminal case can often lead to job loss, an ACS case, and an eviction case. Clients must then spend time and resources attending court, attending required appointments, and applying for benefits, among other responsibilities.

As laid out in detail below, we believe that many of the bills currently being considered by the Council represent important advances in protecting our clients as they attempt to access rental subsidies, avoid eviction, and otherwise try to access their human right to stable housing. In a few areas, we suggest further changes that would close loopholes and further ameliorate the problems our clients face.

### **I. BxD Strongly Condemns All Forms of Housing Discrimination that Limit our Clients' Ability to Access Their Human Right to Adequate Housing.**

Many of our clients face significant obstacles when attempting to access stable housing because of their criminal legal system involvement, history or records. Many others face similar hurdles because they rely on housing subsidies. They are often stymied in their housing search by landlords and brokers who never call them back or try to evict them following an arrest, a criminal case, or a call to ACS or because they plan to use a rental subsidy to pay part or all of their rent. Finding an affordable, quality apartment in NYC is difficult to begin with and is exacerbated further by these barriers. This discrimination overwhelmingly impacts Black people and people of color, who are disproportionately targeted by law enforcement and treated more

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<sup>2</sup> U.S. Census, QuickFacts, Bronx County (Bronx Borough), New York, last accessed Sept. 15, 2020 at 10:03am, available at <https://www.census.gov/quickfacts/bronxcountybronxboroughnewyork>.

<sup>3</sup> Lydia Chavez, *Two Bronx Schools: Study in Inequality*, N.Y. Times, July 2, 1987, available at <https://www.nytimes.com/1987/07/02/nyregion/two-bronx-schools-study-in-inequality.html>; David R. Jones, *Unequal Education in New York's Public School System*, May 29, 2014, available at <https://www.cssny.org/news/entry/unequal-education-in-new-yorks-public-school-system1>; see generally David E. Kirkland & Joy L. Sanzone, *Separate and Unequal: A Comparison of Student Outcomes in New York City's Most and Least Diverse Schools*, Oct. 2017, available at [https://research.steinhardt.nyu.edu/scmsAdmin/media/users/dk64/SeparateButUnequal\\_20171023.pdf](https://research.steinhardt.nyu.edu/scmsAdmin/media/users/dk64/SeparateButUnequal_20171023.pdf); Neil Calman, *Making Health Equality A Reality: The Bronx Takes Action*, April 2005, available at <https://www.healthaffairs.org/doi/full/10.1377/hlthaff.24.2.491>; Danielle Pasquel, *Health Disparities and Environmental Justice in the Bronx*, March 23, 2015, available at <https://theejbm.wordpress.com/2015/03/23/health-disparities-and-environmental-justice-in-the-bronx/> (cataloguing decisions to locate factories, power plants, and waste transfer stations in the Bronx, and route industrial truck traffic through the Bronx).

harshly at every stage of the criminal legal system,<sup>4</sup> and who are disproportionately represented among rental assistance voucher-holders.<sup>5</sup> Allowing discrimination on the basis of a person's criminal record or source of income both extends the reach of carceral systems and cements decades of structural racism and the City's history of racially discriminatory policing in our housing system.<sup>6</sup> We applaud the Council's efforts to remedy this pernicious discrimination regularly directed at our clients.

*A. Housing Discrimination Based on Criminal Background Checks Divides Communities and Perpetuates Racism.*

BxD clients commonly experience housing discrimination based on their criminal legal system involvement and records. Our clients who are merely accused and not yet convicted face a whole host of housing consequences. Moreover, after receiving a conviction or completing incarceration, our clients face a difficult transition. Having financial stability and strong community ties are two critical components of reentering a community and building a new life. Both are exponentially more difficult to achieve without stable housing. Many clients fear the housing search because they know there is no law explicitly prohibiting criminal history discrimination in housing. Clients end up seeking informal, often unstable, housing arrangements or experience housing instability when their search becomes futile, leading to greater difficulty holding stable employment, supporting themselves and their families, and avoiding re-entry into the criminal law system.

New York City made significant progress combatting criminal history discrimination in the employment context with its passage of the Fair Chance Act in 2015.<sup>7</sup> BxD supports the Council's efforts to take another step towards eradicating criminal history discrimination in our City by passing Int. 2047. This law will allow prospective tenants to respond directly to brokers and landlords who reject their applications. The New York City Commission on Human Rights will be able to investigate and prosecute brokers and landlords who do not follow the law. Tenant

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<sup>4</sup> See generally, Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, The New Press: 2010.

<sup>5</sup> See generally, Abby Vesoulis, 'A Mask for Racial Discrimination.' *How Housing Voucher Programs Can Hurt the Low-Income Families They're Designed to Help*, Time, Feb. 20, 2020, available at <https://time.com/5783945/housing-vouchers-discrimination/>.

<sup>6</sup> Ibram X. Kendi, *How to Be an Antiracist*, 18, One World: 2019 ("A racist policy is any measure that produces or sustains inequity between racial groups. An antiracist policy is any measure that produces or sustains racial equity between racial groups.").

<sup>7</sup> See generally, N.Y.C. Council Committee on Civil Rights Report on Int. No. 318-A, June 9, 2015, available at <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3786108&GUID=4A060880-19DB-443B-8F74-D3F567F64A9F&Options=&Search=> (explaining background on Fair Chance Act for employment, which prohibits criminal records discrimination in N.Y.C.).

attorneys in Housing Court will be able to assert discrimination as an affirmative defense in holdover proceedings. These provisions will immediately benefit New Yorkers recovering from criminal law system involvement.

We also propose the following common-sense changes to the law to ensure that the law closes loopholes that otherwise will gravely limit our clients' access to housing justice:

- **Explicitly prohibit discrimination based on open cases, pending ACDs,<sup>8</sup> youthful offender adjudications, non-pending arrests and criminal accusations, and unsealed violations.** Individuals caught in the criminal legal system often face discrimination because of their open cases, even though no conviction has resulted, and the case could easily be dismissed or decided in the person's favor. The same is true of non-pending arrests and criminal accusations. Youthful offender adjudications are sealed under New York State Law<sup>9</sup> and should not be considered in the housing context. Further, in 2019, approximately 3,300 of our clients' cases were resolved with ACDs, and more than 3,800 additional cases were resolved with a violation or traffic infraction. Non-criminal violation convictions are not criminal convictions and these convictions and ACDs are the lowest level outcome for a criminal case that is not an immediate dismissal. The New York State Human Rights Law has already been amended to prohibit employment discrimination based on cases resulting in pending ACD status and goes further to declare that cases resolved with an ACD should not be considered pending cases for the purposes of the Human Rights Law unless the ACD is revoked and the case is restored to the calendar for further prosecution.<sup>10</sup> Importantly, this Council is considering amending the Fair Chance Act for employment to include most of these circumstances outcomes in that law's purview.<sup>11</sup> That amendment is strongly supported by civil society groups due to the

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<sup>8</sup> An ACD is an "adjournment in contemplation of dismissal." N.Y. Crim. Proc. Law § 170.55. Cases result in ACD status and appear open for a fixed period when the prosecutor believes and a judge rules that the case should not be further prosecuted. According to N.Y. Criminal Procedure law, upon the dismissal of an open case pursuant to an ACD, "the arrest and prosecution shall be deemed a nullity and the defendant shall be restored . . . to the status he occupied before his arrest and prosecution." N.Y. Crim. Proc. Law § 170.55, para. 8.

<sup>9</sup> N.Y. Crim Proc. Law § 720.35.

<sup>10</sup> N.Y. Exec. Law § 296(16).

<sup>11</sup> See N.Y.C. City Council Committee on Civil and Human Rights, Committee Report of the Governmental Affairs Division Int. on 1314-A-2018, Jan. 22, 2020, *available at* <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3786108&GUID=4A060880-19DB-443B-8F74-D3F567F64A9F&Options=&Search=> (reviewing the need for change to the Fair Chance Act to prohibit employment discrimination based on pending ACDs, youthful offender adjudications, non-pending arrests and criminal accusations, and unsealed violations).

necessity it has for so many of our clients.<sup>12</sup> The Council should include these common-sense provisions in this bill from the start.

- **Remove the exception for room rentals.** Many individuals beginning to build a new life following incarceration or affected by orders of protection during a criminal case rent rooms due to limited finances. The exclusion of room rentals where the owner or the owner's family also live in the building reinforces acceptability of the racist and prejudiced idea that people with criminal convictions are dangerous and undesirable tenants. The exception's inclusion results in unnecessary exclusion of people with criminal history from a much needed source of affordable housing for exactly the population the law aims to protect.

*B. Source of Income Discrimination Disproportionately Affects Black People and People of Color and Forces Families Back to the Shelter System.*

Tenants, including many BxD clients, commonly experience discrimination from landlords because they use rental subsidies, vouchers, or HRA public assistance shelter payments to pay some or all of their rent. They experience this discrimination regardless of the size of the building they live in. For many of our clients, a landlord's refusal to rent to them or an eviction case has the same effect as it does on a tenant in a larger building - that tenant commonly has no choice but to leave their community and return to the shelter or become street homeless with their families.

In our experience, small landlords commonly accept individuals and families coming from shelters for the first year when the City may pay a large portion of their rent to the landlord up front. However, after that first year, tenants often face so-called "no-cause" holdover cases from landlords in buildings with fewer than six apartments. In rent stabilized units in NYC - which exist in many buildings with 6 or more units - landlords are *required* by the Rent Stabilization Code to renew the tenant's lease, except in a few specific circumstances. In smaller buildings unregulated by the Rent Stabilization Code, however, landlords legally may choose not to renew someone's lease for any reason, as long as the reason is not unlawful discrimination. Under the current NYC Human Rights Law, a landlord who does not own any building with 6 or more units in NYC can lawfully discriminate against tenants for using rental subsidies or vouchers to pay their rent.<sup>13</sup>

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<sup>12</sup> See Hearing Transcript & Hearing Testimony from 1/22/20 on Int. 1314-A-2018, available at <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3786108&GUID=4A060880-19DB-443B-8F74-D3F567F64A9F&Options=&Search=>.

<sup>13</sup> N.Y.C. Admin. Code § 8-107(5)(o)(ii).

We have served clients who are in this exact situation. Often, the very client who was thrilled to move out of the shelter and create a home for their family just one year earlier, again faces an eviction case after the first year of stable housing in these unregulated units. Because of source of income discrimination, tenants face the impossible task of finding a new apartment, this time without the large downpayment of rent that was attractive to landlords when they were coming out of the shelter, and, often a rental subsidy voucher seen as undesirable to landlords.<sup>14</sup> Too often, these families end up back in the shelter system. This housing instability is antithetical to the City’s policies to end homelessness and housing instability through rental subsidy vouchers. It is also incalculably detrimental to school-aged children whose educations and futures are severely compromised by the instability this creates.<sup>15</sup>

BxD supports the City Council’s strengthening of this law under T2019-4051, more closely aligning it with the analogous New York State provision.<sup>16</sup> However, we encourage the Council to go even further than New York State by closing remaining loopholes. Source of income discrimination should be illegal for all landlords under the NYC Human Rights Law, regardless of building size and regardless of landlord residence on the premises. Housing is a human right that should not be determined based on the real estate holdings of one’s landlord. Housing justice will remain an illusion until people who rely on subsidies and vouchers to pay their rent - many of whom are Black people and people of color<sup>17</sup> - have the same access to the housing market as someone who has no need to rely on a voucher to pay rent.

Lastly, BxD supports the City Council’s passage of Int. 1339-2019 to educate tenants about the source of income discrimination law, though it encourages the Council to implement the following critical changes to the law:

- **Ensure that the public education accords with changes made pursuant to T2019-4051.** Section (c)(3) requires a statement that the law applies to “buildings with six or more units,” which is incorrect under both the current law and T2019-4051. Under the current law, any housing accommodation of a landlord owning a single building with 6 or more units in NYC is covered, including in buildings with fewer than 6 units, as long

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<sup>14</sup> See, *supra*, note 5.

<sup>15</sup> Homelessness in New York City has a recognized detrimental effect on school-aged children’s attendance performance at school, including because homeless students in New York City may not be placed in shelters nearby to their school. See Coalition for the Homeless, *State of Homelessness 2018*, 33-34, 41-43 (March 2018), available at <http://www.coalitionforthehomeless.org/wp-content/uploads/2018/03/CFHStateoftheHomeless2018.pdf>. Homeless families must bring their children to their first intake appointment at the shelter, which results in missed school days for children. *Id.*, at 4. Further, a broken shelter application system that frequently denies applicants often results in multiple days of missed school for homeless children. *Id.* At 33-34.

<sup>16</sup> N.Y. Exec Law § 296(5).

<sup>17</sup> See, *supra*, note 5.

as the landlord owns at least one building in NYC with 6 or more units.<sup>18</sup> As written, T2019-4051 would strengthen landlord coverage to include all units with three or more units unless the landlord or a member of their family lives in a three-unit accommodation, in which case the law shall not apply. This bill should be changed to accord with T2019-4051.

- **Explicitly include the Family Homelessness & Eviction Prevention Supplement (FHEPS) along with CityFHEPS in the definitions of “rental assistance” and “rental assistance program.”** The current version of the bill includes explicitly CityFHEPS in the definition of “rental assistance” and “rental assistance program” and does not explicitly include “FHEPS.” The FHEPS subsidy is as or more common than CityFHEPS for our clients at BxD, and there should be no question that it is unlawful to discriminate against a tenant because they pay their rent with the help of FHEPS. A key difference between eligibility for CityFHEPS and FHEPS, among others, is that a tenant is FHEPS eligible if they have a child under 18 in the household. Thus, FHEPS recipients are often struggling to avoid multiple forms of discrimination based on their housing voucher and their status as a family with children. The bill should explicitly include “FHEPS” in addition to “CityFHEPS” in the definitions of “rental assistance” and “rental assistance program.”

BxD also notes that landlords receiving HRA shelter, FHEPS, and CityFHEPS payments may also be educated on the law through inserts with checks or paperwork they receive as a tenant’s FHEPS or CityFHEPS provider. BxD applauds efforts from the City Commission on Human Rights to swiftly address these claims. Landlords should understand that NYC will not tolerate source of income discrimination.

## **II. We Support Common-Sense Changes to Rental Subsidy Vouchers that Are Essential to our Clients’ Ability to Stay in Their Homes and out of the Shelter System.**

Many of our clients avoid eviction only after they are able to connect with the Family Homelessness & Eviction Prevention Supplement (FHEPS), CityFHEPS, or other rental assistance vouchers. These vouchers pay part or all of someone’s rent depending on their household income. Once a family connects with a voucher program, they usually can not only end their eviction case, but start on a path to future housing stability for themselves and their families. The value of these rental subsidy vouchers to our clients are worth far more than the portion of the rent they cover - to a family able to avoid eviction, these vouchers are a lifeline

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<sup>18</sup> N.Y.C. Admin. Code § 8-107(5)(o)(ii).

without which the family would end up having to enter the shelter system or become street homeless. That result is not only damaging for our clients and their children, but also nonsensical as the cost of a voucher is far less than the cost of an individual's shelter residency.<sup>19</sup>

Thus, we support Int. 146 of 2018, which lifts limits on housing vouchers and indexes the rent maximums for voucher programs to the fair market value of the apartment. These changes are needed for a few reasons. First, for many of our clients, their poverty and systems-involvement often cannot be escaped simply by receiving a rental subsidy for a few months or a year. Lengthier support is necessary. When these subsidies disappear, clients end up back in housing court facing eviction where they either eventually connect with a voucher program via HRA, HomeBase or their attorney, or are evicted when they are unable to connect to these resources. Families should not have to live in fear of their much-needed voucher expiring. Further, this change makes economic sense for our City when the costs of sheltering a family is far more than the cost of the voucher program.<sup>20</sup> Second, BxD has many clients who do not qualify for FHEPS and CityFHEPS rental assistance vouchers based solely on their apartment's rent. Families who have created homes in a particular apartment and its surrounding community are forced to find new housing with a low enough rent to qualify for the program. When they are unsuccessful, they are forced into the shelter system. Thus, we encourage any actions the Council may be able to take to ensure that clients are not denied FHEPS or CityFHEPS based on a high rent amount set by a landlord.

We also support T2020-6576, which broadens online access to CityFHEPS program status. BxD represents many clients who have applied for rental assistance programs, but who struggle to gain information about their applications. Both clients and advocates are often in the position of spending hours at an HRA Center, on the phone with HRA's Constituent Services phone line, or trying to call HRA Centers or their application preparers to learn the status of their benefits. When clients cannot learn the status of their benefits, they often miss opportunities to rectify any errors before their benefits are suspended, reduced, or canceled, causing them stress over the potential for eviction or pressure from a landlord.

We also propose the following amendments to T2020-6576:

- **Make application status available to BOTH the requestor and the applicant rather than one or the other.** BxD clients apply to CityFHEPS through HRA or a HomeBase

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<sup>19</sup> Giselle Routhier, *Fate of a Generation: How the City and State Can Tackle Homelessness by Bringing Housing Investment to Scale*, 24, March 2018, available at <https://www.coalitionforthehomeless.org/state-of-the-homeless-2018/> (noting that paying off rental arrears and connecting tenants with vouchers "often costs a fraction of the \$61,262 it costs per year to provide emergency shelter for a family").

<sup>20</sup> *Id.*

provider. The law should require the availability of application status online for both the applicant and the requestor rather than only one of them. If applicants cannot see this information themselves, they may still struggle to learn about their benefits if they cannot reach the requestor.

- **Require application status to be updated within 24 hours of any status change.** A requirement that the application status appear online is meaningless without an accompanying timeliness requirement. Individuals need to learn of their application status timely so that they may fix any issues that arise before the issues result in an eviction case or other detrimental consequence for them.

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The Council should pass these bills as one step in the fight to end cyclical poverty. This legislation is an opportunity to answer the call for justice and equality. It is needed in addition to other necessary city and state action to create comprehensive solutions to the housing access and affordability crisis. Thank you again for the opportunity to submit these comments. We hope that this information was helpful to the Council and we are happy to provide any additional information.

**Corey Darby, Housing Coordinator for Win**  
**Testimony for September 15<sup>th</sup> NYC Council General Welfare Committee Hearing**

My name is Corey Darby and I thank the City Council for allowing me to submit testimony.

I'm calling on the City Council to pass Int. 146 – which will ensure that the rent for the CityFHEPS voucher is always competitive and can allow families to move out of shelter.

I work as a housing coordinator at Win. Next month, I will celebrate 24 years working at the Win Bay Family Shelter in Sheepshead Bay. Our shelter is home to 96 families, and I regularly work with about 35 families at a time to try to find new apartments.

As a housing coordinator, I help families to apply for vouchers, search apartment listings on Craigslist and Zillow, attend showings, negotiate with landlords, and navigate the major aspects of the housing search.

Finding an apartment with a voucher is already a long and difficult process. As part of my job, I regularly drive around Brooklyn neighborhoods, and when I see “For Rent” signs, I take down the contact information and call the brokers to see if they can help us find apartments for our clients. It's very difficult to find apartments that are listed for the rents that fit amounts that homeless families can afford.

But finding an apartment is even more difficult with the CityFHEPS voucher, because the maximum rent available is so low. It is incredibly challenging to find a studio or one-bedroom apartment for \$1,323 per month. It's even more difficult to try to help a family of three or a family of four to find an apartment for \$1,580 per month.

Many of the landlords I meet who are looking for renters for a studio or a one-bedroom can get \$1,800 or \$1,900 per month. Expecting them to take below market rates to house formerly homeless families is not realistic.

So it's extremely rare that our clients are able to find an apartment within the 90 days of eligibility for using the CityFHEPS voucher. Many of our clients reapply for the voucher multiple times.

This leads to a frustrating cycle for our families – many feel that as soon as they get the voucher, they will be able to move out of shelter quickly. But the long search often means they get depressed in their situation. Many do not realize how hard it is to search for an apartment with CityFHEPS, and they get frustrated just at the moment when they are close to finding stable homes.

On many more occasions, our families get close to finding a stable home only to have apartments fall through – largely because the amount of the rental voucher isn't enough to keep a landlord committed. It hurts me as a housing coordinator to see families get close and then have their hopes dashed. They're often looking at me for the answers – I get frustrated for them, and I get frustrated for my colleagues at Win, who are also looking for answers.

The CityFHEPS voucher program has a number of advantages – including allowing families to receive help until their oldest child is 21. But at its current rent values, it is not a useful tool for helping families exit shelter.

Passing Int. 146 will make an immediate impact. It would allow me to speak differently to landlords if I could offer a voucher of \$1,801 for a one-bedroom or \$2,053 for a two-bedroom (FY21 Fair Market Rent). It would mean new hope for our families – allowing them to find better apartments for their families and a new start after shelter.

Please pass Int. 146 to help homeless families exit shelter more quickly.



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**Comments of Suhali Méndez  
Senior Advocate, Disability Justice Progra  
New York Lawyers for the Public Interest**

**to the**

**New York City Council  
Committee on General Welfare  
jointly with the  
Committee on Civil and Human Rights**

**regarding**

**Prohibition against Discrimination in Housing Accommodations based on Lawful Source of  
Income  
Int. T2019-4051**

**September 15, 2020**

My name is Suhali Méndez and I am a Senior Advocate in the Disability Justice Program at New York Lawyers for the Public Interest (NYLPI). NYLPI is a civil rights organization with a robust disability rights practice, and housing advocacy for people with disabilities is an important part of our work.

NYLPI represents tenants in matters involving the need for reasonable accommodations, such as apartment and common area retrofitting, transfers to accessible apartments, and protection for use of service animals, as well as other housing discrimination issues. We appreciate the opportunity to provide testimony regarding accessible housing in New York City.

We commend Council Member Powers' bill in ensuring that people with disabilities continue to live meaningful lives within their communities.

### **Discriminatory Practices in Source of Income and Housing Accommodations**

Although the federal Fair Housing Act was passed more than 50 years ago, and the New York City and New York State Human Rights Laws were having likewise long been in effect, countless people in New York City continue to face discrimination when it comes to their housing needs. Source of income discrimination has been illegal in NYC since 2008, which originated by then council member de Blasio who had sponsored a bill to include protections in the New York City Human Rights Law, one of the most expansive and original law in the topic of civil rights. It is one of the most robust anti-discrimination laws in the nation.

According to the 2017 report shown in the report of [Employment Trends for People with Disabilities in New York City](#), there are an estimated 930,100 people with disabilities that reside in New York City. Yet the housing stock in New York City is vastly inaccessible to people with disabilities. In our work, we often see various forms of housing discrimination which continues to be an issue for countless New Yorkers.

Source of income discrimination and failure to provide reasonable accommodations are often interconnected. Obviously, both actions are discriminatory in nature and can exclude people with disabilities that can face significant barriers twofold, obtaining housing and maintaining housing due to these factors. These actions can increase isolation and disengagement within communities. An example of source of income discrimination is a landlord refusing to accept a prospective tenant upon learning that they have a section 8 voucher. This is also particularly prevalent in New York City, and tenants who rely on government housing programs and vouchers to pay their rent are continually rejected from housing opportunities based on their participation in a voucher program. Source of income discrimination is a threat to the resilience of our communities, and most critically, is illegal.

Landlords' failures to provide reasonable accommodations for their tenants – for example, providing an individual who is deaf with a smoke alarm that flashes -- constitutes discrimination and impacts the resilience of our communities by causing displacement. Failure to provide these accommodations can be quite dangerous for individuals who need it.

Landlords are responsible to comply with anti-discrimination laws in New York City, and the City must enforce penalties for landlords who do not adequately address repairs or who otherwise discriminate against their tenants. This information is being compiled in New York City Housing Preservation and Development's (HPD) proposed [report](#) to enhance Fair Housing for all New Yorkers. The report covers Housing Discrimination and entities that enforce these laws. This report also covers Source of Income Discrimination and how it is enforced through the New York City Commission on Human Rights.

### **About New York Lawyers for the Public Interest**

For more than 40 years, NYLPI has been a leader in advocating for marginalized New Yorkers, working to accomplish equality of opportunity for all. We utilize a community lawyering model to bridge gaps between traditional civil legal services and civil rights advocacy and to fortify capacity for both individual solutions and long-term impact.

Our work encompasses comprehensive organizing, policy campaigns, impact litigation, and individual legal services, and we are guided by the priorities of our communities as we advocate for the rights of people with disabilities, equal access to health care, immigrant opportunity, invigorated local non-profits, and environmental justice for low-income communities of color.

NYLPI's Disability Justice Program has represented thousands of individuals and triumphed in numerous campaigns improving the lives of New Yorkers with disabilities. We have long fought disability-based discrimination in housing, and our landmark housing victories include access to New York City Housing Authority housing for persons with disabilities, as well as ensuring that countless private landlords accommodate their tenants with disabilities.

### **Ongoing Support from NYLPI**

We thank the City Council for convening this important hearing to promote accessible housing in New York City. We appreciate the opportunity to provide this written testimony on behalf of our clients with disabilities who seek and deserve equal access to services. Please feel free to contact us at (212) 244-4664 or [smendez@nylpi.org](mailto:smendez@nylpi.org).

I am discussing Intro 2047. This bill is very dangerous to decent New Yorkers of all races, faiths and backgrounds. It also goes against logic and common sense. It is illegal because it runs contrary to policies put in place by the federal and state governments that prevent people convicted of drug felonies from living in public housing

Not only should property owners not be forced to allow people convicted of violent and other serious crimes to live in their homes or buildings, but decent law-abiding New Yorkers should not be placed in harm's way by having to share a building or home with dangerous criminals. Decent people will NOT remain in the city very long if this law is passed and put into practice. Instead, the city will be left only with a criminal element and the most desperate people (i.e., those who cannot even afford to travel to a new place to live). How does the city expect to collect any taxes if all the decent, working and law-abiding people are forced to move away? For those of you who are too young to remember, research what happened to the Five Boroughs in the 1970s.

No New Yorker (except perhaps the ones that are involved in criminality themselves) wants to live next door to a drug dealer or trafficker, someone selling illegal firearms, a rapist, burglar, car thief or someone who settles differences with others by using violence. Yet with Intro 2047, this is exactly what the City Council is seeking to impose on law-abiding New Yorkers! This is truly outrageous and cannot be allowed to proceed. And if it does become law, then minorities and low-income people are the ones who are going to be hurt by this law the most. This is because in NYC virtually all felons upon release ending up going to live in poorer communities and communities of color.

There are a small number of felons who have made an effort to turn their lives around. But we cannot automatically assume that this is true of every felon who is released from jail or prison. At the very least, a 5-year period of no further criminal convictions should be imposed on the felon before they can apply to qualify for protection of this kind from the city or state.

Gerelyn Lombardi  
1537 White Plains Road - 2B  
Bronx, NY 10462

Members of the New York City Council,

My name is Jocelyne Chait. I am an urban planner with more than 30 years of experience in community-based planning and development in New York City, much of it related to developing plans under Section 197-a of the New York City Charter, including the Greenpoint and Williamsburg Plans, adopted in 2002 and the Plan for Sunset Park, adopted in December 2009 with unanimous approval by the New York City Council. The Sunset Park 197-a Plan - New Connections New Opportunities – achieved broad consensus within the residential and business communities of Sunset Park as well as local institutions and organizations. The multi-year planning process involved extensive dialogue with the New York City Economic Development Corporation (EDC). EDC’s own vision for the waterfront released in 2009 was closely aligned with the plan.

As stated in the City Planning Commission Report on the 197-a plan: *“The Commission is pleased to note that much of the waterfront property that is the subject of the 197-a plan is city-owned and under the jurisdiction of the Economic Development Corporation (EDC), and that EDC fully supports the objectives in the 197-a plan. EDC has stated that the 197-a plan’s recommendations are consistent with the agency’s Sunset Park Waterfront Vision Plan, released in summer 2009.”*

City Planning Commission’s consideration and resolution dated November 18, 2009, modifying and approving the 197-a plan

I am writing in opposition to the rezoning application for Industry City, which fundamentally goes against the vision and many of the recommendations of the community-driven Sunset Park 197-a plan.

In their rezoning application Industry City developers repeatedly state that creating a Special Industry City District and rezoning the property from a heavy manufacturing designation to permit the development of an “Innovation Hub” - that would include high tech innovation businesses, large scale retail, and office use – closely aligns with the Sunset Park 197-a Plan. But it is the exact opposite in many respects.

Industry City developers selectively chose certain 197-a plan recommendations, particularly economic development recommendations, to bolster their proposal. However, in some cases these were taken out of context, in other cases they are completely contradictory.

Is this the time and place for new large-scale retail and office development?

Renovation and re-occupancy of underutilized buildings in Industry City would clearly upgrade the area. However, careful consideration should be given to the feasibility of this application and its long-term impacts in terms of removing space that could accommodate new sustainable industries providing well paid local jobs and replacing this with large-scale retail and commercial space that is already over-built in New York City.

Proposed development of substantial retail and commercial space in Industry City runs counter to the 197-a Plan recommendation to the city to “...Consider additional measures to strengthen the Southwest Brooklyn Industrial Business Zone and preserve affordable manufacturing and industrial space. (p.171)

While the 197-a plan supports small scale retail uses and services such as delis and coffee shops that support local industrial businesses and line pathways to waterfront open space it does not promote large scale retail or office uses, which are seen as threats to the working waterfront.

The 197-a Plan in fact urges the city to “...consider the benefits of additional zoning restrictions in the Sunset Park portion of the Southwest Brooklyn IBZ and other manufacturing areas that may be threatened by competing uses. (p.171)

Who will benefit from Industry City jobs?

While New York City may profit from innovation economy businesses and jobs in Industry City it is not clear to what extent these jobs would be available to existing Sunset Park residents, or whether they would primarily attract skilled workers from elsewhere in the city.

Moreover, increased real estate speculation triggered by this rezoning will inevitably displace low- and moderate-income Sunset Park residents to other parts of the city, far away from any potential jobs that may be created.

Does the proposed rezoning make full use of the City’s critical maritime and transportation infrastructure?

The rezoning proposal does not capitalize on the waterfront’s existing transportation and maritime infrastructure. As one of the city’s few remaining industrial waterfronts Sunset Park could serve a much greater purpose by supporting new green industries that maximize such infrastructure, as set forth in the Green Resilient Industrial District (GRID) proposed by UPROSE - an alternative approach to development on the waterfront that is much more closely aligned with the 197-a Plan.

Does the proposed rezoning adequately address challenges facing New York City?

In this time of Covid one can understand the need to embrace initiatives that suggest the potential for significant jobs and economic recovery. But there is no guarantee that these thousand of jobs will all materialize, that they be available to the existing Sunset Park population or that they will provide sufficient income to cover increased housing costs in Sunset Park as a result of the proposed action, absent substantial mitigation to maintain affordability.

It is a question of priorities – do we want to follow the same economic development and growth patterns of previous times that have contributed to and exacerbated citywide inequities, or do we move the city forward in new directions that not only embrace new and emerging technologies and sustainable development practices but at the same time provide well paid local jobs and economic opportunity for all?



Safety  
Net  
Project

Testimony of

**The Safety Net Project at the Urban Justice Center**

Re: Rental Assistance and Source of Income Discrimination

Presented to

**Hon. Steven Levin  
Committee on General Welfare  
New York City Council**

September, 2020

## **Background**

Our City currently faces a homelessness crisis of epic proportions, with an estimated 70,000 homeless in New York City, both sheltered and unsheltered. This crisis disproportionately impacts Black and brown New Yorkers, who have been displaced due to rampant gentrification and failed City, State, and federal housing policy that has often prioritized the interests of white and wealthy communities at the expense of communities of color. Unfortunately, in recent decades, Mayoral administrations have resigned themselves to a permanent homelessness crisis in our City, as the number of homeless people in shelter and on the streets steadily rises with each year and administration, with devastating consequences on the hundreds of thousands of human beings who experience homelessness each year.

We reject this framework and call on the City Council and the Mayor to immediately implement a plan to **end homelessness** in our City in the midst of a historic pandemic that has already claimed the lives of too many homeless New Yorkers. **One of the key elements of this plan must be to immediately increase CityFHEPS vouchers to Fair Market Rent.**

We work with New Yorkers on a regular basis who are holding CityFHEPS vouchers for years without being able to exit shelter, and it is certainly never from a lack of searching. We have searched with and for our clients and usually come up empty handed because there just are **not apartments that can be afforded using the CityFHEPS voucher maximum rental amounts.** In the very rare instance that someone is able to locate an apartment that meets the guidelines, they often face rampant source of income discrimination, with little assistance or information available regarding their rights. This system traps homeless New Yorkers, who are predominantly Black and Brown, into excessive and endless homelessness.

Additionally, even if they are able to find housing using the vouchers, there is no security that they will be able to remain housed. The landlord may be incentivized – after accepting the “bonuses” the City offers to landlords to accept CityFHEPS vouchers – to raise the rent at any lease renewal to seek higher rents, which currently, the CityFHEPS vouchers cannot cover. The current voucher does not afford voucher-holders any protections against these predatory landlord practices.

## **Securing Housing for Low-Income New Yorkers**

Despite being the primary tool the City provides homeless New Yorkers to help them exit shelter, CityFHEPS is a failing program. The voucher levels are untenable for even the lowest-cost housing in any of the five boroughs. CityFHEPS falls, on average, \$400 below market rate based on household size. Currently, there are no neighborhoods where the median rental price for a studio is at or below the current CityFHEPS rate for an individual.

As of the time of this testimony submission, there were ten units available on Streeteasy under the allowed CityFHEPS maximum rental amount for a single person (\$1265) in the entire City. There were five units available with two or more bedrooms within the CityFHEPS maximum rent

amount for a family of four (\$1580). When we performed the same search using the HUD Fair Market Rent Amount, there were over 1100 apartments available under \$1665 (Fair Market Rent for a studio) and over 500 apartments available under \$1951 (Fair Market Rent for two-bedroom).

Furthermore, we know there are inherent cost savings in raising CityFHEPS vouchers to Fair Market Rent. The cost to keep someone in a temporary shelter per month is over two times more expensive than a market rate voucher that would move them into permanent and stable housing. Additionally, permanent housing for homeless people has been proven to provide savings in many other areas, including decreased emergency room visits and health care costs and better graduation rates and educational outcomes for children experiencing homelessness. Spending exorbitant amounts on dangerous congregate shelters while underfunding the main tool homeless New Yorkers use to exit shelter is irresponsible policy and will only keep New York entrenched in an unnecessary homelessness crisis.

These policies are especially critical in the context of the current pandemic. Despite City measures to increase safety for many homeless NYers through the use of commercial hotels, homeless NYers are still significantly more likely to die from COVID-19 and many homeless NYers remain in congregate or other non-private facilities with shared cooking facilities, bathrooms, and common areas. As we face the looming prospect of a massive wave of evictions and increase in homelessness, we must act as quickly as possible to move homeless NYers out of shelters and into permanent housing and make sure that existing subsidies and programs are as effective as possible.

### **Legislation**

We thank the Council Members who introduced and have sponsored Intro 146. In adopting Intro 146, we know that the City will be taking a critical step to making housing more accessible to thousands of New Yorkers. We also appreciate and support Intros 1020, 1339, 2018, 2047, 2020-6576, and 2019-4051 as initiatives to ensure further oversight and accountability of housing efforts in New York City and prevent discrimination based on source of income or criminal record. With this legislative package, thousands of New Yorkers currently living in shelters, on the streets, or in unsafe doubled-up housing accommodations will face fewer barriers in accessing affordable and secure housing that meets their needs.

### **Proposed Amendments**

A key challenge of using the CityFHEPS voucher currently is that in order to keep their voucher, household income must stay below 250% of the Federal Poverty Level (FPL), which is \$31,900 annually for a household of one. Unlike other Federal and State housing programs such as Section 8 or NYCHA which maintain rent levels at 30% of a resident household's income, CityFHEPS voucher holders risk losing their vouchers entirely if their income exceeds 250% FPL while still being unable to pay the rent out of pocket in New York City.

Take the example of a single individual who finds an apartment for \$1665 with an improved CityFHEPS voucher raised to Fair Market Rent. If the individual finds a job making \$16 / hour (just \$1 more than minimum wage), they would be considered “over-income” for CityFHEPS due to their annual income of \$33,280. However, after taxes, their take-home pay would only be \$2,144 monthly, leaving them with extremely limited income to pay the rent and subsidy to help them.

This creates a troublesome benefits cliff whereby voucher recipients are disincentivized from obtaining well paying jobs or increasing their employment hours in order to maintain stable, affordable housing for themselves and their families.

Therefore, we strongly encourage council to amend Intro 146 so that CityFHEPS vouchers model the income eligibility frameworks of largely successfully affordable housing models like Section 8 and NYCHA and ensure that people with city-funded vouchers can continue to receive the subsidy if their income increases at least until their rent is no more than 30% of their household income. We recommend the following language be added to the bill: **“An individual or family in receipt of CityFHEPS rental assistance under this program shall continue to be financially eligible for assistance until thirty percent of the individual or family’s adjusted income is greater than or equal to the total rent for the dwelling unit.”**

### **About the Safety Net Project**

Founded in 1984, The Safety Net Project (SNP), an independent project at the Urban Justice Center, advocates for safe and secure housing and fundamental resources like food and cash assistance for exploited and marginalized communities in New York City. We combine legal and advocacy services, policy work, and community organizing to advance the movement for social and economic justice. Our public benefits and housing teams work with individuals and families in Manhattan, Queens, Brooklyn, and the Bronx who are facing homelessness and unable to secure affordable housing with their vouchers.

The Safety Net Project also supports the Safety Net Activists, a group that organizes for change for underserved New Yorkers, with a focus on the public assistance, food stamps, and homeless service systems in New York City.

INTRO 2047 – TESTIMONY AGAINST BILL

## Keep Neighbors, Community, and Yourself Safe

When you're considering who to rent to, you should think of it as who you are allowing in your building and your community. It is your responsibility to your community to choose tenants who won't put anyone at risk. **Ignorance is not an excuse.....IF A CRIME happens in your building.**

You want to give everyone a FAIR CHANCE on renting the apartment. However, no one wants a “**SERIAL KILLER, SEX OFFENDER, DRUG DEALER, etc**” in their property. Of course, no one wants a “SERIAL KILLER, SEX OFFENDER, DRUG DEALER, etc” in their property. The building is not a half-way house rehabilitation, or homeless shelter.

Landlords should assess each criminal history on a case-by-case basis and make sure that a particular tenant will not pose problems to other tenants, the property, or the landlord. It depends on the type of felony that they have been convicted of, and is the person a repeat offender on the same crime. Examples of relevant dangerous crimes Are: (violent crimes, assault, theft, trespassing, vandalism, arson, possession of an unauthorized weapon, etc.).

Tenant Background Check is necessary; with a criminal history report included; and it depends on the type of the felon that they have been convicted of to help determine in whether you should rent to the person

Criminal history is public records anyway. Criminal courts typically don't include social security numbers (SSNs) on criminal records because criminal reports are public information and they want to reduce identity theft. For this reason, SSNs are typically not used for the database scan.

Being aware of a tenant's prior behavior helps make you a more informed landlord. Background checks are one of the most important parts of **tenant screening**, which is the process that helps you answer this main question: **Who should you choose to live in your rental property?**

Landlords could still be able to evict tenants who engage in criminal activity. Regardless of current events of a “pandemic” or not.

**Testimony RE: Intro 146**  
**Josh Dean, Executive Director, Human.nyc**



Members of the City Council: My name is Josh Dean and I'm the Executive Director of Human.nyc, a grassroots advocacy organization that works alongside unsheltered homeless New Yorkers, those who sleep primarily on the streets or subways. My testimony today will focus on the impact Intro 146 would have on our unsheltered neighbors. I will also present what we believe are opportunities to further strengthen the legislation.

When speaking about permanent housing for unsheltered homeless New Yorkers, many are guilty of suggesting that supportive housing is the only option. In reality, there is a sizable number of individuals who end up sleeping on the streets or subways simply because they tried the shelter system and did not feel safe staying there. Many of those living in the #HomelessCantStayHome hotels exemplify this, and are thriving because rather than experiencing the paternalistic, rule-laden shelter system which requires many check-ins and mandatory services, they instead have the independence to work towards their own goals and make their own decisions. For individuals who fit this bill, a CityFHEPS voucher that provides access to appropriate options - through the passage of Intro 146 - may be the quickest and most effective route to escape homelessness.

Sadly, having now spent four years growing to know individuals who live unsheltered, I have also seen people's health decay. In a system where housing resources are scarce and providers are forced to prioritize those who are most vulnerable rather than provide housing to all, we inadvertently create a system whereby people do not receive housing until they become vulnerable enough to be prioritized. We believe, having witnessed and discussed it at length with those on the streets or subways, that this phenomenon is more common than many may think.

Intro 146 could serve as an important step towards reversing this phenomenon, by providing quicker access to permanent housing for individuals who do not need intensive supportive services to move off of the streets and in their future housing. By increasing the value of the voucher to fair market rate and by introducing measures to combat source of income discrimination, Intro 146 would make a voucher that actually works for those who have it, and would allow DHS outreach teams to operate a version of rapid rehousing that is otherwise scarcely available to them.

The challenge then becomes deciding who is eligible for a voucher, ensuring that they are aware that they are eligible, and then developing a process to get them housed permanently.

We believe an amendment to Intro 146 and/or the introduction of a separate bill could expedite this process. As it stands, one must be receiving services from a DHS outreach team for 90 days before they are eligible for CityFHEPS. While we understand there must be a system to determine someone's eligibility, we also believe this could be streamlined. No one is pretending to live on the streets, and the longer we wait to house them, the more they suffer and the more their physical and mental health will deteriorate.

Our recommendation, crafted in tandem with our members, is to amend this requirement to be 30 days on an outreach teams' caseload or receiving outreach services, or, 90 days as a prospective client, whichever comes first. Prospective clients are those who outreach teams have engaged but not yet placed onto caseload. We know that there are many reasons why individuals who are homeless may not be consistently engaged by outreach teams and subsequently not added to caseload, and do not think this in itself should be a barrier to accessing a CityFHEPS voucher and permanent housing. We believe that if an individual has been a prospective client for 90 days and is interested in moving forward in the housing process, despite not meeting the technical criteria for caseload, this should be reason enough to be eligible for a voucher.

Further, we believe DHS-contracted outreach teams should be encouraged and equipped to aggressively provide CityFHEPS vouchers to clients who can thrive in more independent housing. Over the course of our four years of outreach, we have only met two individuals living on the streets who knew they had a CityFHEPS voucher. Neither of them received it through their outreach team. Instead, they received it through a third party case manager after intensive self-advocacy. DHS-contracted outreach teams should ensure that all individuals meeting the CityFHEPS requirements are provided with assistance in applying, accessing, and utilizing this voucher.

**Anonymous testimony from street outreach worker based in Manhattan:**

To whom it may concern,

I am an outreach worker here in the city. The majority of my clients have City Fheps, but to my knowledge, only 2 or 3 of 200+ clients have been able to move using the voucher. Most of my clients want to use it, but either have a difficult time finding apartments or face discrimination when landlords refuse to take it. Tying the voucher to fair market rate would make it easier for my clients to find apartments and would reduce the amount of time that people spend on the streets, safe havens, and stabilization beds. Outreach teams want to get clients into apartments, and improving CityFHEPS would help us with that goal.

## **Written Testimony from Karim Walker, kewalker81@gmail.com**

If we can describe New York City in one word, expensive would suffice. And in almost no other aspect is this more accurate than in the city's housing market. When roughly half of our fellow residents are spending (in some cases, significantly) more than one third of their income on keeping a roof over their heads, this creates an unstable and unsustainable situation for our city and the economic prospects of her people. Combine that with the tens of thousands of homeless New Yorkers struggling to find a place to call home with housing vouchers that too many landlords and realtors refuse to accept, we are facing a volatile situation that could needlessly be the ruin of many.

Ever since I first became a voucher holder in May 2016, it has been an adventure trying to land an apartment. I have had brokers and landlords refuse to answer my phone calls (what we call in the dating world, ghosting), tell me the apartment is not available, or tell me they have no apartments at the time. My experiences landing an apartment has been demoralizing, as a result of all of this. Part of this stems from the value of vouchers themselves, because \$1265 is far too low to cover anything reasonable in the five boroughs (yes, even in Staten Island).

This is where 146 comes into play. Raising the vouchers' values to fair market value will improve the chances as voucher holders to leave shelter and into a place that they can call home. First the proposal will improve flexibility for where a voucher holder wants to live. Instead of being restricted to a few far-flung outposts of the city like Far Rockaway or the northern tip of the Bronx, neighborhoods like Williamsburg, Clinton, and Sunnyside become more viable options for us, giving us shorter commutes to jobs, better access to supermarkets and farmer's markets, and freedom to visit loved ones.

In addition, access to fair market value apartments will allow us the freedom to stay in apartments longer without the fear of being priced out or forced out of them because of capricious landlords seeking to take advantage of gentrified areas by raising rent, and the prospect of moving to another apartment or, even an eviction proceeding which can affect our credit reports.

**Written Testimony from Jeffrey Wolford, [jeffreywolfordny@icloud.com](mailto:jeffreywolfordny@icloud.com)**

Good morning members of the City Council. My name is Jeffrey Wolford and I've been homeless living on the streets of New York City for much of the past three years. For the entire duration of that time, I've worked to try to secure permanent housing for myself.

What do you think of the below?

I had not heard of the CityFHEPS voucher until I began living in a hotel provided by the Homeless Can't Stay Home campaign. There, the Urban Justice Center told me about the voucher and helped me secure one.

Prior to that, while living on the streets, no one from Breaking Ground, BRC or any of the other street teams I encountered told me about CityFHEPS. They relayed to me their protocol for securing housing and told me that if I signed up with one outreach organization, I had to stay with them through the entire process. They told me that securing housing could take up to 2 years. Again, I did not know I was eligible for CityFHEPS, let alone what it was, until the Urban Justice Center secured me a voucher.

Unfortunately, securing a voucher does not mean securing housing. Trying to find housing with this voucher has been difficult to the point where I don't expect to find housing with it. And I'm looking at other options. I can't say which barrier is worse, the fact that nowhere meets the \$1,268 per month spending limit I have, the waiting lists that are in some cases years long, or the fact that people don't return my calls when expressing interest in their rental. It's like the voucher has some sort of negative stigma.

What I need most is permanent housing. For me, permanent housing would mean I could finally be free of this holding pattern I've been in now for such a long time where I can't fully have my life back together. I suffer from Post Traumatic Stress Disorder and this period has brought back some of the worst symptoms and even new ones. I was progressing very rapidly at first when I got into a room earlier in April through the Homeless Can't Stay Home campaign, but since July when I started getting bounced around again, my health has digressed.

Intro 146 would make the CityFHEPS voucher work and would help me and countless other individuals in my same situation get housing by increasing the voucher to fair market rate and by combatting the discrimination I faced when trying to use my voucher. I humbly ask the City Council to pass Intro 146 as soon as possible.

## Lift and Support Points

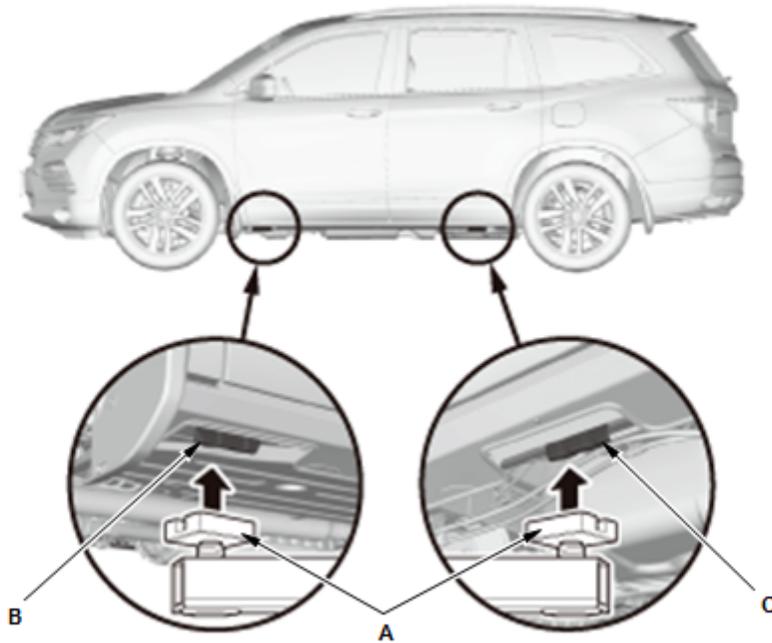
NOTE: If you are going to remove heavy components such as suspension or the fuel tank from the rear of the vehicle, first support the front of the vehicle with tall safety stands. When substantial weight is removed from the rear of the vehicle, the center of gravity can change, causing the vehicle to tip forward on the lift.

## Vehicle Lift

1. Position the lift pads (A) under the vehicle's front support points (B) and rear support points (C).

### NOTICE

Be sure the lift pads are properly placed to avoid damaging the vehicle.



2. Raise the lift a few inches, and rock the vehicle gently to be sure it is firmly supported.
3. Raise the lift to its full height, and inspect the vehicle support points for solid contact with the lift pads.

## Safety Stands

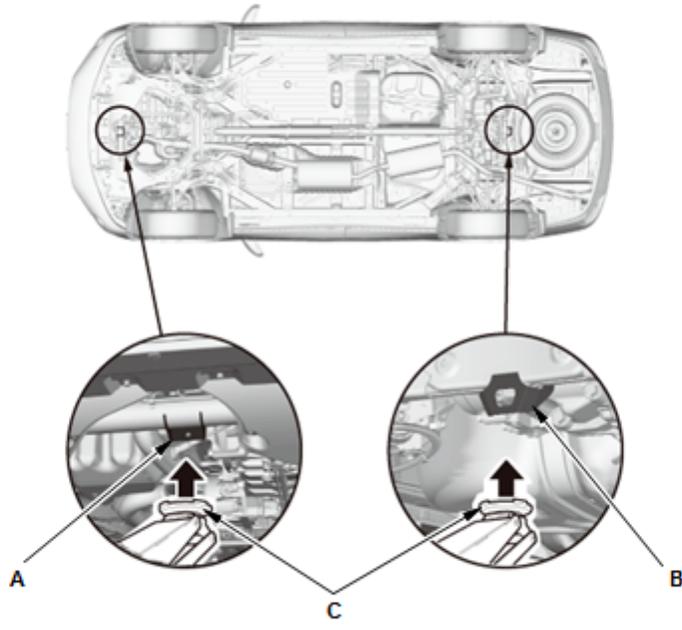
To support the vehicle on safety stands, use the same support points as for a vehicle lift. Always use safety stands when working on or under any vehicle that is supported only by a jack.

## Floor Jack

1. When lifting the front of the vehicle, set the parking brake. When lifting the rear of the vehicle, shift the transmission to P position/mode.
2. Block the wheels that are not being lifted.
3. Position the floor jack under the front jacking bracket (A) or the rear jacking bracket (B). Center the jacking bracket on the jack lift platform (C), and jack up the vehicle high enough to fit the safety stands under it.

### NOTICE

Be sure the floor jack is properly placed to avoid damaging the vehicle.



4. Position the safety stands under the support points, and adjust them so the vehicle is level side-to-side.

5. Lower the vehicle onto the stands.

Dear City Council Committee on Civil and Human Rights Members,

I am writing to you in regards to Bill 2047-2020. I understand the intent and while the intentions are good, in practice it puts all building owners in an uncomfortable position and puts our tenants at risk. I live in and manage the building that my family owns in Brooklyn. It is important that we all feel safe in this building, and I absolutely think my tenants deserve that. Many, many years ago, a tenant's partner moved in and proceeded to tell single women in the building that he was recently released from jail. What followed were many anxiety filled conversations with women who no longer felt safe in the building, and didn't feel safe in their home. At the time, I too was a single woman living alone and I absolutely could relate to those feelings. Ultimately and thankfully, the partner moved out and we were able to restore harmony and feelings of safety to in the building. This was a valuable lesson. Committee members, how can I do my job, be a good neighbor, and guarantee the safety of the residents in my building if this proposed bill passes?

Thank you for your time.

Sincerely,

Lucy Baumrind



## **MEMORANDUM IN OPPOSITION**

### **INTRO. 2047**

The Rent Stabilization Association represents 25,000 owners and managers who collectively manage over 1 million units of housing. Owners and managers have a legal and moral obligation to provide safe housing for their tenants and shareholders. Intro. 2047 would remove an owner's ability to do a criminal background check on prospective tenants which could potentially result in placing existing tenants in unsafe conditions.

A criminal conviction is not and should not be a blanket obstacle to obtaining a housing unit. However, there are many variables that need to be considered when housing accommodations are being rented. A criminal history is just one. Some of the variables regarding criminal history that must be considered are: violent vs non-violent history, number of convictions, sex offender status, domestic violence convictions, probation status, etc. Likewise, the existing tenancy of a building is also a factor. Clearly one would not want a registered sex offender renting in a building with children. In addition to avoiding their own potential liability arising from renting to someone with a serious criminal record, owners have a legal obligation to their existing tenants' safety and every situation will have different considerations. This is a necessary tool owners and managers need to assess applications.

For the above reasons RSA is opposed to Intro. 2047 and urges the council to table this proposal.



**Testimony Submitted to the  
New York City Council Civil Rights Committee  
Regarding Int. No. 2047  
Prohibition of Housing Discrimination Based on Arrest or Criminal Record**

September 15, 2020

Submitted By

Washcarina Martinez Alonzo (Manhattan Legal Services)

This testimony is submitted on behalf of Manhattan Legal Services (MLS). MLS welcomes the opportunity to provide commentary on this important legislation and is thankful for the invitation to make this submission.

MLS is a constituent corporation of Legal Services of NYC (LSNYC). LSNYC is an anti-poverty organization that seeks justice for low income New Yorkers as one of the principal law firms for low income people in New York City. For more than fifty years, we have helped our clients meet basic human needs and challenged the systemic injustices that keep them poor. As the largest civil legal services program in the country with community-based offices and numerous outreach sites located throughout the city's five boroughs, LSNYC has a singular overriding mission: to provide expert legal assistance that improves the lives and communities of low-income New Yorkers. We ensure low income New Yorkers have access to housing, health care, food, and subsistence income.

LSNYC's primary practice area focuses on preserving New Yorkers' right to housing. We also do re-entry work, including our Barriers to Employment Project to improve job prospects for New Yorkers with criminal convictions. The Project has helped hundreds of clients who faced barriers to employment and conducted outreach to educate New Yorkers on their legal rights. However, access to employment is only one of the issues that substantively limits people with arrest and conviction records as many still remain discriminated against with regard to access to housing. We are here today to testify as to our experiences representing numerous clients with criminal and arrest records hoping to further expand access to equitable housing for *all* New Yorkers.

**Int. 2047 Proposes to Expand Protections Prohibiting Housing Discrimination Against New Yorkers with Criminal Convictions**

Despite Federal, State, and City guidance making great strides to facilitate access to housing for people with criminal records, the policies have fallen short of outright protection against discrimination, permitting loopholes against folks with criminal and

arrest records.<sup>1</sup> New York City has already taken a pivotal stance in their enforcement of housing rights for people with criminal convictions by limiting blanket policies of denying housing to any applicant with a criminal record. The City found that these policies discriminate on the basis of race because they have a disparate impact on Black and Hispanic New Yorkers who are disproportionately impacted by arrest, conviction, and incarceration rates citywide.<sup>2</sup> While this is a step forward to protecting the rights of New Yorkers with criminal histories who are looking for stable housing, it does not legally prohibit a landlord from denying someone housing because of their criminal history. Additionally, these policies do not prohibit a landlord or broker from inquiring into an applicant's criminal history. Based on our observations, many of our clients with criminal records seeking employment assistance are housing unstable, often living in shelters and/or temporarily living with friends or family as they regain access to society.

There is an unfortunate parallel between the City's homeless and our arrested and/or formally incarcerated populations based on race. Black and Latinx people in New York City are over policed and thus disproportionately disadvantaged when it comes to seeking and securing housing because of their criminal or arrest records. Despite policy and legislative changes, in 2018 our City stopped 11,008 people, 88% which were Black or Latinx and an overwhelming 70% of which were innocent of what they were stopped for.<sup>3</sup> Similarly, in the most recently reported Fiscal Year 2020 findings, over 85% of New York City's adults in shelters were Black/Latinx.

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<sup>1</sup> See e.g.: "In most instances, a record of conviction (as opposed to an arrest) will serve as sufficient evidence to prove that an individual engaged in criminal conduct. But housing providers that apply a policy or practice that excludes persons with prior convictions must still be able to prove that such policy or practice is necessary to achieve a substantial, legitimate, nondiscriminatory interest. A housing provider that imposes a blanket prohibition on any person with any conviction record – no matter when the conviction occurred, what the underlying conduct entailed, or what the convicted person has done since then – will be unable to meet this burden." *Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions*, U.S. Department of Housing and Urban Development, available at: [https://ccresourcecenter.org/wp-content/uploads/2016/04/hud\\_ogcguidappfhstandcr.pdf](https://ccresourcecenter.org/wp-content/uploads/2016/04/hud_ogcguidappfhstandcr.pdf) (last accessed September 11, 2020).

<sup>2</sup> *NYC Commission on Human Rights Settles Landmark Discrimination Case With Bronx Management Company Controlling 100 Buildings With 5000 Units Citywide Accused of Denying Housing to Any Applicant With Criminal Record*, NYC Commission on Human Rights, available at: <https://www1.nyc.gov/assets/cchr/downloads/pdf/press-releases/PRESS%20RELEASE%20-%20Criminal%20History%20Disparate%20Impact%20Press%20Release%20120618.pdf> (last accessed September 11, 2020).

<sup>3</sup> *Stop and Frisk Data*, New York Civil Liberties Union, available at <https://www.nyclu.org/en/stop-and-frisk-data> (last accessed September 11, 2020).

The data on race and policing make legislation like the one we are discussing today invaluable to the mere survival and preservation of New Yorkers with criminal or arrest records. Without fair housing access for formerly incarcerated New Yorkers, a devastating number of Black and Latinx New Yorkers might end up back into jail or prison—never having been given an actual chance to reenter our society.<sup>4</sup>

### **New Yorkers Who Have Been Arrested and/or Convicted of a Crime Have Difficulty Finding Housing**

Limiting the effects of systemic oppression as reflected in low-income communities of color in New York City is necessary to our efforts toward economic justice and creating a more equitable society.

Fifty-four (54) percent of the people who are released from state and local prisons are housed in our City’s shelter. While a number of reasons exist for this unfortunate figure, discrimination based on criminal history surely plays a factor in the homelessness faced by those who are formerly incarcerated.<sup>5</sup> Providing people with criminal and arrest records an opportunity to safe and secure housing reduces recidivism and strengthens community bonds. For example, our City’s public housing has allowed a limited number of people with criminal convictions to move back in with their families. As of 2017, only less than 2% of those allowed to return home committed new crimes.<sup>6</sup> This is contrasted to a 2011 study which showed that more than 40% of people who have been incarcerated return to prison within three (3) years.

With Covid-19 further battering the most vulnerable among us, it is imperative that we create pathways to fair housing. Our local jails have recently substantively reduced the number of vulnerable people in their custody because of the rapid spread of the virus.<sup>7</sup>

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<sup>4</sup> See e.g.: “Results indicated that homelessness both on the streets and in shelters and psychological symptom severity predicted increases in non-violent crime.” Fischer, S. N., Shinn, M., ShROUT, P., & Tsemberis, S. (2008), *Homelessness, mental illness, and criminal activity: Examining patterns over time*, American Journal of Community Psychology, available at: <https://doi.org/10.1007/s10464-008-9210-z> (last accessed September 11, 2020).

<sup>5</sup> *The Homelessness Crisis: The Case for Change*, New York City Council Corey Johnson, available at: <http://council.nyc.gov/data/wp-content/uploads/sites/73/2020/01/FINAL-PAPER.pdf> (last accessed September 11, 2020).

<sup>6</sup> “As of 2017, about 101 people from the more than approximately 5,000 public housing residents banned from their homes...Of those 101 people, two committed new crimes and returned to prison, a rate the NYCHA officials found pretty convincing.” *New York Eases Rules for Formerly Incarcerated to Visit Public Housing*, WNYC, <https://www.wnyc.org/story/new-york-city-felonies-visit-family-public-housing/> (last accessed September 11, 2020).

<sup>7</sup> *New York City jail population reduction in the time of COVID-19*, NYC Mayor’s Office of Criminal Justice, available at: <http://criminaljustice.cityofnewyork.us/wp->

Without adequate access to housing, those vulnerable individuals have an increased chance to end up either homeless or back in the carceral system. The provisions in Int. 2047 would remove barriers to housing for individuals with criminal convictions and would therefore open previously closed housing for formerly incarcerated New Yorkers while also limiting the impact of the ongoing deadly pandemic.

Int. 2047 prohibits any real estate broker or landlord from making “a criminal history inquiry regarding an applicant”<sup>8</sup> and from taking “adverse action against an applicant for having been arrested or convicted of one or more criminal offenses.”<sup>9</sup> Having a roof over one’s head is a basic human need which can impact the wellbeing of all the other aspects of a person’s life. Even when LSNYC’s constituents have done their time, they are sentenced to poverty through the lack of housing opportunities available to people with arrest or criminal records. Today we can change that by making sure that we end the stigma against people with criminal and arrest histories, giving them an opportunity to have access to housing.

We thank the City Council for addressing this important issue.

Respectfully submitted,

/s

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content/uploads/2020/04/MOCJ-COVID-19-Jail-Reduction.pdf (last accessed September 11, 2020).

<sup>8</sup> *See*: Title 8 of the Administrative Code of the City of New York Section 8-107 (5)(a) (*proposed*)

<sup>9</sup> *Id.*



TESTIMONY REGARDING

Rental Assistance and Discrimination Free NYC

PRESENTED BEFORE:

THE NEW YORK CITY COUNCIL'S  
COMMITTEE ON GENERAL WELFARE  
AND  
COMMITTEE ON CIVIL & HUMAN RIGHTS

PRESENTED BY:

JUSTIN R. LA MORT, ESQ.  
SUPERVISING ATTORNEY  
MOBILIZATION FOR JUSTICE

PREPARED BY:  
GITA MILLER  
ALEX ELLFSON  
LUC FIGUEIREDO MILLER  
BROOKLYN LAW SCHOOL HOUSING RIGHTS CLINIC  
AT MOBILIZATION FOR JUSTICE

SEPTEMBER 15, 2020

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**MOBILIZATION FOR JUSTICE, INC.**

100 William Street, 6<sup>th</sup> Floor  
New York, NY 10038  
(212) 417-3700

[www.mobilizationforjustice.org](http://www.mobilizationforjustice.org)

## I. Introduction

Mobilization for Justice, Inc. (“MFJ”) envisions a society in which there is equal justice for all. Our mission is to achieve social justice, prioritizing the needs of people who are low-income, disenfranchised, or have disabilities. We do this through providing the highest quality direct civil legal assistance, providing community education, entering into partnerships, engaging in policy advocacy, and bringing impact litigation. MFJ assists more than 25,000 New Yorkers each year.

The written testimony was prepared by the Brooklyn Law School Housing Rights Clinic at Mobilization for Justice. The Clinic gives Brooklyn Law School students the opportunity to assist low-income New Yorkers by gaining practical skills in policy, litigation, and community lawyering to achieve housing justice.

MFJ appreciate the opportunity to share with the New York City Council these comments about legislation eliminate discrimination against prospective tenants in New York City.

## II. Creating a Discrimination Free NYC

Discrimination is a daily occurrence in New York City. A quick search of local craigslist ads where landlords hide with anonymity reveal how brazenly people are denied housing based on the source of their income. Below are examples of craigslist ads that were online as of Monday, September 14<sup>th</sup>.

### \$850 Beautiful Rooms Available For Rent \$850 (Bronx)

1 Bedroom for rent. This room is approximately 10x12. The shared kitchen has granite counter tops with oak cabinets, hardwood floors throughout, and a sky light at the top of the entry stairs. This neighborhood is extremely convenient. This room for rent is 2 1/2 blocks from the local 2 and express 5 train. Move in available as soon as possible (September 14, 2020); First Month \$850  
All Utilities Included;  
Cash Tenant Only; No programs  
No Pets  
No Broker Fee  
No Utility fees  
No Room Sharing, 1 Person Only  
Please text David Owner at [show contact info](#) to discuss or view the room.

### \$1,050 / 800ft<sup>2</sup> - Cozy space near Montifiore Moses (Norwood)

Please be advised: Sorry no government programs: feps, etc. This is a one-person occupancy room, not couples.

Please don't waste your time or mine: NO PROGRAMS!!!

This is a shared furnish room in a two-bedroom apartment located across the street from Montefiore Children's Hospital. This room is perfect for nurses, doctors, or related fields who want to live closer to work. Requirements are a security deposit, rent, and proof of income. This room does offer WiFi, and utilities are included so long as the power is used in moderation. If your interested send a message. Thank you have a great day.

We are seeking someone who is clean: Clean meaning you wash your clothes and sheets regularly. Also, if you cook or use dishes you clean it as soon as possible and never let it sit in the sink overnight. You notice if the garbage smells and you take it out asap.

These ads say loudly what tenants tell us is communicated to them quietly through the silence of unreturned emails and phone calls. At Mobilization for Justice we hear from our clients about

how hard it is to find a landlord who is willing to rent to them despite having government-funded rental subsidies.

MFJ recently partnered with Housing Works and the Fair Housing Justice Center to prosecute such a case. Mr. C, who receives HASA, was told by a real estate agent that “I don’t work with programs, I never have.” Further testing showed that that the broker was the agent of the landlord and would refuse applicants whose source of income was government subsidies.

“When they told me they don’t work with programs, I felt defeated, lost,” Mr. C. stated at the time the lawsuit was filed. “It really hurts your self-esteem when you have a government program to help you and they still tell you they won’t work with you.”

We brought a discrimination case, defeated a motion to dismiss, and engaged in discovery before the offending parties finally settled with Mr. C. The landlord and broker are required to stop discriminating, receive training, change their application forms to make it clear earned income is not required, and pay Mr. C one of the largest source of income discrimination settlement awards in New York history. We are proud to do this work but the amount of time and resources it takes to investigate and litigate are challenging. This is why removing barriers and better informing prospective tenants of their rights are so important.

#### **A. Creating a Discrimination-Free NYC**

We support Council Member Keith Power’s bill that would expand the jurisdiction of source of income discrimination to cover all landlords who own three or more housing accommodations, a change from the current six units. For far too long New York has provide an exception to preventing discrimination that is larger than the similar federal exception to the Fair Housing Act.<sup>1</sup> This bill is natural next step in ending this harmful practice.

#### **B. Intro 1339-2019**

We also support Council Member Diana Ayala’s Intro 1339-2019 as an important tool to improve enforcement. Many tenants who have vouchers are in incredibly stressful situations such as trying to leave the shelter system, living in a dangerous apartment, or facing eviction as a result of an unrenewed lease. Intro 1339 would better inform prospective tenants of their rights, which will hopefully increase reporting and enforcement. We believe increasing awareness regarding tenants’ rights is a worthy goal.

#### **C. Intro 2047-2020**

Finally, we support Council Member Stephen Levin’s Intro 2047-2020 to prohibit housing discrimination on the basis of arrest or criminal record. As community members across the city call for meaningful criminal justice reforms, these must include policies that improve conditions for formerly incarcerated community members who are disproportionately poor, Black, and Latinx. In New York, Black individuals are more than ten times as likely to have been

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<sup>1</sup> 2 U.S.C. § 3603(b)

incarcerated compared to whites, and Latinx individuals are almost five times as likely to have been incarcerated compared to their white peers.<sup>2</sup> Even after a justice-involved person comes home, they face collateral consequences of their incarceration that jeopardize their reentry into society. Of the many challenges people with justice involvement face, access to safe and affordable housing is one of the most pressing.

Housing after incarceration offers stability to individuals who have returned to the community and studies have shown that stable housing helps secure and maintain work,<sup>3</sup> increase their access to healthcare services,<sup>4</sup> and enables individuals to reconnect with their families and communities.<sup>5</sup> In short, stable housing reduces recidivism.<sup>6</sup> Housing instability is a factor that can lead to the revolving door between incarceration and the shelter system.

Removal of barriers to successful reentry is an absolutely necessary element of both housing justice and racial justice.

### **III. Improving Access to, Accountability for, and Transparency about Rental Subsidies**

MFJ supports the City Council efforts to increase tenants' access to rental subsidies and add greater transparency about and accountability for these programs. New York was facing a housing crisis before the pandemic, which has been exacerbated by the deaths and job losses caused by COVID-19.

#### **A. Intro 146-2018**

Intro 146 would amend the administrative code by allowing rental voucher recipients to continue receiving their benefits for as long as participants are eligible. It would also tie maximum rents paid by the vouchers to the fair market rate ("FMR") set by the U.S. Department of Housing and Urban Development ("HUD"). MFJ supports these changes and believes they will accomplish the City Council's goal of making rental assistance vouchers more widely available.<sup>7</sup> This provision is also expected to result in significant savings—because rental vouchers are less expensive than other homeless prevention measures—and a preference for their use will free up money that can be reinvested in additional housing programs.<sup>8</sup>

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<sup>2</sup> Vera Institute of Justice, "Incarceration Trends", <http://trends.vera.org/rates/new-york-city-ny>.

<sup>3</sup> Katharine H. Bradley, *et. al.*, "No Place Like Home: Housing and the Ex-prisoner," Community Resources for Justice, Nov. 2001, [https://b.3cdn.net/crjustice/a5b5d8fa98ed957505\\_hqm6b5qp2.pdf](https://b.3cdn.net/crjustice/a5b5d8fa98ed957505_hqm6b5qp2.pdf).

<sup>4</sup> Elayne Weiss, "Why Housing Matters in Criminal Justice Reform," National Low Income Housing Coalition, 2016, [https://static1.squarespace.com/static/57a0c10346c3c4c4a2f46b9d/t/580a365f03596e9f6d59e217/1477064289730/Why+housing+matters+for+criminal+justice+reform\\_NLIHC2016.pptx.pdf](https://static1.squarespace.com/static/57a0c10346c3c4c4a2f46b9d/t/580a365f03596e9f6d59e217/1477064289730/Why+housing+matters+for+criminal+justice+reform_NLIHC2016.pptx.pdf).

<sup>5</sup> Lucius Cauloute, "Nowhere to Go: Homelessness Among Formerly Incarcerated People," Prison Policy Initiative, Aug. 2018, <https://www.prisonpolicy.org/reports/housing.html#revolvingdoor>.

<sup>6</sup> Harvard University Institute of Politics, "Successful Reentry: A Community-Level Analysis," Dec. 2019, [https://iop.harvard.edu/sites/default/files/sources/program/IOP\\_Policy\\_Program\\_2019\\_Reentry\\_Policy.pdf](https://iop.harvard.edu/sites/default/files/sources/program/IOP_Policy_Program_2019_Reentry_Policy.pdf).

<sup>7</sup> New York City Council, "Our Homeless Crisis: The Case for Change," Jan. 2020, <http://council.nyc.gov/data/wp-content/uploads/sites/73/2020/01/FINAL-PAPER.pdf>.

<sup>8</sup> *Id.*

By attaching rental assistance vouchers to the FMR, Intro 146 will ensure that the program is competitive with other housing subsidies. Rents for Section 8 vouchers are also tied to the FMR, which is determined by HUD through a yearly assessment of a region's housing market.<sup>9</sup> By making payments from city vouchers equal to what is paid by Section 8, this legislation will ensure that recipients of city vouchers won't miss out on the same housing opportunities available to federally subsidized tenants and ensure that local subsidies keep pace with the housing available to rent.

Moreover, mandating that maximum rents for vouchers rise with the FMR will greatly increase the housing options for program participants. Even before COVID-19, the housing affordability crisis in New York contributed to a growing homeless population. This is partly because the city's real estate market produced a surplus of luxury housing, while vacancy rates remained low for affordable apartments.<sup>10</sup> The current maximum rent allowed for a CityFHEPS voucher is \$1,580 for a three- or four-person household.<sup>11</sup> Meanwhile, the FMR for a two-bedroom apartment in New York City is \$1,951.<sup>12</sup> By making maximum rents for voucher programs like CityFHEPS equal to the FMR, the city hopes to open up an additional 68,000 units of housing to voucher recipients.<sup>13</sup> Such an outcome would meaningfully contribute to making New York livable for households of all income levels.

Additionally, Intro 149's mandate that voucher recipients will remain in the program for as long as they are eligible will alleviate concern by some landlords who are rightfully wary of accepting rental assistance vouchers after their experience with the premature cancellation of the Advantage rental assistance program. The effects of this decision were severe and caused a spike in unhoused families.

## **B. Intro 1020-2018**

We support the accountability provisions enumerated in Intro 1020. The bill requires the Department of Homeless Services and the Human Resources Administration to track and report data about rental assistance vouchers. The data must be made available on the departments' websites and submitted quarterly to the City Council Speaker.

Here, the lessons of Mayor Bloomberg's Advantage rental assistance program are also instructive. Three years into operation, it was reported that the program was acting as a "revolving door" for families going in and out of the shelter system.<sup>14</sup> A Department of Homeless Services report showed that one-fourth of the program participants returned to shelters

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<sup>9</sup> HUD Office of Policy Development and Research, "Fair Market Rents," <https://www.huduser.gov/portal/datasets/fmr.html>.

<sup>10</sup> New York City Rent Guidelines Board, "2018 Income and Affordability Study," Apr. 5, 2018, <https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2019/08/ia18.pdf>.

<sup>11</sup> The Rules of the City of N.Y. § 10-05.

<sup>12</sup> HUD Office of Policy Development and Research, "The FY 2020 FMRs for All Bedroom Sizes," [https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2020\\_code/2020summary.odn](https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2020_code/2020summary.odn).

<sup>13</sup> *Our Homeless Crisis*, *supra* note 8.

<sup>14</sup> Javier C. Hernández, "Despite the Mayor's Homeless Program, Many Return to Shelters, Critics Say," N.Y. Times, Dec. 8, 2010, <https://www.nytimes.com/2010/12/09/nyregion/09shelter.html?scp=2&sq=homeless&st=cse>.

after their subsidy ended.<sup>15</sup> Critics said such outcomes were due to onerous work requirements and subsidies that cut off before recipients were financially independent.<sup>16</sup> Had there had been more transparency, the shortfalls in the programs could have been detected earlier and many households could have been saved from homelessness. If we are to avoid similar mistakes in the future, it is necessary to establish robust oversight mechanisms.

#### **IV. Proposals for Future Legislation**

The proposed legislation are welcome steps to preventing discrimination. We also would like to suggest the following reforms that would further these goals:

##### **A. Adequately Fund the Source of Income Discrimination (SID) Unit at the NYC Commission on Human Rights.**

The only way to ensure any legislation preventing discrimination is by robust enforcement. We recommend the SID unit receive the funding needed to investigate and prosecute cases of discrimination. We also urge transparency in the staffing and number of cases handled to ensure accountability.

##### **B. Make Source of Income Discrimination a Triggering Criterion for the City's Certificate of No Harassment Program (CONH).**

The City's Certificate of No Harassment Program (CONH) is a useful program to stop harassment and create consequences for owners who try to drive out tenants for greater profit. The current criteria only apply to tenants once they are living in a building, but most source of income cases are from prospective tenants. Allowing the private bar and the New York City Human Rights Commission to work with HPD can keep housing affordable and give greater leverage to tenants who assert their rights.

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<sup>15</sup> Giselle Routhier, "Troubling New Data Show the Deep Failures of the Advantage Program," Coalition for the Homeless, Dec. 10, 2010, <https://www.coalitionforthehomeless.org/troubling-new-data-show-the-deep-failures-of-the-advantage-program/>.

<sup>16</sup> Hernández, *supra* note 15.

### **C. Expand Set Asides for Tenants with Vouchers.**

We support the New York City Commission on Human Rights' use of restorative justice where offending landlords must set aside apartments for tenants with vouchers.<sup>17</sup> We encourage the city to expand this model. Other set asides, such as modifying mandatory inclusionary zoning or 421-a agreements in wealthier communities, should also include set asides for tenants with vouchers as a way to increase the geographic and economic diversity of the buildings accepting rent subsidies.

### **V. Conclusion**

We thank the Committees for holding this hearing and considering our testimony. The pandemic aggravated an already dangerous housing situation and these practical bills address a desperate need to make New York City a discrimination-free zone and to maximize the value of the City's rent subsidies.

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<sup>17</sup> Sydney Pereira, "NYC is Requiring Landlords Set Aside Apartments for Voucher Tenants Under New Approach to Enforcing Human Rights Law," Gothamist, Sept. 11, 2020, <https://gothamist.com/news/nyc-requiring-landlords-set-aside-apartments-voucher-tenants-under-new-approach-enforcing-human-rights-law>.



To: New York City Council Committee on Consumer Affairs and Business Licensing

From: Marrisa Senteno- New York Co-Director and Rocio Avila State Policy Director

Re: In Support of Int. 2032-2020

Testimony of Marrisa Senteno, New York Co-Director

Marrisa@domesticworkers.org

Rocio Avila, State Policy Director Rocio@domesticworkers.org

National Domestic Workers Alliance

Presented Before the New York City Council Committee on Consumer Affairs and  
Business Licensing

Date: September 10th, 2020 at 1:00 pm

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### **Introduction and NDWA Background**

Good afternoon, my name is Marrisa Senteno and I am the New York Co-director for the National Domestic Workers Alliance. I also act as the coordinator of the New York Domestic Workers Coalition. I would like to thank the Committee Chair Council member Cohen and bill sponsor Council member Kallos for introducing this bill and bringing it before the committee.

I am testifying in support of the bill Int. 2032-2020 in its intent to update the current New York City Paid Safe and Sick Leave law. Our coalition and members are especially interested in having this bill brought to a vote so that the over 250,00 domestic workers in the city and in particular the 60,000 domestic workers that work in private homes have full access to the benefits and intent of the PSSD.

The National Domestic Workers Alliance is the nation's leading voice for dignity and fairness for the over 2.5 million domestic workers in the United States. We have over 70 affiliate organizations across the country, with a dozen affiliated community based organizations in New York City alone. We organize around improving working conditions and building a powerful movement for the domestic workers across the country that do the work that makes all other work possible.

The NYS Domestic Worker Bill of Rights was signed into law on August 31, 2010. It was the first legislation of its kind in the entire country. This year 2020 marks its tenth anniversary. This is a bitter sweet anniversary, knowing that we have come so far since the initial signing of this historic law and yet the pandemic shed a bright spotlight on how much further we have yet to go.

### **In favor of Int. 2032**

Currently the two days of PSSL as allotted by the city for domestic workers is wholly inadequate. We know that it was a very progressive decision to include domestic workers in the Paid Safe and Sick Leave Law in New York City and we commend the City Council for making it possible for domestic workers to have access to Paid Safe and Sick Leave.

- Unfortunately, the effect of having two days from the city and three days from the state created a confusing system of paid sick leave that resulted in domestic workers not actually being able to access and use the days as intended.
- It is confusing for domestic workers, domestic employers and at times even for enforcing entities to both educate and adjudicate this much needed provision of labor law.
- The need to wait for a full year to use their sick days meant that domestic workers were getting fired time and time again for taking the much needed sick days, only to have to start over from zero the next time around.
- Domestic workers find themselves having to choose which agency in which to pursue their claims and most often left Paid Sick Leave on the table to be able to pursue their larger claim of wage theft with the Department of Labor.

When the New York Domestic Worker Coalition originally passed the New York Domestic Worker Bill of Rights in 2010, it was ahead of its time. There was no paid sick leave at all for anyone, and it was a model in which the city was able to develop and build its own Paid Safe and Sick Leave. With the passage of the original and updated Paid Safe and Sick Leave we want to use these models to learn from and to improve Paid Safe and Sick Leave for not only domestic workers but for everyone.

At NDWA we have built a successful enforcement program for domestic worker rights. We have an co-enforcement strategy and co-enforcement programs with the Office of Labor and Policy Standards (OLPS) and its Division of Paid Care. We work in close collaboration with OLPS to bring much needed resources to the city's paid care industry. We have a domestic worker led enforcement program that puts domestic workers in direct contact with enforcement agencies and much needed education around their rights. We have the only known domestic worker specific legal clinic that has only grown in the last years and in particular the last six months. With all this, we are learning about what makes labor laws effective for domestic workers who are amongst the most vulnerable to exploitation.

With all this we have been unable to bring large numbers of claims for PSSL to the city for the very fact that it only enforces two days and is only effective after one year. We have over 100 cases a year of workplace violations of domestic workers. This need is only growing and during the pandemic our caseload grew even more than ever before. While paid sick days violations amount to approximately 60% of the workplace violations in New York City, for the domestic workers who have come forward to address wage theft, it only amounts to less than 5% of filed claims for PSSL with the city in our legal clinic. For a worker, it is not worth it to engage in two separate governmental agencies for the equivalent of two and three days off. Five days of Paid Sick Leave is what domestic workers deserve and need in New York City..

Domestic workers are essential. The governor issued an executive order that included childcare and caregivers as essential sectors of the workforce. Yet once again they were excluded from the most essential paid sick leave provisions from the state. This paid sick leave is essential to domestic workers. You cannot socially distance while caring for others. New York City has a chance right now to ensure that its domestic workers are better covered at a time when it is needed the most. It is not only to the benefit of domestic workers but to also benefit those that need the care of domestic workers in this city. The country is in a care crisis and ensuring that domestic workers have adequate access to paid sick leave helps to mitigate that crisis.

It is time that is updated and the city provides domestic workers with the full intent of paid sick leave on par with everyone else. Their work is too valuable and too needed to be left behind.

**Proposed Amendments to make it clearer and more enforceable**

We are in support of Int. 2032. Below are the proposed changes to [Int. No. 2032 \(NYC PSSL amendment bill\)](#) that would make this bill and update to the PSSL law more clear and easier to enforce.

1. **§ 20-912 Definitions:** “Domestic worker” shall mean any [“domestic worker” as defined in section 2 (16) of the labor law who is employed for hire within the city of New York for more than eighty hours in a calendar year who performs work on a full-time or part-time basis] person who provides care for a child, companionship for a sick, convalescing or elderly person, housekeeping, or any other domestic service in a home or residence whenever such person is directly and solely employed to provide such service by an individual or private household. The term “domestic worker” does not include any person who is employed by an agency whenever such person provides services as an employee of such agency, regardless of whether such person is jointly employed by an individual or private household in the provision of such services.”

**RECOMMENDATION:** [ *new language italicized and in yellow* ]

We recommend that the domestic worker definition be revised to ensure coverage of all domestic worker employment relationships in the private household. Currently, the bill language makes it seem that employers of domestic workers hired via an agency are not covered under the law and that joint employment would not apply in instances where there are multiple employers involved in the employment relationship, which is a very common practice in the domestic worker industry. As a result, we have two recommendations:

1. “Domestic worker” shall mean any [“domestic worker” as defined in section 2 (16) of the labor law who is employed for hire within the city of New York for more than eighty hours in a calendar year who performs work on a full-time or part-time basis] person who provides care for a child, companionship for a sick, convalescing or elderly person, housekeeping, or any other domestic service in a home or residence whenever such person is directly and solely employed to provide such service by an individual or private household. The term “domestic worker” does not include any person who is employed by an agency whenever such person provides services as an employee of such agency, regardless of whether such person is jointly employed by an individual or private household in the provision of such services. *Any person employed by an agency who performs domestic work is included in the definition of employee and both the agency and the individual hire or private*

*household employer are responsible for ensuring the domestic worker receives sick time as provided under this chapter.*

2. Alternatively, and our preference, is that you strike the exception for domestic workers hired by an agency and include those workers as part of the domestic worker definition. That would make it expressly clear that individuals or private households and agency employers that hire domestic workers are required to abide by the same rules. Thus, the new proposed language for striking the entire exception is:

“Domestic worker” shall mean any [“domestic worker” as defined in section 2 (16) of the labor law who is employed for hire within the city of New York for more than eighty hours in a calendar year who performs work on a full-time or part-time basis] person who provides care for a child, companionship for a sick, convalescing or elderly person, housekeeping, or any other domestic service in a home or residence whenever such person is directly *or indirectly employed to provide such services by an individual or private household and/or through an agency, that hires them and is involved in the employment and performance of domestic services in the private household.* and solely employed to provide such service by an individual or private household. The term “domestic worker” does not include any person who is employed by an agency whenever such person provides services as an employee of such agency, regardless of whether such person is jointly employed by an individual or private household in the provision of such services.

2. **§ 20-912 Definitions:** The proposed “Domestic Worker” definition, includes a reference to an “agency” employer, but provides no definition for it. Thus, the bill should include one.

RECOMMENDATION: [ *new language italicized and in yellow* ]

*"Agency" means any person or entity who procures, or attempts to procure, directly or indirectly through placement in a physical or virtual labor pool:*

*(1) employees workers or domestic workers for employers or companies seeking the services of employees or domestic workers; AND*

*(2) after such procurement is complete, continues involvement in the terms of exchange of domestic services with the employees or domestic workers through activities, including processing or distributing of workers' payment of wages or*

*other forms of continued involvement after procurement that evidence ongoing control.*

3. **§ 20-919 Notice of rights.**

b. “The department shall create and make available notices that contain the information required pursuant to subdivision a of this section concerning [sick] safe/sick time [and safe time] and such notices shall allow for the employer to fill in applicable dates for such employer's calendar year. Such notices shall be posted in a downloadable format on the department's website in Chinese, English, French-Creole, Italian, Korean, Russian, Spanish and any other language deemed appropriate by the department.”

RECOMMENDATION:

“The department shall create and make available notices that contain the information required pursuant to subdivision a of this section concerning [sick] safe/sick time [and safe time] and such notices shall allow for the employer to fill in applicable dates for such employer's calendar year. *The department shall create and make available a special notice for employers of domestic workers expressly providing the paid sick time rules for such workers.* Such notices shall be posted in a downloadable format on the department's website in Chinese, English, French-Creole, Italian, Korean, Russian, Spanish and any other language deemed appropriate by the department.”

## **The effects of the pandemic on Domestic workers**

The effects of the pandemic was a trifecta of a hurricane that brought swift and disastrous consequences on the domestic worker industry. The health crisis of the COVID 19 pandemic, the economic fallout of the quarantine and the racist violence that played out across the country on Black people. Domestic workers are mainly women of color, who's lives intersect the major issues that put them in the most vulnerable position when this crisis happened.

In our recent survey report published with the Institute of Policy Studies called “Notes from the Storm: Black Immigrant Domestic Workers in the Time of COVID-19”<sup>1</sup> it was

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<sup>1</sup> “Notes from the Storm: Black Immigrant Domestic Workers in the Time of COVID-19”  
<https://domesticworkers.org/sites/default/files/IPS-WDiB-survey-brief.pdf>

found that of those surveyed 62% of respondents have either lost their jobs or have fewer hours and less pay. 75% of those surveyed reported that they did not receive PPR from their employers and 45% of the respondents lack medical insurance. While in New York 24% of our respondents at the hight of the pandemic either experienced or lived with someone that experienced COVID-19 symptoms and were at higher risk for getting seriously ill.

These are the essential workers that work within our homes all across the city and do the care work we need so much. We at NDWA want to thank the bill sponsors for having the foresight to introduce this bill, and we know that the much needed improvements will have a big impact on the domestic workforce and other workforces across the city.

### **Workers impacted by PSSL**

Women and Black and Hispanic women make up the vast majority of domestic workers in New York and the majority of domestic workers work and reside in New York City. Well over half (57.1%) of domestic workers are women of color. And more than 9 in 10 domestic workers in New York are women.<sup>2</sup> Also, 84% of domestic workers in NY are in the New York City region. That means that having full access to Paid Safe and Sick Leave benefit some of the hardest hit workers from the pandemic in the city.

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<https://www.epi.org/publication/domestic-workers-chartbook-a-comprehensive-look-at-the-demographics-wages-benefits-and-poverty-rates-of-the-professionals-who-care-for-our-family-members-and-clean-our-homes/>

# **Joint City Council Hearing: General Welfare Committee and the Committee on Civil and Human Rights**

## **Testimony by Neighbors Together**

Written by Amy Blumsack, Director of Organizing & Policy

**September 15, 2020**

Neighbors Together would like to thank the New York City Council General Welfare Committee and Civil and Human Rights Committee Chairs Levin and Eugene, respectively as well as the other council members on the committees for the opportunity to submit testimony.

Neighbors Together is a community-based organization located in central Brooklyn. Our organization provides hot meals five days per week in our Community Café, offers a range of one-on-one stabilizing services in our Empowerment Program, and engages members in community organizing, policy advocacy and leadership development in our Community Action Program. We serve approximately 80,000 meals and 10,000 individuals per year.

Our members come to us from across the five boroughs of New York City, with the majority living in central Brooklyn. Nearly 57% of our members are homeless or unstably housed:

- 21% stay in shelters
- 19% live in three-quarter houses, which are essentially boarding houses that advertise themselves as licensed substance use treatment programs and rent beds out to single adults, often packing them in 4-8 people per room in bunk beds. These houses are unlicensed and unregulated by any government entity and are known for forcing tenants to attend outpatient drug use treatment programs as a condition of maintaining their bed, while engaging in illegal Medicaid kickback schemes.
- 10% are doubled-up with relatives or friends
- 7% are living on the street
- Another 36% rent apartments or rooms in privately owned homes, the majority of which are unregulated.

Increasingly over the last five years, our members report that homelessness and lack of affordable housing options are their primary concern, and one of the most significant issues facing their communities is the inability to find housing with a CityFHEPS voucher. Our data backs the anecdotal evidence we see and hear from our members daily: an increasing number of our members are living in shelters with vouchers for

years at a time, unable to secure permanent housing due to rampant source of income discrimination and the submarket payment rate of the CityFHEPS voucher.

Neighbors Together has been organizing CityFHEPS voucher holders since 2018. We conduct bi-monthly know your rights trainings on how to identify and report source of income discrimination, and bi-weekly housing search workshops where voucher holders get additional support in their housing search and assistance on filing source of income discrimination complaints to City Commission on Human Rights (CCHR) when needed. Additionally, we built and launched the Stop SID NYC website,<sup>1</sup> which provides information about source of income discrimination and how to report it as well as a mechanism for reporting via the website.

We work closely with CCHR to ensure that source of income discrimination reports are effective and have the best possible outcomes for our members. Additionally, we recently partnered with CCHR on their new restorative justice set-aside program<sup>2</sup> to ensure that set aside units obtained through settlements are most likely to go to people in need as efficiently and effectively as possible.

Since starting this work in 2018, 292 people have attended our know your rights sessions, 111 people have participated in housing search workshops, 470 source of income discrimination complaints were filed, and housing was secured for over 66 people through our partnership with CCHR.

Over the course of our work with voucher holders it has become increasingly clear that the voucher amount is insufficient and that voucher holders are given little-to-no information about what source of income discrimination is and how to combat it. When comparing the rate of source of income discrimination reports by voucher type, over twice as many reports were made for CityFHEPS vouchers than for vouchers that pay fair market rate in fiscal year 2020. In fiscal year 2021 to-date, there have been more than four times the number of reports for CityFHEPS vouchers than vouchers that pay fair market rent (See Appendix A). People who have been searching for housing with vouchers often come to Neighbors Together with their CityFHEPS shopping letter after facing years of discrimination and completely overwhelmed with frustration and despair.

Out of the more than 66 housing placements with a rental assistance voucher, no one with a CityFHEPS voucher secured housing without an intervention by CCHR, and no one with a CityFHEPS voucher found an apartment on the private market appropriate to their family size. All single adults accepted rooms and all families squeezed 3 to 4 people into a one bedroom. CityFHEPS recipients are in extreme competition with each

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<sup>1</sup> <https://www.stopsidnyc.com/>

<sup>2</sup> <https://gothamist.com/news/nyc-requiring-landlords-set-aside-apartments-voucher-tenants-under-new-approach-enforcing-human-rights-law>

other for the few units available at the voucher levels- there is not one neighborhood in the city that has median asking rent within \$100 of the current voucher rate (See Appendix B). Because the stock is so low, voucher holders are forced to accept substandard housing in neighborhoods that are typically far from their support systems, families, schools and networks. They feel unable to safely report poor or unsafe physical conditions and/or harassment from their landlords, due to fear of retaliation or eviction.

There is a greater sense of instability among our members with CityFHEPS and a more formidable concern that they may return to shelter in the near future. Individuals who have accepted rooms must rely on the behavior of their roommates, many of whom are strangers, and families count down the days until they have outgrown their already overcrowded apartments. Because the current CityFHEPS rates are so low, once landlords have extracted the signing bonus for accepting the voucher, our members are typically refused lease renewals, throwing them back into crisis, deep instability and often a return to homelessness.

After over a year of collecting data through the Stop SID NYC website, running know your rights trainings and conducting housing searches for people with vouchers, Neighbors Together built a grassroots organizing campaign of directly impacted people who had voucher shopping letters but couldn't find housing. The VALUE in Housing (or **Voucher Advocates Lifting Up Equity in Housing**) campaign created a platform of 5 policy reforms that will make vouchers effective tools for accessing permanent affordable housing. The platform includes Intro 146, Intro 1339, increasing the size of the source of income unit at CCHR, ending credit checks for voucher holders, and improving eligibility requirements for vouchers so that recipients can increase their income until they are financially self-sufficient without fear of losing their voucher.<sup>3</sup>

### **Intro 146**

Neighbors Together strongly supports Intro 146. In order to be competitive in the housing market and move people out of homelessness, CityFHEPS must be raised to fair market rent. At its current rates, CityFHEPS falls over \$400 below fair market rent, making housing searches futile. A simple look at data from source of income discrimination reports collected over the last two fiscal years shows that CityFHEPS voucher holders were reporting discrimination at over twice the rate of other vouchers such as Section 8 and HASA, which pay at or above fair market rent. In fiscal year 2021 to-date, CityFHEPS voucher holders reported source of income discrimination at over 10 times the rate of Section 8 and HASA voucher holders. Additionally, given the devastating effects of COVID on employment in New York City, we anticipate a significant uptick in homelessness once the eviction moratorium ends. A voucher that pays fair market rent will increase people's ability to move out of shelter sooner than at

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<sup>3</sup> <https://www.stopsidnyc.com/get-involved>

current voucher levels and will help address the current homelessness crisis as well as a potential oncoming wave of evictions post-moratorium.

### **Recommendations**

We recommend that the bill language be amended to clarify that all vouchers and shopping letters will be raised to current fair market rent, and thereafter shall be increased annually at the same rate as the fair market rents set by the United States Department of Housing Preservation and Development.

### **Intro 1339**

Neighbors Together supports Intro 1339 with suggested amendments. We agree that it is critical that people with vouchers be given know your rights information about source of income discrimination. However, it must be robust enough to meaningfully describe to voucher holders how to recognize and report source of income discrimination. The know your rights information must be distributed upon receipt of a shopping letter so that people with vouchers aren't struggling through years of housing searches without proper knowledge of source of income discrimination.

### **Recommendations**

To make Intro 1339 more effective, we recommend that the bill require the Department of Social Services to provide a written notice created by the City Commission on Human Rights to all voucher holders upon receipt of their shopping letter that describes what source of income discrimination is, and multiple examples of types of source of income discrimination, including but not limited to:

- A statement that it is illegal refuse to accept rental assistance for payment of rent or a security deposit in buildings with six or more units;
- A statement that it is illegal for landlords, brokers and other housing agents to b) request from an individual receiving rental assistance additional payments for rent, a security deposit, or upfront fees (including broker's fees, application fees, or fees related to the cost of a background or credit check) that exceed the then-current limitations on payments, fees and charges pursuant to city and state law because an individual receives rental assistance;
- A statement that it is illegal for landlords, brokers and other housing agents to c) publish any type of advertisement that indicates a refusal to accept rental assistance;
- A statement that it is illegal for landlords to refuse or delay making repairs to an individual's unit because such individual pays rent with rental assistance;

- tell a potential renter that an apartment is no longer available once the individual has disclosed their receipt of rental assistance;
- cease contact once the individual has disclosed their receipt of rental assistance;
- state a preference for one kind of lawful source of income over another;
- create a 'waitlist' for recipients of rental assistance
- A statement that an individual has the right to be free from discriminatory, harassing or threatening behavior or comments based on such individual's receipt of or application for rental assistance;
- A summary of the then-current limitations on payments, fees and charges in relation to residential dwelling units pursuant to city and state law, including the limitations set forth in Article 7, Section 238-A of the New York State Real Property Law;
- Contact information, including phone numbers, for the department's source of income discrimination unit and the city commission on human rights;
- A description of potential remedies for an individual receiving rental assistance if a landlord, broker or other housing agent is found to have engaged in lawful source of income discrimination;
- Any other information deemed appropriate by the commissioner.
- Such materials must be written in plain and simple language and made available in the designated citywide languages as set forth in section 23-1101 Section 3.

We strongly recommend that this notice be created by the City Commission on Human Rights because they are the city agency that enforces against source of income discrimination, and their Lawful Source of Income Fact Sheet for Tenants<sup>4</sup> already effectively outlines much of our recommendations.

### **Preconsidered Introduction by Council Member Powers**

We support the preconsidered introduction by Council Member Powers to amend the administrative code of the city of New York, in order to expand the prohibition against discrimination in housing accommodations based on lawful source of income to any housing accommodation comprised of three or more units. We support this bill because throughout large sections of New York City, there are rooms available in private homes

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<sup>4</sup> <https://www1.nyc.gov/site/cchr/media/lawful-source-of-income-factsheet-for-tenants.page>

or two or three family homes for rent at prices closer to voucher levels. This bill would increase the affordable housing stock available to homeless New Yorkers trying to use rental assistance vouchers by including them under the human rights law that makes source of income discrimination illegal.

### **Preconsidered Introduction by Council Member Levin**

We support the preconsidered introduction by Council Member Levin to make the status of a rental assistance application or renewal request for CityFHEPS vouchers available on the Department of Social Services website. This bill would increase transparency in the voucher process for voucher holders and increase clarity and understanding about voucher status, decreasing miscommunication and misunderstandings that can result in people losing their voucher and/or falling back into homelessness.

### **Introduction 2047**

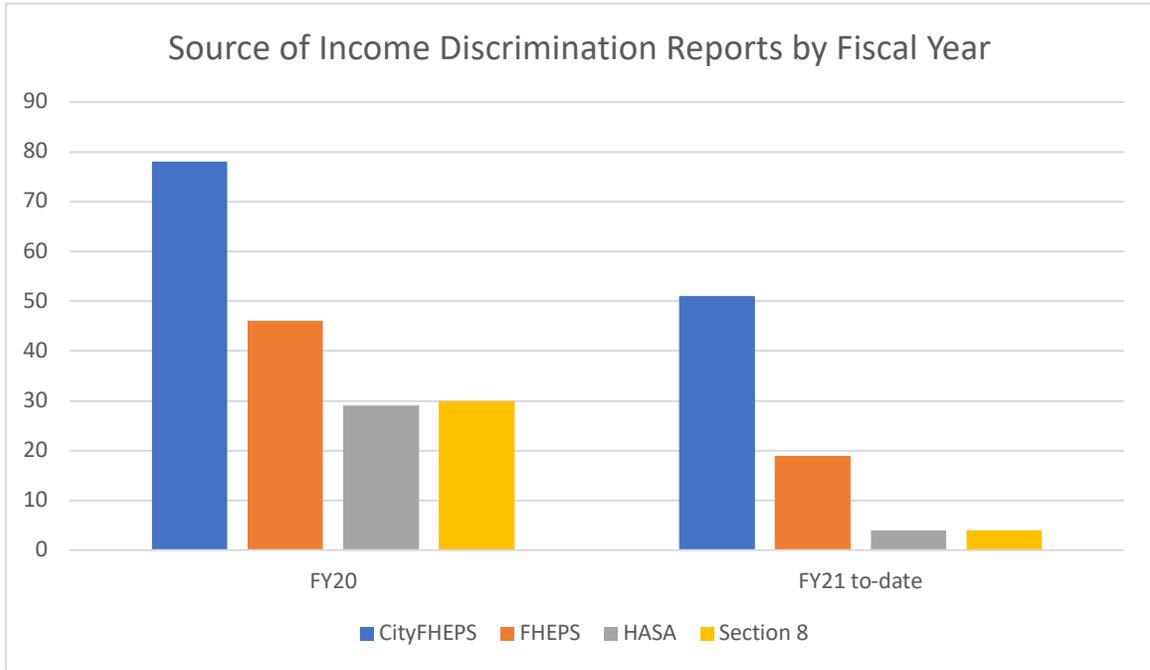
We support Introduction 2047. New York City has moved to “ban the box” in education and employment and should do the same for housing. Stable housing is the foundation from which other opportunities such as employment, health, and education become possible. When a person is able to rejoin their family, build networks and support systems and pursue employment or education it strengthens communities and makes them safer. Additionally, our law enforcement and criminal justice systems disproportionately target Black people and people of color. Discrimination in housing against people with histories of justice involvement relegate them to unsafe, unsustainable housing such as three-quarters houses or no houses at all. The burden of housing discrimination against people with a criminal justice background compounds the impacts of systemic racism and dooms formerly incarcerated or justice involved people to a lifetime of disproportionate negative outcomes. Intro 2047 would be an important step in addressing these racist systems and their effects on communities of color.

### **Conclusion**

Housing is a human right. Homelessness, incarceration, and low credit all disproportionately affect Black people and people of color because of systemic racism and white supremacy. If New York City is committed to racial equity and racial justice, then the City Council should pass Intros 146 and 1339 with our suggested amendments. The Council should also pass 2047, as well as the preconsidered bills by Council Members Levin and Powers. These bills will address fundamental barriers to accessing housing and are critical tools for addressing the homelessness crisis.

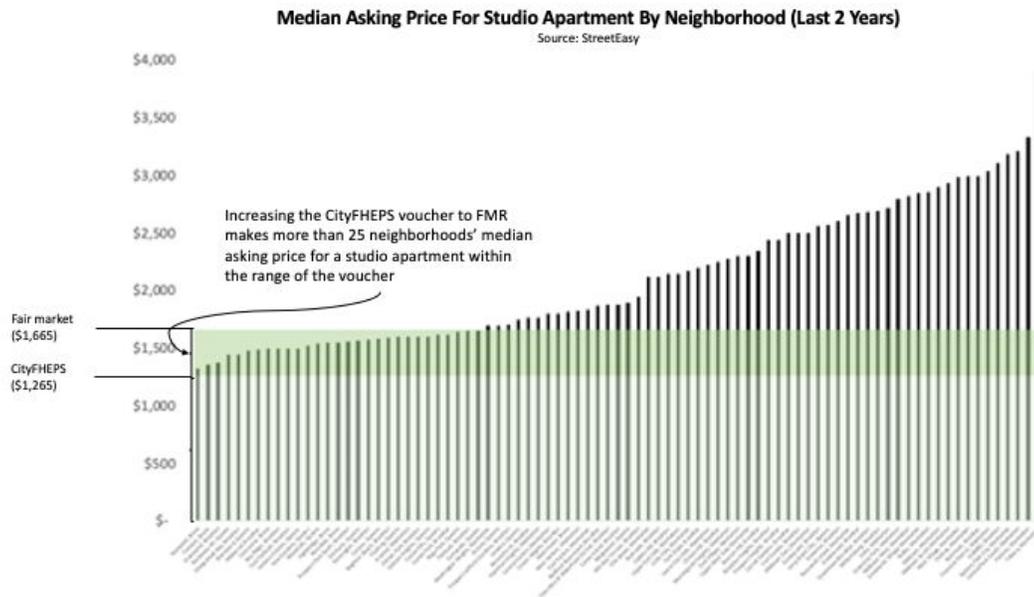
For questions regarding this testimony, please contact Amy Blumsack, Director of Organizing & Policy at Neighbors Together, at [amy@neighborstogether.org](mailto:amy@neighborstogether.org) or 718-498-7256 ext. 5003.

# Appendix A



# Appendix B

#HomelessCantStayHome



| Neighborhood                  | Median Asking Rent For Studio Apartment (Last 2 Years) |
|-------------------------------|--|
| Norwood, Bronx                | \$1,325  |
| Tremont, Bronx                | \$1,363  |
| Gravesend, Brooklyn           | \$1,375  |
| Rockaway All, Queens          | \$1,450  |
| Sheepshead Bay, Brooklyn      | \$1,450  |
| Briarwood, Queens             | \$1,484  |
| Midwood, Brooklyn             | \$1,485  |
| Concourse, Bronx              | \$1,499  |
| Bay Ridge, Brooklyn           | \$1,500  |
| East Flatbush, Brooklyn       | \$1,500  |
| Jamaica Estates, Queens       | \$1,500  |
| Kew Gardens, Queens           | \$1,525  |
| Woodside, Queens              | \$1,538  |
| Highbridge, Bronx             | \$1,550  |
| Riverdale, Bronx              | \$1,550  |
| Prospect Park South, Brooklyn | \$1,557  |
| Elmhurst, Queens              | \$1,571  |
| Kensington, Brooklyn          | \$1,575  |
| Corona, Queens                | \$1,580  |
| Brighton Beach, Brooklyn      | \$1,597  |
| Flushing, Queens              | \$1,600  |

#HomelessCantStayHome

| Neighborhood                              | Median Asking Rent For Studio Apartment (Last 2 Years) |
|---|--|
| Norwood, Bronx                            | \$1,325  |
| Tremont, Bronx                            | \$1,363  |
| Gravesend, Brooklyn                       | \$1,375  |
| Rockaway All, Queens                      | \$1,450  |
| Sheepshead Bay, Brooklyn                  | \$1,450  |
| Briarwood, Queens                         | \$1,484  |
| Midwood, Brooklyn                         | \$1,485  |
| Concourse, Bronx                          | \$1,499  |
| Bay Ridge, Brooklyn                       | \$1,500  |
| East Flatbush, Brooklyn                   | \$1,500  |
| Jamaica Estates, Queens                   | \$1,500  |
| Kew Gardens, Queens                       | \$1,525  |
| Woodside, Queens                          | \$1,538  |
| Highbridge, Bronx                         | \$1,550  |
| Riverdale, Bronx                          | \$1,550  |
| Prospect Park South, Brooklyn             | \$1,557  |
| Elmhurst, Queens                          | \$1,571  |
| Kensington, Brooklyn                      | \$1,575  |
| Corona, Queens                            | \$1,580  |
| Brighton Beach, Brooklyn                  | \$1,597  |
| Flushing, Queens                          | \$1,600  |
| Inwood, Manhattan                         | \$1,600  |
| Ditmas Park, Brooklyn                     | \$1,600  |
| Jackson Heights, Queens                   | \$1,600  |
| Forest Hills, Queens                      | \$1,616  |
| Sunset Park, Brooklyn                     | \$1,623  |
| Rego Park, Queens                         | \$1,642  |
| Flatbush, Brooklyn                        | \$1,650  |
| Sunnyside, Queens                         | \$1,650  |
| Washington Heights, Manhattan             | \$1,700  |
| Astoria, Queens                           | \$1,700  |
| Prospect Lefferts Gardens, Brooklyn       | \$1,704  |
| Jamaica, Queens                           | \$1,751  |
| Bensonhurst, Brooklyn                     | \$1,765  |
| Hamilton Heights, Manhattan               | \$1,770  |
| Central Harlem, Manhattan                 | \$1,799  |
| Crown Heights, Brooklyn                   | \$1,800  |
| Mott Haven, Bronx                         | \$1,814  |
| West Harlem, Manhattan                    | \$1,825  |
| East Harlem, Manhattan                    | \$1,837  |
| Bedford-Stuyvesant, Brooklyn              | \$1,869  |
| Columbia St Waterfront District, Brooklyn | \$1,875  |

#HomelessCantStayHome

| Neighborhood                   | Median Asking Rent For Studio Apartment (Last 2 Years) |
|--------------------------------|--|
| Coney Island, Brooklyn         | \$1,882  |
| Ridgewood, Queens              | \$1,895  |
| Windsor Terrace, Brooklyn      | \$1,947  |
| Chinatown, Manhattan           | \$2,123  |
| Bushwick, Brooklyn             | \$2,125  |
| Cobble Hill, Brooklyn          | \$2,150  |
| Upper East Side, Manhattan     | \$2,150  |
| Little Italy, Manhattan        | \$2,170  |
| Park Slope, Brooklyn           | \$2,200  |
| Lower East Side, Manhattan     | \$2,225  |
| Clinton Hill, Brooklyn         | \$2,252  |
| Morningside Heights, Manhattan | \$2,275  |
| East Village, Manhattan        | \$2,300  |
| Upper West Side, Manhattan     | \$2,300  |
| Boerum Hill, Brooklyn          | \$2,350  |
| Brooklyn Heights, Brooklyn     | \$2,438  |
| Prospect Heights, Brooklyn     | \$2,440  |
| Carroll Gardens, Brooklyn      | \$2,500  |
| Fort Greene, Brooklyn          | \$2,500  |
| Midtown East, Manhattan        | \$2,500  |
| Greenpoint, Brooklyn           | \$2,559  |
| Long Island City, Queens       | \$2,575  |
| Gowanus, Brooklyn              | \$2,603  |
| Roosevelt Island, Manhattan    | \$2,658  |
| Greenwood, Brooklyn            | \$2,674  |
| Downtown Brooklyn, Brooklyn    | \$2,684  |
| Williamsburg, Brooklyn         | \$2,697  |
| Soho, Manhattan                | \$2,723  |
| Gramercy Park, Manhattan       | \$2,800  |
| Midtown West, Manhattan        | \$2,822  |
| Greenwich Village, Manhattan   | \$2,850  |
| Nolita, Manhattan              | \$2,861  |
| Midtown, Manhattan             | \$2,900  |
| Midtown South, Manhattan       | \$2,938  |
| West Village, Manhattan        | \$2,985  |
| Chelsea, Manhattan             | \$2,993  |
| Red Hook, Brooklyn             | \$3,000  |
| Financial District, Manhattan  | \$3,040  |
| DUMBO, Brooklyn                | \$3,111  |
| Battery Park City, Manhattan   | \$3,188  |
| Central Park South, Manhattan  | \$3,208  |
| Flatiron, Manhattan            | \$3,330  |
| Tribeca, Manhattan             | \$3,888  |



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**Testimony of New Destiny Housing**  
**Joint Hearing by NYC Council Committee on General Welfare and Committee on Civil and Human Rights**

**September 15, 2020**

**Presented by Nicole Branca**

Thank you for the opportunity to testify today. My name is Nicole Branca. I'm the Executive Director at New Destiny Housing, a 26-year old nonprofit committed to ending the cycle of domestic violence and homelessness by connecting families to safe, permanent housing and services. New Destiny supports all of the legislation introduced today and thanks the Council for their work on behalf of our most vulnerable New Yorkers.

Most notably, I would like to address Intro 146 and the significant effect it would have on the lives of domestic violence survivors and their children. Domestic violence is the number one reason families become homeless in New York City. In FY2018, 12,541 people entered DHS' shelter system due to domestic violence and 6,400 entered HRA's separate DV shelter system.<sup>1</sup> Yet, there are few housing resources made available for DV families, with the less-competitive city and state subsidies typically being the only option. As a result, these families struggle to find apartments below the fair market rent.

We know this first hand. For the past six years New Destiny, in partnership with the Mayor's Office to End Domestic and Gender Based Violence (ENDGBV), has provided housing assistance out of the City's five Family Justice Centers. Our housing program, called HousingLink, connects victims of domestic violence with safe, permanent housing around New York City. 74% of the vouchers our families have are CityFHEPS or state FEPS and they typically remain in shelter for months on end while our team searches for landlords that will accept this lower rental subsidy.

Bringing maximum rent allowances for CityFHEPS up to Fair Market Rent would provide far greater access to housing for low income New Yorkers like our HousingLink clients. According to the 2017 NYC Housing and Vacancy Survey, the vacancy rate in NYC is 3.63%, and as low as 1.18% for the most affordable apartments in the City. Simply stated, CityFHEPS voucher holders – and therefore most homeless DV survivors, are forced to compete in this incredibly tight market with a subsidy that is almost \$400/month lower than Section 8.

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<sup>1</sup> Office of the New York City Comptroller Scott M. Stringer, [Housing Survivors: How New York City Can Increase Housing Stability for Survivors of Domestic Violence](#)

New Destiny also supports the removal of time limits for participation in the CityFHEPS program. This too would put CityFHEPS holders on more equal footing with Section 8 holders and mitigates the risk of our families returning to shelter.

In order for CityFHEPS to be the impactful city-funded voucher program it was developed to be, we must ensure every family holding a voucher is able to utilize the assistance by aligning the voucher levels with the Fair Market Rate and eliminating the current time limit which places an unrealistic expectation on families.

New Destiny strongly encourages the council to pass Intro 146.

Thank you for the opportunity to speak today. I welcome any questions.

**Contact Information:**

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Testimony of  
Yamina Sara Chekroun  
Attorney- Civil Defense Unit  
New York County Defender Services

Before the  
Committees on General Welfare and Civil & Human Rights  
Oversight Hearing on Rental Assistance and Source of Income Discrimination

Intros. 2020-146, 2020-1020, 2020-2018, 2020-133 & 2020-2047;  
T2020-6576 and T2019-4051

September 15, 2020

My name is Yamina Sara Chekroun and I am an attorney in the Civil Defense Unit at New York County Defender Services (NYCDS). We are a public defense office that represents New Yorkers in thousands of cases in Manhattan's Criminal Court and Supreme Court every year. Thank you to Chairs Levin and Eugene for holding today's hearing to discuss the urgent need for rental assistance and other forms of financial and legal support for low-income New Yorkers. We strongly support the bills on today's agenda and offer some amendments to make them even more effective.

NYCDS's Civil Defense Unit assists our criminal defense clients with housing, asset forfeiture, and other civil issues. If a client is facing eviction because of an arrest or conviction, or if a client's car, cash, or other property is seized by the NYPD, our civil defense attorneys join the criminal defense team and fight to protect their rights. The people we represent are frequently targeted by multiple systems of oppression. NYCDS civil defense attorneys ensure that our clients' rights are protected by representing them in a wide range of civil legal issues.

As an NYCDS Civil Defense Attorney, I have represented New Yorkers in the housing courts of every borough in both nonpayment and holdover proceedings. I have also represented clients in NYCHA Section 8 and HUD Section 8 administrative hearings. I have direct experience

advocating for clients with the goal of ensuring that they successfully obtain approval to HRA benefits relating to housing assistance. As a result, I am deeply familiar with the current benefits process and the obstacles faced by both clients and their advocates when it comes to enrollment and or accessing vital information needed to secure more time. My testimony is informed by my specific experience in advising clients who have had contact with the criminal legal system and who, as a result, face unique obstacles when it comes to both accessing housing or preserving the housing they currently occupy.

Housing security is one of the greatest obstacles facing the low-income New Yorkers represented by our office. The New York City housing courts have an overrepresentation of people of color and other minorities who are disproportionately affected by lack of housing stability. This puts our clients at a higher risk of eviction and homelessness which causes a threat to their health, safety, and economic security.

The proposed bills on today's agenda are of vital importance, now more than ever. Even before the COVID-19 crisis, the pre-existing housing needs in NYC were substantial. Many households in New York City were already at risk of housing instability.<sup>1</sup> Lower income renters, such as our clients, that pay most of their income toward rent are particularly vulnerable to housing instability. The combination of severe rent burden, lost wages, and little to no emergency savings is likely to result in large-scale housing instability.<sup>2</sup> These bills are a step in the right direction in mitigating the severe impact.

New York City has consistently failed to address the issue of lack of fair access to housing. During the past decade the number of people staying in shelter swelled: between 2009 and 2019, the number of people in families living in shelter increased by 47.2 percent, while the number of single adults living in shelters grew by 144.2 percent.<sup>3</sup> With the on-going pandemic, homelessness is now a greater threat than ever, as it increases our clients' risk of coming into contact with disease and decreases their ability to follow CDC guidelines to prevent the spread of disease. In fact, the CDC has found that those who are experiencing unsheltered homelessness face several risks to their health and safety.<sup>4</sup> It is imperative that urgent action be taken to keep New Yorkers in their homes.

Moreover, recent budget cuts which may potentially halt plans for the implementation of affordable housing means that it is of fundamental importance to ensure that New Yorker's have increased protection to accessing the currently available housing stock.<sup>5</sup>

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<sup>1</sup> NYU Furman Center, *New York's Housing Insecurity By The Numbers*, March 24, 2020, available at <https://furmancenter.org/thestoop/entry/nyc-housing-insecurity-by-the-numbers>.

<sup>2</sup> In New York State, nearly three quarters of renter households with annual incomes below \$15,000 paid more than 50 percent of their income toward rent (severe rent burden) in 2018. 53 percent of renter households that earned between \$15,000 and \$30,000 were severely rent burdened, as were 20 percent of those earning between \$30,000 and \$50,000. See *Id.*

<sup>3</sup> NYU Furman Center, *State of Renters and their Homes* (2019), available at <https://furmancenter.org/stateofthecity/view/state-of-renters-and-their-homes>.

<sup>4</sup> Centers for Disease Control and Prevention, *Interim Guidance on Unsheltered Homelessness and Coronavirus Disease 2019 (COVID-19) for Homeless Service Providers and Local Officials*, updated Aug. 6, 2020, available at <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/unsheltered-homelessness.html>.

<sup>5</sup> Caroline Spivak, "Budget Cuts Might Doom de Blasio's Affordable Housing Legacy," *Curbed*, Sept. 9, 2020, available at <https://ny.curbed.com/2020/9/9/21428795/new-york-city-affordable-housing-budget-cuts-rockaways> (indicating that there has been a 40% budget cut to HPD's affordable housing infrastructure budget).

Access to housing is crucial to ensure racial equality in New York City. The seven bills on today's agenda are a step in the right direction, but they do not go far enough. We recommend additional amendments to ensure that they effectively prevent discrimination against people who have come into contact with the criminal justice system.

### **I. The Collateral Consequences of Criminal Legal System Involvement**

Contact with the criminal legal system, regardless of whether or not there is ultimately a conviction, poses the threat of multiple collateral consequences that range from access to housing, finance, and employment. Collateral consequences exacerbate punishment beyond the criminal conviction and any court-imposed sentence. Many are unrelated to either the underlying crime or any public safety purpose.<sup>6</sup> Evidence shows harsh collateral consequences unrelated to public safety increase recidivism by limiting or by completely denying a person who has come into contact with the criminal justice system access to meaningful support.<sup>7</sup> In fact, the US Commission on Civil Rights has recommended that Congress limit the discretion of public housing providers to bar people with criminal convictions from access to public housing.<sup>8</sup>

### **II. The Disproportionate Impact of Criminal Justice Involvement on Communities of Color**

The bills on today's agenda would help alleviate some of the ways in which systematic racism inherent to the criminal legal system has trickled down to the right to housing. In New York State, people of color are overrepresented in arrests, prisons, and jails. In 2018, Black New Yorkers made up only 15 percent of the population but accounted for 40 percent of all arrests and 48 percent of prison sentences.<sup>9</sup> These statistics provide clear indicia of systematic racism which affects our clients beyond the criminal court proceedings and into their very basic right of access to housing. The Federal Fair Housing Act and the New York State Human Rights Law both fail to adequately protect those with criminal justice involvement from housing discrimination. The City must do more to ensure that racist policing and prosecution practices do not lead to homelessness and poverty for Black and brown New Yorkers.

### **III. Our Clients and Housing Discrimination**

#### **A. Income Sources**

Many NYCDS clients rely on subsidies to obtain or maintain housing. The City must prohibit discrimination against lawful sources of income to ensure that those who rely on subsidies are not

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<sup>6</sup> U.S. Commission on Civil Rights, *Collateral Consequences: The Crossroads of Punishment, Redemption, and the Effects on Communities* (June 2019), available at <https://niccc.csgjusticecenter.org/2019/06/13/u-s-commission-on-civil-rights-issues-report-recommendations-on-collateral-consequences/>.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> NYS Division of Criminal Justice Statistics, *NYS Arrests and Prison Sentences by Race/Ethnicity*, Aug. 27, 2019, available at <https://www.criminaljustice.ny.gov/crimnet/ojsa/comparison-population-arrests-prison-demographics/2018%20Population%20Arrests%20Prison%20by%20Race.pdf>.

prevented from accessing housing. Moreover, the DHS 2020 Fiscal Year Report found that Blacks represented 54.1 percent of those in DHS shelters and Hispanics represented 39.9 percent of those in shelters.<sup>10</sup> While the central purpose of DHS services for people living in shelters is the placement into permanent housing through access to DHS and HRA subsidies, without legislation that expressly prohibits lawful income discrimination, it is difficult for this mandate to be met. The result is policies that continue to disproportionately harm communities of color.

## **B. Criminal Legal System Involvement Discrimination**

Many of our clients face possible eviction due to their contact with the criminal legal system. A mere arrest can trigger eviction proceedings in NYCHA and HUD Section 8 housing, regardless of the ultimate outcome of the criminal adjudication. Our clients and their families are particularly vulnerable to these harsh penalties, and we are often faced with situations where our clients become permanently excluded from their family homes as a result of criminal legal system contact. This destabilizing factor puts them at risk for recidivism as it removes them from their support system including their family, neighborhood, and larger community. Many of our clients also face barriers to obtaining private housing due to discrimination in the application process that requires disclosure of arrest and conviction histories. While it is difficult to trace the exact scope of this specific discrimination as owners and landlords may provide alternative justifications for the denial of housing, it is obvious that this has a disproportionate impact on communities of color who are forced to answer “yes” to these questions thus barring them from the larger housing pool and unfairly limiting what types of housing they can access.

## **IV. The Proposed Legislation**

### ***A. T2019-4051 (Powers) - A Local Law to amend the administrative code of the city of New York, in relation to the prohibition against discrimination in housing accommodations based on lawful source of income.***

NYCDS supports passage of T2019-4051 with amendments. There is no legitimate basis for excluding buildings with three or fewer units, just as there is no legitimate basis for excluding buildings with three housing units where the owner or any member of the owner’s family resides in one such housing unit. We propose an amendment that would include a blanket ban on lawful sources of income discrimination regardless of the number of units contained in the building and regardless of occupancy by the owner or their family members. Failing to do so would mean that there will be continued discrimination in the availability of the already limited housing stock for people who have come into contact with the criminal legal system. In fact, carving out this exception implies that the legislature believes that discrimination in certain instances is permissible.

The impact of the loophole in the bill as drafted is enormous. Landlords who own three or fewer units own hundreds of thousands of rental units in New York City, according to data reported by

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<sup>10</sup> NYC Department of Homeless Services, *DHS DATA DASHBOARD - FISCAL YEAR 2020 - QTR 3*, available at <https://www1.nyc.gov/assets/dhs/downloads/pdf/dashboard/FYTD20-DHS-Data-Dashboard-Charts.pdf>.

JustFix.nyc earlier this year.<sup>11</sup> 298,468 units were owned in 2018 by landlords who owned only one property. Landlords who owned two to five buildings owned another 347,202 units. This is a significant minority of rental units in New York City. Excluding landlords who own fewer than three properties from this legislation will continue to disproportionately impact communities of colors who are most in contact with the criminal legal system. Moreover, residents of Brooklyn and Queens will be disproportionately affected by these exceptions because most of the affordable rentals are in two-family home type units.

***B. T2020-6576 (Levin) - A Local Law to amend the administrative code of the city of New York, in relation to online access to rental assistance program status.***

NYCDS supports passage of T2020-6576 (Levin). It is well beyond the time to digitize and modernize access to governmental assistance. By making the status of a rental assistance application or renewal request available online, there is no room for lost documents or data misinterpretation. Currently, clients and attorneys alike are forced to rely on the outdated mode of mailed copies of approvals, which can be lost and misplaced at the cost of a denied orders to show cause which can cause a person to be evicted even when there is an approval. While we have also relied on the communication of this information by email, this method still poses several problems that would be solved by having the information accessible online to all necessary parties. We urge the City Council to pass this bill and enact it immediately.

***C. Int. 146 (Levin) - A Local Law to amend the administrative code of the city of New York, in relation to rental assistance vouchers.***

NYCDS supports passage of Int. 2020-146. It is often very difficult for our clients to find apartments with a rental amount that matches the subsidy amount. As a result, this prolongs the time that is spent in a shelter at the cost of the client's health and safety and delays the reintegration into housing stability. Recognizing the reality of market rent increases and matching the subsidy amounts to reflect this will certainly reduce the shelter population and the administrative costs associated with having clients in a transient state. We urge the City Council to pass and implement this bill immediately to support families and individuals transition out of shelters and into permanent housing.

***D. Int. 1020 (Ampry-Samuel) - A Local Law to amend the administrative code of the city of New York, in relation to requiring the Department of Homeless Services and the Human Resources Administration to track and report certain data regarding rental assistance programs***

NYCDS supports passage of Int. 2020-1020. Making data available about the success of FHEPS will help advocates determine the best strategy for solving a family's housing crisis and can potentially assist in expanding or modifying the program to meet the needs of more New Yorkers. Our office believes that FHEPS is a crucial program for families facing imminent eviction and we support the maintenance of data to that end.

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<sup>11</sup> Sam Rabiya, "Examining the Myth of the 'Mom-and-Pop' Landlord, An Analysis of NYC building ownership by JustFix.nyc," *Medium*, March 4, 2020, available at <https://medium.com/justfixnyc/examining-the-myth-of-the-mom-and-pop-landlord-6f9f252a09c>.

***E. [Int. 2018](#) (Rosenthal) - A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of social services to provide domestic violence services at all shelters***

NYCDS supports passage of Int. 2020-2018 with no specific comments.

***F. [Int. 1339](#) (Ayala) - A Local Law to amend the administrative code of the city of New York, in relation to providing information about lawful source of income discrimination to city rental assistance applicants***

NYCDS supports passage of Int. 2020-1339. We believe that it is important for the recipient of housing subsidies to be aware of their rights under the NYC Human Rights Law so that they are aware when these rights are being violated due to discrimination on the basis of a person's lawful source of income. In our experience, our clients are often unaware of the protections contained within the Human Rights Law and voluntarily waive their rights as a result of being unaware. By providing a notice of the new increased protection proposed in T2019-4051, we can increase awareness and education, thus increasing the amount of individuals who are effectively protected. It is our belief that owners and landlords often get away with various forms of discrimination due to lack of accessible information which means that many tenants rights end up being violated.

***G. [Int. 2047](#) (Levin) - A Local Law to amend the administrative code of the city of New York, in relation to prohibiting housing discrimination on the basis of arrest or criminal record.***

NYCDS supports passage of Int. 2020-2047 with amendments. While landlords must be prohibited from discriminating, so too must be their agents, brokers, and all those seeking to rent out any form of housing. It is important that discrimination prohibitions apply to subleases and occupancy agreements, too, as low-income individuals are often found ineligible to enter into direct rental agreements due to their income, and as result frequently rely on subleases and occupancy agreements. The disproportionate rate of minority criminal legal system involvement means that they are the most impacted by housing discrimination on the basis of arrest or criminal record. However, we believe that the bill should be amended to remove the exceptions contained in (d)(1) and (d)(2). The exception contained in (d)(1) should be removed on the basis, as discussed above, that the US Commission on Human Rights has explicitly recommended that consideration of criminal history for housing purposes be removed from the provider's discretion. The exception contained in (d)(2) should be removed on the basis that there is no legitimate interest in having discrimination be permitted when the unit's owner or owners' family member resides in the housing accommodation. Low income renters often rely on room rental, and this continued permitted discrimination would continue to cause a lack of fair access to housing for those who have come into contact with the criminal justice system, particularly people of color.

## **VI. Conclusion**

NYCDS supports the bills on today's agenda. They are an important step in achieving racial equality and protecting the rights of the vulnerable New Yorkers, particularly during the housing crisis caused by Covid-19. If you have any questions about my testimony, please contact me at [yhekroun@nycds.org](mailto:yhekroun@nycds.org).



## **Testimony Submitted to the New York City Council Committee on Civil and Human Rights**

Re: Int. 0146, Int. 2047

September 14, 2020

On behalf of the New York State Association for Affordable Housing (NYSAFAH), we would like to thank Chair Eugene and members of this Committee for the opportunity to submit comments on the bills being heard at today's remote hearing.

We would like to applaud the Council and this Committee for tackling issues related to fair housing and source of income discrimination, which remain persistent issues in the New York City rental landscape.

NYSAFAH is the trade association for New York's affordable housing industry, with nearly 400 members, including developers, lenders, investors, attorneys, contractors, architects and others active in the financing, construction, and operation of affordable housing.

### Int. 0146: Support

CityFHEPS is a vital tool for the most important aspect to fighting the homelessness crisis — moving families from shelter to permanent housing. One major limit to its efficiency that has been articulated time and again by homeless advocates as well as building owners is that the voucher rent limits were badly in need of updating. For this reason, NYSAFAH is supportive of Int. 0146.

The current rent limits under the CityFHEPS program mean that the voucher in increasingly limited areas of New York City. This makes it very difficult for voucher holders to find available units, and has the potential to concentrate residential segregation patterns. Int. 0146 would help to broaden the amount of available units and open up different neighborhoods to families seeking to find housing on the open market.

We encourage the adoption of this important piece of legislation.

### Int. 2047: Conditionally Oppose

Existing residents in NYSAFAH member's properties—encompassing much of the subsidized affordable housing stock citywide—often make clear to their owners how important it is for them to feel safe and secure in their homes. Our members agree, and feel they have the same right to that security as residents in high-end market rate units.

That said, this feeling of security should not come at the expense of efforts to improve the fair housing landscape and lower recidivism rates. The events of the last year have

shown the importance of restorative justice and the critical necessity of opening up opportunities for those of whom doors have in the past been closed. A criminal record, particularly for non-violent offenses, should not shut an individual out of virtually all housing opportunities.

Our fear is that Int. 2047 is broadly drawn in a way that fails to appropriately strike the balance between two good goals.

Low-income Housing Tax Credit (LIHTC) affordable housing properties are not subject to Federal HUD criminal background rules with regards to individuals with convicted sex offender status, for example. Those rules apply to HUD-assisted properties and only apply to a typical affordable housing property when paired with some other federal sources.

We fear that a blanket prohibition on criminal background check may have the unintended consequences of putting some affordable housing tenants at risk of dangerous or unlivable conditions. It may also fuel NIMBYism to affordable housing development if neighboring residents are aware that the building cannot screen for individuals with a history of the most violent crimes.

NYSFAFH is willing and available to be involved in further discussions about how to best legislatively balance the goals of safety with opening housing opportunities to more individuals.

**ZLD REALTY LLC**

3062 Bainbridge Avenue  
Bronx, New York 10467

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Tel: 718/ 654-1319

Fax: 718/ 654-4436

Date: May 8, 2018

From: ZLD Realty LLC

Re: Opposition to New York City Council Intro. 2047 from Stephen Levin

To whom it may Concern:

We are a property management company currently managing 450 units in Bronx County. We are a family business that has a footprint in NYC that is well over 30 years old.

The co-founders of ZLD Realty have immigrated to NYC in the 60's because they knew and were advised from Geneva staff at the time, that NYC was the greatest and safest City in America to raise a family and for great opportunities to build a successful life.

Real Estate was at the forefront of these goals, and they understood that to have a successful real estate or any business, the tenants/customers need to be safe and happy.

This proposed bill that is being put on the table is asking that criminals, thieves, rapists, and sex offenders be allowed to live anywhere they want in the city. **THE BILL DOES NOT GUARANTEE** that these chronic offenders will not keep committing the same crimes over and over against innocent civilians. Our tenants will not feel safe in their communities when they find out that people with criminal records are residing next door to them.

**DO OUR LEADERS IN NEW YORK CITY KNOW WHAT THEY ARE PROPOSING? WHO WILL PROTECT OUR TENANTS THAT LIVE AND RESPECT LAW AND ORDER!**

We are demanding that NYC officials deny this bill in its entirety so NYC can maintain the same reputation as it always had for many decades which is a city that thrives on prosperity, opportunity for everyone regardless race, religion, or creed, and a city that is always successful when it comes to tourism, jobs, attractions, and luxury residential properties.

We thank you for your prompt attention to this matter and keep attracting people and businesses to **STAY** here and not **MOVE** out, but to continue supporting NYC and its residents, otherwise the City will be bankrupt.

-Management

**Testimony Submitted to the  
Committees on General Welfare and Civil & Human Rights  
Regarding Preconsidered Int. Powers and Levin  
Prohibition against Housing Accommodations Discrimination Based on Lawful Income Source;  
and Online Access to Rental Assistance Program Status**

Dear Committees:

On behalf of Legal Services NYC, we appreciate the opportunity to comment on the proposed amendments to local rules affecting housing rental assistance. The proposed changes would be beneficial to our clients and to low income New Yorkers in our communities at risk of homelessness.

Legal Services NYC (LSNYC) is the largest organization exclusively devoted to the provision of free civil legal services to the poor in the nation. For over fifty years, LSNYC has provided quality legal representation to low-income New Yorkers through our neighborhood offices located in diverse communities throughout New York City. Annually, LSNYC provides legal assistance to thousands of low-income NYC residents in order for them to preserve safe and habitable housing and prevent eviction, housing rental subsidies. Government rental subsidies play a critical role in addressing high rent costs for low-income New Yorkers.

**The proposed Preconsidered Int. by Levin would provide New York with online access to the status of their rental assistance program application or renewal.**

The proposed new section 20-144 would have an immediate positive impact on our clients. New York's moratorium on evictions expires after October 1, 2020.<sup>1</sup> There are 14,500 New Yorkers with pending warrants of eviction, and 200,000 pending eviction cases to be adjudicated.<sup>2</sup> According to a landlord trade group, The Community Housing Improvement Program, an estimated one in four of the city's 5.4 million tenants did not pay rent from April through June this year.<sup>3</sup> Jobs are still scarce, and, tens of thousands of New Yorkers will be looking for rental assistance. Now more than ever, we need an efficient and speedy online application process for rent subsidies and arrears grants.

The proposed amendment would place the CityFHEPS application online, via the Access HRA portal, which would prevent harmful delays in the application process, since most HRA centers are closed temporarily. The bill would also increase CityFHEPS' rental amount each year, which does not happen currently. Many of our housing clients have no income, or are solely on public assistance, and after one year, the fixed CityFHEPS rental amount is no longer sufficient against yearly rental increases for rent controlled and subsidized apartments. Some clients are forced to

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<sup>1</sup> [https://www.nycourts.gov/whatsnew/pdf/Rev\\_Ev\\_8\\_12.pdf](https://www.nycourts.gov/whatsnew/pdf/Rev_Ev_8_12.pdf)

<sup>2</sup> <https://nlihc.org/resource/additional-coronavirus-updates-monday-august-24-2020>

<sup>3</sup> <https://www.thecity.nyc/2020/8/12/21365895/evictions-on-hold-but-pre-pandemic-cases-forge-ahead>

take funds from their Cash Assistance to cover the difference in rent. The impact of the yearly increase will be felt by many CityFHEPS recipients who have little to no income.

**The proposed preconsidered Int. by Powers would prohibit against discrimination in housing accommodations based on income source.**

FHEPS, CityFHEPS, and other rental subsidies are necessary for our most vulnerable communities in New York, particularly during shelter-in-place orders amid the Covid-19 crisis. New York City's unemployment rate increased to 20 percent in July 2020, compared to 4 percent unemployment same time last year.<sup>4</sup> More city residents are applying for rent subsidies in order to pay rent. However, the city's occupied public housing and rent regulated apartments continue to decrease,<sup>5</sup> resulting in more New Yorkers seeking private housing accommodations using subsidies such as Section-8 and FHEPS to move vouchers.

Hundreds of thousands of families in New York City will be positively impacted by these proposed amendments, which will ensure efficient processes for obtaining approvals for rental assistance, and in function, access to proper housing accommodations with those subsidies.

We thank the Committees for addressing these important issues.

Respectfully submitted,

Ifeoma Anunkor  
ianunkor@lsnyc.org  
646-442-3323

LSNYC | Manhattan Legal Services  
40 Worth St, Suite 606  
New York, NY 10013

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<sup>4</sup> <https://labor.ny.gov/stats/pressreleases/prlaus.shtm>

<sup>5</sup> <https://data.cccnewyork.org/data/bar/1331/occupied-public-housing-and-rent-regulated-units#1331/n/n/1557/25>



**TESTIMONY OF  
THE FORTUNE SOCIETY**

**THE COMMITTEE ON CIVIL AND HUMAN RIGHTS  
OF THE NEW YORK CITY COUNCIL**

250 Broadway, New York, NY

Tuesday, September 15th, 2020

**SUBJECT:** The Fortune Society's support for Intro No. 2047

**PURPOSE:** To discuss how The Fortune Society, as the landlord for several properties in New York City, does not believe that people should be discriminated against for any former arrests or criminal convictions

Presented by

**Stanley Richards**  
Executive Vice President

The Fortune Society  
29-76 Northern Blvd.  
LIC, NY 11101  
212-691-7554 (phone)

## **Testimony by The Fortune Society, 9/14/20**

Good morning. My name is Stanley Richards and I am the Executive Vice President at the Fortune Society. The Fortune Society is a 53 year old organization that supports successful reentry from incarceration and promotes alternatives to incarceration, thus strengthening the fabric of our communities. We do this by: believing in the power of people to change; building lives through service programs shaped by the experiences of our participants; and changing minds through education and advocacy to promote the creation of a fair, humane, and truly rehabilitative correctional system.

While many individuals in the criminal justice world know about The Fortune Society's role in providing services and performing advocacy for individuals who at some point in their lives were incarcerated, fewer individuals know that we also collect rent, refer calls to our superintendent, and have an annual haunted house party for the kids and other families in the West Harlem community. In other words, we are also the landlord and service provider for two buildings in Western Harlem, so we know the ins and outs of that world as well. As a result of that experience, we know that a resident or tenant's prior arrests or criminal convictions simply do not predict community safety or compliance to pay rent, be a good neighbor, or decrease the safety of the community at large.

First, we are the service provider for the Fortune Academy, which residents and staff also refer to as "The Castle" because of its beautiful architecture. The Castle is an Emergency and Transitional Supportive Housing Program that provides a safe, rehabilitative community for homeless people coming home from incarceration or have conviction history. Through regular case management, we assist residents with a wide array of needs, including gaining and maintaining more stable permanent housing and employment, substance use treatment and recovery, financial planning and management, and family reunification. Second, we are the landlord for the nearby "Castle Gardens," a mixed-use, supportive, and affordable residential development and service center in an environmentally sustainable building. Castle Gardens provides long-term housing solutions for homeless justice-involved individuals and their families, as well as low-income individuals and families from West Harlem and the greater New York area.

Fortune decided to build both buildings, in 2002 and then in 2010, because homelessness for people returning home from jail and prison is a massive barrier to reentry and stability. We saw and continue to see the massive impact homelessness has on the men and women who walk through our doors pursuing stability including housing. We saw people come to Fortune seeking employment but having no place to sleep or staying in a shelter. We hear about the stories of people staying in the shelter, trying to maintain their sobriety but trying to navigate the massive drug use that continues in shelters. There still are no laws on the books that offer the protections and accountability that are needed to ensure that people with conviction histories can have a fair chance to seek and obtain affordable and low income housing--based on the work that individuals do to change their life, instead of the crime or conviction that he or she has on their record. In fact, research shows that a conviction record reduces the probability of New York City landlords'

allowing prospective tenants to even view an apartment by over 50%.<sup>1</sup> In addition, this is a human rights issue that not only affects people with convictions, but entire families as well. This is because landlords often require background checks for every person on the lease, so families are losing out on housing opportunities when landlords reject a family because of one member's conviction.

As a result of this environment, Fortune's clients are not alone: close to 30% of recently-released individuals in New York City are currently being funneled directly into homeless shelters.<sup>2</sup> When this is done without the necessary resources, homelessness can create a vicious cycle, in which formerly incarcerated people are bounced among a maze of shelters and then thrust back out onto the street in the morning without any direction. It is not surprising that these individuals are then much more likely to recidivate, and continue the cycle of incarceration and homelessness, while also worsening the conditions of community safety.

Despite this fact, safety and community reaction are almost always the two reasons that landlords use when asked why they chose to use criminal background checks when assessing an individual for housing. But when it comes to safety, not only does a lack of housing actually contribute to poor safety conditions overall, studies have found little connection between an individual's criminal history and whether he or she will be a "good tenant." As Human Rights Watch has noted, "The existing criteria invite arbitrary rejection of applicants without any careful assessment of any real safety risks they might pose."<sup>3</sup> As a result of the arbitrary nature of how landlords use criminal history and the fact that it does not have a connection to good tenancy, we urge the implementation of Intro 2047 which is similar to other laws—known as "Fair Chance Housing" laws—passed in a dozen other cities and counties in the United States. It also mirrors guidance from the Department of Housing and Urban Development (HUD), which tells landlords that it should instead do a case-by-case analysis of each tenant and should consider a number of other factors, including evidence of rehabilitation.<sup>4</sup>

At The Fortune Society's Castle Garden building, we do an individual assessment including interviews, to assess a potential tenant's application. Instead of running a name through a computer database, our staff does a careful case-by-case analysis of each one of our potential tenants. In doing so, we rely on a number of variable factors that demonstrate rehabilitation and stability and not on the structural racism that underlays our criminal justice system- which is also at the core of HUD's concern. As a result of our inclusive and individualized process, we have

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<sup>1</sup> Evans, D.N. & Porter, J.R. Criminal history and landlord rental decisions: a New York quasiexperimental study. (2015). *Journal of Experimental Criminology*, 11(1), 21–42. doi: 10.1007/s11292-014-9217-4

<sup>2</sup> Coalition for the Homeless, *State of the Homeless 2020* (last accessed Sept. 12, 2020).

<sup>3</sup> Human Rights Watch, *NO SECOND CHANCE: PEOPLE WITH CRIMINAL RECORDS DENIED ACCESS TO PUBLIC HOUSING* (2004), at 29.

<sup>4</sup> U.S. Department of Housing and Urban Development, Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions, *available at* [https://www.hud.gov/sites/documents/HUD\\_OGCGUIDAPPFHASTANDCR.PDF](https://www.hud.gov/sites/documents/HUD_OGCGUIDAPPFHASTANDCR.PDF) (Apr. 4, 2016).

maintained a safe, striving, inclusive, and thriving community and building.<sup>5</sup> The Fortune Society has also kept its promise to our partners, tenants, and community at large of running and operating a safe congregate supportive and low income housing facility. In fact, a number of community members have even expressed their appreciation that with the presence of the Castle and Castle Gardens, their neighborhood has become both safer and more beautiful.<sup>6</sup> We have demonstrated how landlords can maintain safe buildings and communities and integrate diverse experiences without discriminating based on conviction histories and or credit history. These two projects remain one of Fortune's proudest accomplishments to this day because they offer a path from homelessness to stability, hope, and a future.

The Fortune Society urgently requests that City Council members take action to stop the perpetual cycle of landlord discrimination of people with conviction histories in housing. We must all join in solidarity to end the blatant rejection of individuals and their families based on conviction histories. We must see people for who they are, and not what they once did. We must support and offer redemption by practicing and implementing guidance, and laws that uphold the principles of inclusion, and a fair chance.

As a formerly incarcerated man of color, I know firsthand how it feels when you are judged based on what you did or how much time you served. I also know the differences that emerge when you see and engage people without judgement, and you lead with hope and opportunity. New York City has an opportunity to end the housing discrimination based on conviction history which disproportionately impacts Black and Brown individuals and families. End the practice now by passing Intro 2047 and send landlords a message that discrimination in any form against one person is discrimination against all in society. Lead with hope and redemption and pass Intro 2047.

Thank you.  
Stanley Richards,  
Executive Vice President  
The Fortune Society

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<sup>5</sup> The Fortune Society and the John Jay School of Criminal Justice, *IN OUR BACKYARD: OVERCOMING RESISTANCE TO REENTRY HOUSING* (2010), at 12.

<sup>6</sup> *Id.* at 11.

September 10<sup>th</sup>, 2020

**This letter is regarding the City Council Public Hearing Bill Intro 2047-2020.**

To:

Stephen T. Levin, Brad S. Lander, Keith Powers, Public Advocate Jumaane Williams, Robert E. Cornegy, Jr., Carlina Rivera, Carlos Menchaca, Vanessa L. Gibson, Ben Kallos, Mark Levine, Adrienne E. Adams, Helen K. Rosenthal, Alicka Ampry-Samuel

Hello,

I'm a small landlord with a couple of units. Not being able to get the criminal record of potential applicants is irresponsible and puts other people who live in the building at risk. Landlords should continue to have the right to run criminal background checks and then make an assessment of a prospective tenant's criminal background, taking into account the severity of the crime and the time that has passed since then. The background check does not automatically disqualify someone, but it should be a critical component of someone's application.

I believe in criminal justice and reform, but knowledge of previous crimes is vital information to keeping our community safe.

These extreme regulations that skew consistently against landlords, which affect mom and pop businesses disproportionately, will only encourage us out of New York City. This will only worsen the already difficult housing situation we are going through given that the City's public housing is clearly not enough to address the number of people who need a place to live.

I urge you to reconsider this outrageous proposal.

Gabriela



Testimony of

**Coalition for the Homeless**

and

**The Legal Aid Society**

on

Oversight – Rental Assistance and Source-of-Income Discrimination

presented before

The New York City Council’s Committees on General Welfare and Civil and Human Rights

Giselle Routhier  
Policy Director  
Coalition for the Homeless

Robert Desir  
Staff Attorney  
The Legal Aid Society

September 15, 2020

The Coalition for the Homeless and The Legal Aid Society welcome this opportunity to testify before the New York City Council's Committees on General Welfare and Civil and Human Rights regarding rent assistance and source-of-income discrimination.

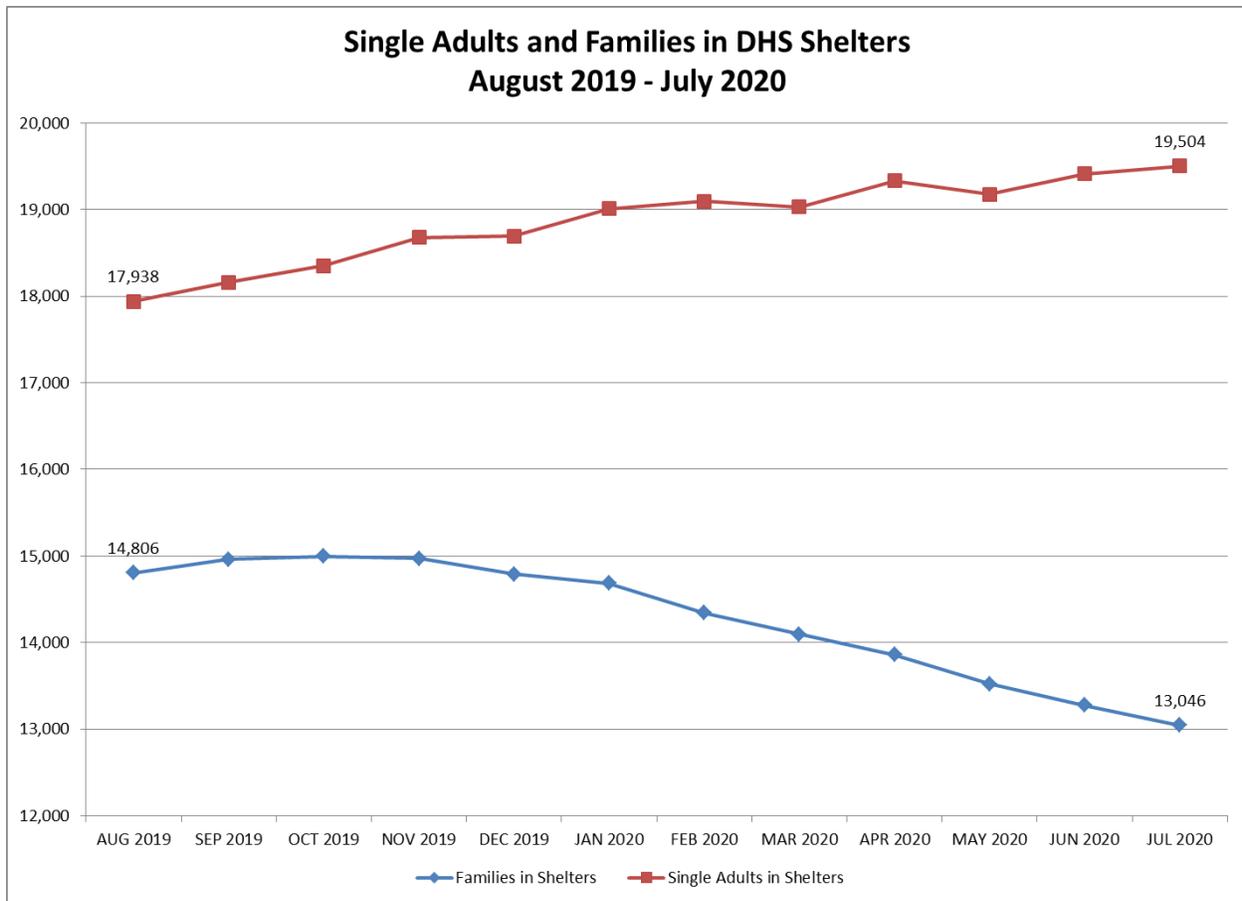
### **Homelessness in NYC**

The coronavirus pandemic has clearly highlighted the indisputable fact that housing is health care. New York City was grappling with record homelessness prior to the pandemic, and we have already witnessed troubling increases in housing instability and homelessness in advance of the looming expiration of emergency protections such as the eviction moratorium – a harbinger of the dire housing crisis we will face in the coming months and years. Over the course of this pandemic, we have seen diverging trends in homelessness among families and single adults. Disturbingly, the number of single adults in shelters has reached all-time record highs many nights during 2020. In the latest comprehensive data from July 2020, there were more than 19,500 single adults each night in Department of Homeless Services (DHS) shelters, safe havens, stabilization beds, and veterans beds, representing a 9-percent increase from the previous year and a 122-percent increase from 2010. At the same time, the number of families applying for shelter reached record lows in May, June, and July, and the number of families in shelters has decreased by 11 percent over the past year. These diverging trends reflect the instability that so many single adults face in attempting to find and keep housing. Many newly homeless single adults were not afforded or aware of the protections of the current eviction moratorium. However, the decrease in the number of families in DHS shelters should not yet be considered a permanent trend. If and when the eviction moratorium is lifted, we are likely to see a huge surge in newly homeless families who have been unable to pay their rent due to the dire economic fallout of this pandemic.

All homeless adults and families, regardless of whether they were homeless prior to the pandemic or as a result of the pandemic, urgently need an effective way to leave homelessness and return to stable housing as quickly as possible. Although the City launched rent assistance programs such as CityFHEPS, people in shelters have often encountered roadblocks to securing housing due to the program's low maximum rent thresholds and landlords' persistent discrimination based on applicants' sources of income, criminal justice involvement, credit scores, or other reasons. As a result, the latest data from July 2020 show that single adults spent on average 456 days in shelters before moving out, families with children spent 485 days in shelters, and adult families spent 705 days in shelters.<sup>1</sup> With the average annual cost of shelters exceeding \$71,000 per family, helping people move out of shelters and into permanent housing is the smart choice from both a fiscal and moral standpoint.

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<sup>1</sup> See <https://data.cityofnewyork.us/browse?q=Local%20Law%2037&sortBy=relevance&utf8=%E2%9C%93>



### **Source-of-Income Discrimination and Homelessness**

In 2008, the Committee on General Welfare took an important step toward housing justice and addressing homelessness in New York City by amending the Human Rights Law to prohibit landlords from discriminating against prospective tenants based on their lawful source of income.<sup>2</sup> As a result of the committee’s work, it is illegal for landlords to disqualify tenants just because they are using a CityFHEPS, Section 8, or other rental assistance voucher to help cover the high cost of rent in New York City.<sup>3</sup> The importance of these protections cannot be overstated: Since the Council amended the law in 2008, thousands of our poorest neighbors who use locally- and Federally-funded housing vouchers to help cover the high cost of rent in New York City have secured apartments and avoided homelessness.

The Legal Aid Society was an early leader in supporting this amendment to the Human Rights Law to prohibit source-of-income discrimination, and the Society has been representing homeless families with housing vouchers in litigation against discriminating landlords since the amendment was first passed. The Coalition for the Homeless regularly helps individuals who qualify for housing vouchers secure

<sup>2</sup> See COUNCIL OF THE CITY OF NEW YORK, COMM. ON GEN. WELFARE. Report of the Gov’t Affairs Div., INT. NO. 61-A, March 26, 2008.

<sup>3</sup> New York City, N.Y., Code § 8-107(5)(1)(a) (“It shall be an unlawful discriminatory practice ... because of any lawful source of income ... to refuse to sell, rent, lease, approve the sale, rental or lease or otherwise deny to or withhold from any such person or group of persons [a] housing accommodation or an interest therein.”).

housing. Both our organizations are acutely familiar with the Human Rights Law's benefits and its shortcomings.

Today, source-of-income discrimination protections fall far short of what the Council intended. Because of loopholes in the Human Rights Law, and inadequate funding for rental assistance programs, New Yorkers with vouchers are far too frequently unable to find housing. Indeed, discrimination against New Yorkers with housing vouchers remains rampant. By one estimate, 11,000 New Yorkers are living in shelters despite having housing vouchers because they are unable to secure an apartment.<sup>4</sup> This exacerbates the city's housing crisis and prevents the integration of low-income voucher-holders into affordable units in diverse and mixed-income neighborhoods, and it undermines the purpose of these rental assistance programs.

Our organizations are encouraged that the Council is considering building upon source-of-income discrimination prohibitions and expanding rental assistance. But we urge the Council to do more, particularly as the City prepares for a wave of evictions as a result of the COVID-19 pandemic.

### **T2019-4051 – Prohibition against discrimination in housing accommodations based on lawful source of income**

The Coalition for the Homeless and The Legal Aid Society support the Council's proposal to expand prohibitions on source-of-income discrimination to buildings with three or more units. Critically, however, T2019-4051 does not contain prohibitions on minimum income requirements or minimum credit requirements, described in further detail below. It also falls short of New York State's anti-discrimination law, which prohibits source-of-income discrimination in one- and two-unit buildings that are not owner-occupied.<sup>5</sup> For the reasons described below, we urge the Council to take further steps to end source-of-income discrimination.

New Yorkers with rental assistance vouchers face continuing discrimination when seeking housing. This is in large part due to two well-documented policies that landlords use to bar applicants with vouchers: minimum income requirements and minimum credit score requirements. The Council should pass legislation to amend the Human Rights Law and close these loopholes.

Minimum income requirements are commonplace in the New York rental market, and most landlords have policies requiring tenants to earn an annual income that is some multiple of the rent. These requirements can be particularly inflexible when employed by large, institutional landlords. The result is that homeless New Yorkers with rental assistance vouchers, who can otherwise afford the rent because of their vouchers, are systematically denied because their non-voucher income is too low.

As advocates for homeless New Yorkers, we see in real time how these minimum income requirements hurt our clients. For example, a family of four must earn \$56,850 or less to be eligible for a Section 8

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<sup>4</sup> WNYC and Mirela Iverac, *Lawsuit: Landlords are Illegally Locking Out Thousands of Homeless New Yorkers*, *GOTHAMIST*, Aug. 8, 2019.

<sup>5</sup> N.Y. Exec. Law § 296(5)(a), noting that the housing discrimination law "shall not apply ... to the rental of a housing accommodation in a building which contains housing accommodations for not more than two families living independently of each other, if the owner resides in one of such housing accommodations"

voucher,<sup>6</sup> and \$52,400 or less to be eligible for CityFHEPS.<sup>7</sup> For smaller families, or single adults, the income limits are even lower. In reality, many New Yorkers with vouchers have little to no income at all. A landlord that requires all applicants to earn a minimum income of \$60,000, a common income requirement used by some of the larger city property managers of affordable apartments,<sup>8</sup> *by definition* excludes almost any applicant with a voucher — even though an applicant’s voucher would cover the cost of housing in that rent range. The result is that landlords’ minimum income requirements have the discriminatory effect of barring almost all eligible families with a housing voucher from securing housing, even when — thanks to their voucher — a family can afford the rent. Landlord policies that require a tenant’s annual income to be 40 times the monthly rent have a similar effect. Even for New York households earning the city’s median income of \$60,762, a standard minimum income requirement of 40 times the monthly rent places most apartments out of reach for most New Yorkers.<sup>9</sup> But for individuals with vouchers, who make far less than the city’s median income, these barriers are even more acute.

For the populations that we serve, this problem is not new. New Yorkers with housing vouchers whose annual income falls well below landlord minimum income requirements have repeatedly been forced to bring landlords to court for discrimination in order to use vouchers to which they are legally entitled.<sup>10</sup> Our organizations have represented many of them. This problem is not new to City enforcers of the anti-discrimination law, either. The New York City Commission on Human Rights has released guidance condemning minimum income requirements as a major barrier for prospective tenants.<sup>11</sup> Still, the City Council has not yet passed legislation providing that discrimination in the form of minimum income requirements is prohibited in the Human Rights Law. This makes the legal protections of prospective tenants uncertain, and any litigation time-consuming and usually prohibitive for families seeking to enforce their rights. Going to court when faced with a discriminatory minimum income requirement is simply not a viable option for the tens of thousands of New Yorkers whom we are unable to serve.

Minimum credit requirements, which landlords frequently employ, also prevent otherwise qualified families from securing housing. Our clients with CityFHEPS and Section 8 vouchers frequently do not have credit scores that meet those demanding requirements. The result is that they are excluded from finding housing across much of the city, despite their ability to pay.

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<sup>6</sup> New York City Housing Authority, Section 8 Income Limits, accessed Sept. 10, 2020, <https://www1.nyc.gov/site/nycha/section-8/applicants.page>

<sup>7</sup> U.S. Department of Health & Human Services, Office of the Assistant Secretary for Planning and Evaluation, U.S. Federal Poverty Guidelines, (Sept. 10, 2020), <https://aspe.hhs.gov/poverty-guidelines> (providing federal poverty levels); New York City Department of Social Services, CityFHEPS Frequently Asked Questions (Sept. 10, 2015)

<https://www1.nyc.gov/assets/hra/downloads/pdf/cityfheps-documents/dss-7r-e.pdf> (requirement that CityFHEPS holders have gross income at or below 200% of federal poverty limit)

<sup>8</sup> See, for example, PARKCHESTER PRESERVATION MANAGEMENT LLC, <https://www.parkchesternyc.com/about-us/> (Sept. 10, 2020) (requiring a \$60,000 minimum income for one-bedroom apartment)

<sup>9</sup> Mariela Quintana, *Income Required for NYC Apts Far Exceeds What Most Earn*, StreetEasy, Nov. 2, 2017, <https://streeteasy.com/blog/average-rent-in-nyc-is-unaffordable-with-average-income/>

<sup>10</sup> See, e.g., *Spooner v. Goldfarb Properties, Inc.*, No. 18-cv-01564 (S.D.N.Y. Feb. 21, 2018); *FHJC v. Parkchester Preservation Company L.P. et al.*, New York City Commission on Human Rights, filed Dec. 5, 2016.

<sup>11</sup> New York City Commission on Human Rights, Best Practices for Housing Providers to Avoid Source of Income Discrimination, accessed Sept. 10, 2020, [https://www1.nyc.gov/assets/cchr/downloads/pdf/materials/FairHouse\\_FAQs-Landlord-English.pdf](https://www1.nyc.gov/assets/cchr/downloads/pdf/materials/FairHouse_FAQs-Landlord-English.pdf) (providing that “where the tenants’ rental portion is calculated based on the tenants’ income, it is a violation of the Law to impose any additional income requirements on applicants for housing”)

Other cities have begun to take steps to address these loopholes. For example, Vancouver, Washington, requires that landlords subtract a prospective tenant’s rent voucher from the total of the monthly rent before calculating whether the applicant has met the income criteria.<sup>12</sup>

We urge the Council to take similar measures and close the loopholes in the Human Rights Law. First, T2019-4051 should be amended to add language requiring landlords to take rental subsidies into account when applying minimum income requirements. Landlords should be required to subtract the applicant’s voucher income from the total of the monthly rent when calculating whether a minimum requirement has been met. Failure to do so constitutes source-of-income discrimination. Second, language should be added to the bill prohibiting landlords from barring applicants on the basis of their credit score when the applicant’s voucher covers 100 percent of the rent. Third, the bill should be amended to expand the prohibition on source-of-income discrimination to all buildings, and exempt only buildings with one or two units that are owner-occupied. This would align the City’s source-of-income discrimination coverage with New York State law.<sup>13</sup> Finally, the Council should increase penalties against landlords that discriminate on the basis of source of income. Until the Human Rights Law explicitly prohibits the use of minimum income requirements and minimum credit requirements as applied to tenants with rental assistance vouchers, landlords will continue to exploit these loopholes in the law and upset the purpose of prohibitions on source-of-income discrimination.

### **Intro 146 – Rental assistance vouchers**

The Coalition for the Homeless and The Legal Aid Society support raising CityFHEPS rent levels to the Fair Market Rent (FMR). A critically important result of this change is that it will significantly expand the number of studios and one-bedroom apartments available to homeless single adults by increasing the CityFHEPS rent level for a studio apartment from \$1,265 to \$1,760 – a nearly 40-percent increase – and the one-bedroom CityFHEPS rent level from \$1,323 to \$1,801 – a 36-percent increase. Maximum rent levels for larger apartments will increase upwards of 25 percent as well. This will greatly expand the pool of available apartments for homeless individuals and families.

In support of this goal, we have several important recommendations for amending the current bill language. First, the bill language must be amended to explicitly raise the CityFHEPS rent levels to the most recent FMRs. As the bill is written, it requires City vouchers only to be “indexed” to FMR, thereby leaving open the possibility that voucher increases will simply mirror FMR increases without matching their levels exactly. Second, we support adding requirements that apartments rented with CityFHEPS be subject to unit inspection standards similar or equal to the Section 8 Housing Quality Standards. Using the higher Federal standard for all City subsidies would promote housing quality; streamline the inspection process; reduce confusion among City and shelter staff, consumers, and landlords; reduce source-of-income discrimination; and maximize the availability of Federal dollars for New York City tenants. Third, the bill language should expand the definition of “rental assistance voucher” to include all City-initiated vouchers, rather than vouchers that are “fully City-funded.” In some cases, CityFHEPS

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<sup>12</sup> Vancouver Municipal Code Ch. 8.45, available at <https://vancouver.municipal.codes/VMC/8.45> (“If income screening criteria are elected to be used, any source of income in the form of a rent voucher or subsidy must be subtracted from the total of the monthly rent prior to calculating if the income criteria have been met”); Alison Bell et al., *Prohibiting Discrimination Against Renters Using Housing Vouchers Improves Results*, Center for Budget and Policy Priorities, Dec. 20, 2018, <https://www.cbpp.org/research/housing/prohibiting-discrimination-against-renters-using-housing-vouchers-improves-results>

<sup>13</sup> N.Y. Exec. Law § 296(5)(a)

and its predecessor LINC had some portion of funding allocated from the State and Federal governments. This should not preclude CityFHEPS or any future programs from abiding by the requirement to meet FMR standards. The language should also specify that the City can and should use State and Federal money to fund the increase of City-initiated vouchers to FMR, thereby providing a sounder financial footing for the continuation of the program. For too long, the State and Federal governments have failed to contribute their fair share of funding for rent assistance programs, and this bill should not further enshrine their abdication of duty. All levels of government must more effectively coordinate on addressing homelessness, particularly given the devastating impact of the pandemic.

**Recommendation: Provide real access to rental assistance by requiring the Human Resources Administration (HRA) to address critical access problems**

As detailed above, the Coalition for the Homeless and The Legal Aid Society support raising CityFHEPS rent levels to FMR and note that these subsidies are critical tools in preventing homelessness. In addition, we also call on the City Council to exercise its oversight jurisdiction over the New York City Human Resources Administration (HRA) so that New Yorkers can actually apply for rental assistance. Currently, HRA is failing to provide fundamental access to its benefits including rental arrears grants because – among other things – it is failing to provide alternatives to its online system to apply for benefits and it lacks a functional telephone system.

Many in need of Cash Assistance, SNAP, and rental arrears grants cannot apply at HRA locations in person because they are at risk of COVID-19 due to underlying health issues. In addition, because of the pandemic, HRA has closed most of its Job Centers. There are only seven open Job Centers in the city: one each in Manhattan, Queens, and Staten Island, and two in Brooklyn and the Bronx. Instead of going in person to a Job Center, applicants are being told to use ACCESS HRA, which requires a computer or mobile phone and the ability to navigate this online system. However, many New Yorkers are unable to use ACCESS HRA because they lack computers or mobile phones, or because they do not know how. There are not viable alternatives to ACCESS HRA. The only way to get help is by calling HRA's Infoline, which is overloaded and hangs up on callers because of system overload. Because of the pandemic, HRA has shifted the vast majority of its client-facing staff to remote work. Yet HRA has failed to provide these remote staffers with telephones that can be called back by applicants. This results in applicants being denied for missing phone interviews – and could lead to eviction for those who are denied rent arrears grants. In addition, HRA is failing to provide other methods of applying for benefits such as telephone applications. New Yorkers in need are having difficulty getting telephone appointments because either they cannot get through to Infoline or when they do reach an agent they are told to go to Centers despite the pandemic. We urge the City Council to require HRA to immediately address these critical access problems so that New Yorkers can access the subsistence-level benefits they need to survive – including rental arrears grants.

**Intro 2047 – Prohibiting housing discrimination on the basis of arrest or criminal record**

The Coalition for the Homeless and The Legal Aid Society support prohibiting housing discrimination on the basis of arrest or criminal record. Homelessness is a tragic outcome for too many New Yorkers who exit prisons and jails, even though stable housing is vital to a successful reentry. The disproportionate impact of over-policing and incarceration on communities of color is one driver of homelessness among Black and Latinx New Yorkers, and this bill would advance racial justice by reducing barriers to permanent housing for a large subset of people currently languishing in shelters and on the streets.

Discrimination on the basis of arrest or criminal record takes a disproportionate toll on New Yorkers of color. This is in part because of the gross disparities in New York’s criminal justice system: Of the 49,473 inmates under State custody on January 1, 2018, 48 percent were African-American and 24 percent were Latinx,<sup>14</sup> yet the State’s general population is just 17.6 percent African-American and 19.3 percent Latinx.<sup>15</sup> And of the 8,896 average daily inmates in City custody, 53 percent were African-American and 33 percent were Latinx,<sup>16</sup> even though the city’s population is only 24 percent African-American and 29 percent Latinx. The result is that Black and Latinx New Yorkers are much more likely to be barred from housing because of landlord criminal background checks than White New Yorkers. Moreover, it is well-recognized that arrest records are hardly evidence of misconduct, and landlords’ bars against prospective tenants who have not even been convicted of crimes is unacceptable.<sup>17</sup> When landlords use discriminatory arrest and criminal background checks, they are overwhelmingly denying the benefits of secure housing — safety, stability, and health benefits — to Black and Latinx New Yorkers.

The use of criminal records makes it more difficult for individuals leaving jail or prison to find housing and avoid long-term homelessness. Indeed, New Yorkers leaving incarceration are uniquely at risk of homelessness. Of the 9,300 people released from State prisons to New York City in 2014, 23 percent of them went directly into the City shelter system; in 2017, 54 percent of the people released to New York City, or 4,122 individuals, entered the shelter system.<sup>18</sup> A 2006 study of 7,000 individuals in the City’s public shelter system found that nearly a quarter had been incarcerated in the previous two years. For many of them, the primary barrier to achieving stable housing was their criminal record. Moreover, people experiencing homelessness are at increased risk of recidivism and encounters with law enforcement: Those who have experienced homelessness make up more than 15 percent of the national jail population, and are about 10 times more likely to be in jail.<sup>19</sup> Law enforcement that criminalizes homelessness, including subway patrols and other police encounters, further fuels a cycle of homelessness and involvement with the criminal justice system. When landlords are permitted to discriminate on the basis of arrest or criminal records, they exacerbate the city’s homelessness crisis at a time when we must make it easier for New Yorkers to find housing, not harder.

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<sup>14</sup> State of New York Dept. of Correction and Comm. Supervision, *Under Custody Report: Profile of Inmate Population Under Custody on January 1, 2018* (Jan. 2018),

<https://doccs.ny.gov/system/files/documents/2019/09/Under%20Custody%20Report%202018.pdf>

<sup>15</sup> United States Census Bureau, *New York Population Estimates* (Sept. 10, 2020) <https://www.census.gov/quickfacts/NY>

<sup>16</sup> NYC Department of Correction at a Glance, Information for FY 2018. Department of Corrections.

[https://www1.nyc.gov/assets/doc/downloads/press-release/DOC\\_At%20a%20Glance-entire\\_FY%202018\\_073118.pdf](https://www1.nyc.gov/assets/doc/downloads/press-release/DOC_At%20a%20Glance-entire_FY%202018_073118.pdf);  
Population Demographics FY19 Qtr. 1, Department of Corrections.

[https://www1.nyc.gov/assets/doc/downloads/pdf/FY19\\_1st\\_QUARTER%20NTRO\\_766.pdf](https://www1.nyc.gov/assets/doc/downloads/pdf/FY19_1st_QUARTER%20NTRO_766.pdf)

<sup>17</sup> See e.g., *Schwartz v. Bd of Bar Examiners*, 353 U.S. 232, 241 (1957); *United States v. Berry*, 553 F.3d 273, 282 (3d Cir. 2009); *United States v. Zapete-Garcia*, 447 F.3d 57, 60 (1st Cir. 2006).

<sup>18</sup> Courtney Gross, *The New York prison-to-shelter pipeline*, Spectrum News NY1 (Feb. 27, 2018)

<https://www.ny1.com/nyc/all-boroughs/politics/2018/02/27/ny1-investigation-more-inmates-released-upstate-prisons-going-into-nyc-shelter-system>; Jacquelyn Simone, *Today’s Video: The New York Prison-to-Shelter Pipeline*, Coalition for the Homeless (Feb. 28, 2018), <https://www.coalitionforthehomeless.org/todays-video-new-york-prison-shelter-pipeline/>

<sup>19</sup> Greg A. Greenberg and Robert A. Rosenheck, *Jail Incarceration, Homelessness, and Mental Health: A National Study*, Psychiatric Services, Feb. 2008, available at <https://homelesshub.ca/sites/default/files/Greenberg.pdf>.

We are encouraged that the Council recognizes the need for prohibiting criminal background checks, and we urge the Council to pass legislation outlawing landlord discrimination against applicants with criminal and arrest records.

**Intro 1339 – Providing information about lawful source-of-income discrimination to city rental assistance applicants**

The Coalition for the Homeless and The Legal Aid Society support providing recipients of rental assistance with more information about source-of-income discrimination and how to report it. We request that the bill language be updated to reflect the most stringent current protections against source-of-income discrimination, such as those passed by the State.

**T2020-6576 – Online access to rental assistance program status**

The Coalition for the Homeless and The Legal Aid Society support providing online access regarding rental assistance as provided in T202-6576. In addition to what is provided for in the bill, we recommend creating a “one-stop” portal for tenants to file a single application for rental assistance and be able to track such an application. Such a “one-stop” portal where tenants can file a single application for rental assistance should contain pertinent information for the full range of available assistance instead of the current process, which involves multiple applications and multiple points of contact. We recognize that such a portal may require the partnership of the State, but ultimately it will be more efficient for the government agencies, contracted community partners, and tenants, and such a system has fewer negative public health consequences. It could also have the added benefit of making it easier for landlords to directly upload documents needed to complete the process of obtaining assistance.

We thank the Council for your steadfast advocacy on behalf of homeless New Yorkers during this pandemic. We appreciate the opportunity to testify and look forward to opportunities to further address the needs of all homeless New Yorkers.

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## About The Legal Aid Society and Coalition for the Homeless

The Legal Aid Society: The Legal Aid Society, the nation's oldest and largest not-for-profit legal services organization, is more than a law firm for clients who cannot afford to pay for counsel. It is an indispensable component of the legal, social, and economic fabric of New York City – passionately advocating for low-income individuals and families across a variety of civil, criminal, and juvenile rights matters, while also fighting for legal reform. This dedication to justice for all New Yorkers continues during the COVID-19 pandemic.

The Legal Aid Society has performed this role in City, State and federal courts since 1876. It does so by capitalizing on the diverse expertise, experience, and capabilities of more than 2,000 attorneys, social workers, paralegals, and support and administrative staff. Through a network of borough, neighborhood, and courthouse offices in 26 locations in New York City, the Society provides comprehensive legal services in all five boroughs of New York City for clients who cannot afford to pay for private counsel.

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

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

The Legal Aid Society is uniquely positioned to speak on issues of law and policy as they relate to homeless New Yorkers. The Legal Aid Society is counsel to the Coalition for the Homeless and for homeless women and men in the *Callahan* and *Eldredge* cases. The Legal Aid Society is also counsel in the *McCain/Boston* litigation in which a final judgment requires the provision of lawful shelter to homeless families. The Society, in collaboration with Patterson Belknap Webb & Tyler, LLC, filed *C.W. v. The City of New York*, a federal class action lawsuit on behalf of runaway and homeless youth in New York City. The Society, along with institutional plaintiffs Coalition for the Homeless and Center for Independence of the Disabled – NY, settled *Butler v. City of New York* on behalf of all disabled New Yorkers experiencing homelessness.

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

The Coalition operates 11 direct-services programs that offer vital services to homeless, at-risk, and low-income New Yorkers. These programs also demonstrate effective, long-term solutions and include: Supportive housing for families and individuals living with AIDS; job-training for homeless and formerly homeless women; and permanent housing for formerly homeless families and individuals. Our summer sleep-away camp and after-school program help hundreds of homeless children each year. The Coalition's mobile soup kitchen, which usually distributes about 900 nutritious hot meals each night to homeless and hungry New Yorkers on the streets of Manhattan and the Bronx, is now regularly serving more than 1,100 meals per night and distributing emergency supplies during the COVID-19 pandemic. Finally, our Crisis Intervention Department assists more than 1,000 homeless and at-risk households each month with eviction prevention, individual advocacy, referrals for shelter and emergency food programs, and assistance with public benefits as well as basic necessities such as diapers, formula, work uniforms, and money for medications and groceries. In response to the pandemic, we are operating a special Crisis Hotline (212-776-2177) for homeless individuals who need immediate help finding shelter or meeting other critical needs.

The Coalition was founded in concert with landmark right to shelter litigation filed on behalf of homeless men and women (*Callahan v. Carey* and *Eldredge v. Koch*) and remains a plaintiff in these now consolidated cases. In 1981, the City and State entered into a consent decree in *Callahan* through which they agreed: "The City defendants shall provide shelter and board to each homeless man who applies for it provided that (a) the man meets the need standard to qualify for the home relief program established in New York State; or (b) the man by reason of physical, mental or social dysfunction is in need of temporary shelter." The *Eldredge* case extended this legal requirement to homeless single women. The *Callahan* consent decree and the *Eldredge* case also guarantee basic standards for shelters for homeless men and women. Pursuant to the decree, the Coalition serves as court-appointed monitor of municipal shelters for homeless adults, and the City has also authorized the Coalition to monitor other facilities serving homeless families. In 2017, the Coalition, fellow institutional plaintiff Center for Independence of the Disabled – New York, and homeless New Yorkers with disabilities were represented by The Legal Aid Society and pro-bono counsel White & Case in the settlement of *Butler v. City of New York*, which is designed to ensure that the right to shelter includes accessible accommodations for those with disabilities, consistent with Federal, State, and local laws.

Testimony of Rhonda Jackson  
Submitted to The New York City Council's Committees on General  
Welfare and Civil and Human Rights on  
Oversight – Rental Assistance and Source-of-Income Discrimination  
September 15, 2020

Thank you for the opportunity to submit testimony. Although it is wonderful to have so many people in this fight against homelessness, it is sad that many more of us are not. It is disturbing that we are here in this present pandemic state of mind. We have lost much in this COVID era, but we are subject to losing much more.

I am submitting testimony not just in support of Intro. 146, but because I am concerned about the future of my home and staying housed. We were hit with a storm named coronavirus, and like any other storm it created a panic, with people darn near falling dead in the streets. As with most storms, there is a surge, and then a lull, and there is a prediction of a resurgence. We need a surge protector, and CM Levin's bill, Intro. 146, is just that. This city was shut down: For a few weeks, it looked like a ghost town – nothing was moving and no one was working. The city that never sleeps was asleep.

So now we are here again. I am 60 years old and rely on having a voucher. Most people cannot imagine what it is to be homeless, and as a former homeless household I cannot express how grateful I was when I moved into my own dwelling because of the LINC voucher, which has since become CityFHEPS. On behalf of the fortunate few of us who were able to receive a subsidy, and those like the Family Homelessness Coalition, the Coalition for the Homeless, Advocates for Children, and other organizations working to help address homelessness, I implore the Council to pass CM Levin's bill.

I speak because regardless of what is going on, people who are housed must stay housed, and the Human Resources Administration must keep their part of the contract. We are still in the midst of a pandemic, and now is really not time to invoke the "subject to change" rule, where rents are not being paid or money is not available.

We are at the point where we can no longer keep politicking around this issue. We need homes, and we need to keep the homes we have. We have seen just how human we really are. Have we forgotten so soon the devastation in early 2020? We are playing by different rules now and need legislation that will protect and safeguard the people of this city, to keep us housed!

This is New York City, and we set precedents, like the right to shelter. But we do not want to live or stay in shelters: We want our own homes! Please support Intro. 146.

Thank you for the opportunity to submit testimony.



**Testimony before City Council Committee on General Welfare  
Remote Hearing  
September 15<sup>th</sup>, 2020 | 10:00am**

Good morning Chair Levin and members of the Committee. My name is Nicole McVinua and I am the Director of Policy at Urban Pathways. Thank you for the opportunity to testify today in support of Int. 146 and Int. 1339.

Urban Pathways is a nonprofit homeless services and supportive housing provider. We assist single adults through a unique combination of street outreach, drop-in services, safe havens, extended-stay residences, and permanent supportive housing. We also offer a wide range of additional programming to meet the needs of our clients, including our Total Wellness Program and UPwards Employment Program. Urban Pathways serves over 3,700 New Yorkers in need each year. Our ultimate goal is to help those we serve achieve and sustain their highest level of independence.

To that end, housing rental subsidies are an essential tool for helping our clients achieve independent living, and we know that a competitive voucher has the potential to provide meaningful access to the private market for low-income New Yorkers. However, rental vouchers must be competitive in order to be functional, and the current city-funded housing voucher, CityFHEPS, falls short. The current maximum apartment rent for a CityFHEPS voucher holder makes it next to impossible to find housing in the City's private market, leading to frustration and to recipients competing for the same apartments in the very limited pool that matches the rates. This forces those exiting homelessness to move to neighborhoods that may be far from their other supportive resources, including friends, families, healthcare and mental healthcare, and employment opportunities.

The single adults Urban Pathways serves who qualify for a CityFHEPS voucher receive a maximum monthly rental allowance of \$1,265 for a one-person household. This amount only accounts for 72% of the Fair Market Rent (FMR) for an efficiency apartment in FY21, which \$1,760, and 70% of the FMR for a one bedroom at \$1,801. The voucher also falls short for families. In fact, the current CityFHEPS rate for two person and three or four person households are also below the FMR for an efficiency apartment. This makes the CityFHEPS voucher essentially unusable across much of the City's housing market.

This is why we are testifying in full support of Int. 146, which would match the maximum rental allowance of any fully city-funded housing rental subsidy to the FMR, as determined by the federal Department of Housing and Urban Development. Matching the City's voucher rates to the FMR would make the CityFHEPS voucher, and any future city-funded voucher programs, much more effective in helping people exit homelessness and find stability. It would also better account for rent increases, since FMR is adjusted each year to account for changes in the market, and prevent rent increases at lease renewal from making vouchers unusable.

This change would make a world of difference for our clients in our drop-in center and safe havens, especially those who do not qualify for other housing opportunities such as supportive housing. We would also like to suggest to the Council that another way to improve the efficacy of CityFHEPS would be to expand eligibility to current supportive housing tenants. This would help individuals move on from especially extended-stay, as well as permanent, supportive housing who have achieved recovery and no longer need the supportive services offered. This would allow these individuals to move onto private housing and achieve their maximum level of independence, while opening up space in supportive housing programs for those who need more intensive supports coming out of shelter and in-patient psychiatric care. Often the only barrier to those ready to move on from our programs is a financial one. We have had great success with this model through the Moving On Initiative, a program through HPD that provides Section 8 vouchers to supportive housing tenants ready to move on to full independence, but these vouchers are very limited in number. Opening up CityFHEPS to supportive housing residents who are ready to move on with the financial ability to do so and open those services to others.

We also would like to voice support for Int. 1339, which would provide greater information to applicants of rental assistance on source of income discrimination. Source of income discrimination has proven a repeated barrier to our clients searching for housing using a rental subsidy, and it is vital for all to be able to recognize discrimination and know how to report it.

Thank you for allowing me the opportunity to provide testimony. We urge you to pass Int. 146 and Int. 1339, in order to improve the effectiveness of city-funded housing subsidies as a tool for ending homelessness.

**For questions or further information, please contact:**

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## **Testimony: The Impact of the COVID-19 Pandemic on SNAP Administration, Food Pantries, and Soup Kitchens**

Good afternoon councilmembers. My name is Craig Willingham and I am testifying today on behalf of the CUNY Urban Food Policy Institute, located at the CUNY School of Public Health and Health Policy (SPH). At the Institute, we recognize that food assistance programs and services are essential to helping those in need. Now, during the COVID-19 pandemic, these safety net initiatives are more critical than ever. Resources like SNAP, Food Pantries, and Soup Kitchen help in the fight against food insecurity and it is vital we ensure their continued and robust implementation. As our city attempts to do support this work, I want to ask that we keep a few things in mind.

### **Federal, State, and Municipal Policy Go Hand in Hand**

First, since so much of what happens in the "food assistance space" is determined by federal policy, I want to urge the City Council Committee to be proactive in supporting advocacy efforts aimed at the federal government. Your voice would be a welcome addition to the various campaigns currently underway like the efforts to protect and improve SNAP and those to extend school food waivers through the school year.

Second, any discussion and review of food pantry and soup kitchen work during this period should compare the efforts of food security groups; which have been high profile and have absorbed a lot of media attention, with the city's own efforts which provided millions of meals through school based grab and go and Get Food NYC initiatives. Comparing the public and private responses helps us understand how capacity has either changed, decreased, or stayed the same in recent months and what more needs to be done.

### **A System Shock due to the Coupling of Parallel Crises:**

Before the Covid-19 outbreak many immigrants were already hesitant to apply for SNAP and other government safety net programs due to the chilling effect of the proposed change in the public charge rule. This fear lead to an increase in clients at pantries throughout the city. Given that immigrant New Yorkers are among the groups hardest-hit in terms of health, job loss, and food insecurity due to COVID-19 ,reaching them and ensuring that they are accessing the



benefits they are eligible for is more urgent than ever. Moreover, meeting immediate needs through the emergency food networks and innovative solutions like the school-based grab-and-go free meal program is just the sort of thing that the city should be doing more of. It is critical that all New Yorkers have access to food assistance resources and that will necessitate that we continue to think outside the box.

### **A Mismatch between Demand and Volunteers at Food Pantries:**

Another factor we should be mindful of during this period is the phenomenon of demand and volunteer resources being out of sync. Many pantries rely on in-person operations and on volunteers who are also often seniors. For this reason, and the severe impact of COVID-19 on the health of seniors, the pandemic has heavily compromised the ability of food pantries to operate, stay open, and meet demand. During a recent call with NY Cares — an organization that coordinates volunteers at different sites across the city — it was noted that the current challenge they are facing is that, as the economy is reopening, many volunteers are going back to their jobs while demand is continuing to rise. In their words, they are operating at extremely high paces, as if it were Thanksgiving week, but fewer and fewer people are available to help. This trend is worrying and one that the Council should be mindful of and begin thinking through solutions for.

### **Challenges for SNAP Administration**

Next, it's important to note that a looming threat for administering SNAP in the near term comes from the USDA's Food and Nutrition Service's recent notice indicating that administrative waivers for initial and recertification interviews, for extended certification periods, and for other similar tasks are unlikely to be extended beyond September. This continues their recent trend of limiting or ending approvals of some of these types of crucial flexibilities. A key question is whether USDA will relent and continue the waivers or, if not, will NYS/NYC be able to manage caseloads so that individuals/households are not removed from the rolls. Being prepared for the impact of these possible changes is something the Council, and other elected officials, should be planning for now.

As we continue to navigate our way through this pandemic, we must stay vigilant in our efforts to guarantee that no New Yorker goes hungry. The CUNY Urban Food Policy Institute, in partnership with colleagues at the Hunter College New York City Food Policy Center and the Laurie M. Tisch Center for Food, Education & Policy at Columbia University are working to monitor and assess the city, state and regional food system response to COVID 19. Our work provides government and the public with information and recommendations intended to



support efforts to ensure that we survive this pandemic and come out stronger in the end. We applaud the city for its efforts to mitigate the impact of COVID 19 on food security and other food system related issues and are committed to supporting efforts to make our city even more resilient now and in the coming years.

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## **Opposition of**

# **Proposed City Council Bill That Would Ban Criminal Background Checks**

I was shocked to hear that City Council would propose a bill in New York City, where we are experiencing an increase in shootings and a reduction in police, to prohibit housing discrimination in rentals, leases, subleases, or occupancy agreements throughout the City, on the basis of arrest or criminal record. That's outright neglect for the safety of our citizens and families. When our leaders should be protecting us, they're instead opening up the city to an increase in individual who have a history of criminal convictions.

Individuals, families, parents, children, ... ALL want safe and comfortable housing for law-abiding NY residents. As a father of two, I do not want my family, especially my children, living near individuals with criminal convictions, including drug crimes, sex offenders, violent offenders, ... Even if these ex-criminal did their time, I and many others would consider them a risk that we should know about. That's what a Real Estate professional can help provide. Allowing them to ensure the safety of buildings and neighborhoods.

The average overall sex offender recidivism rate is 27.9 percent for treated sex offenders and 39.2 percent for untreated sex offenders. While very concerning, more so is a 2019 study that found, over the eight-year study period, that non-violent offenders recidivated at a rate of 39.8 percent AND violent offenders recidivated at a rate of 63.8 percent. Yes, there's a better than 1 in 2 chance that a previous violent offender will commit another violent crime in less than 8 years! And Mr. Levin is asking me to be ok with that?

We're already seeing many families and citizens fleeing the city for the safety of the suburbs. Bills like this one would further encourage them to leave. These law-abiding citizens and families are who we want staying in the city. Instead, this bill would have us replace them with convicted criminals.

We need to allow our Real Estate professionals to be able to continue to identify and determine whether these convicted criminals should be allowed to live and rent apartments within the neighborhoods.

Why are law-abiding citizens having to pay the price of living in fear for themselves and their friends/family because others want convicted criminals to be able to hide within our neighborhoods? It's outright wrong. Convicted Criminal activity should be known by those who may become victims, whether or not the convicted criminal has done their time in prison. It's for the protection of those who may fall victim of the offenders who recidivate. And as the statistics show, the recidivate rates are very high.

Why is Council Member Stephen Levin asking us to unknowingly invite criminals into our neighborhood? Shouldn't he be looking out for our safety along with the safety of our families?

I strongly oppose this Bill. It goes in the opposite direction of where we want to lead the city. We want a safer city, not one where convicted criminals live among us without our knowledge. It may benefit the criminal, but it certainly does not benefit the families, children, law-abiding citizens by putting them in harms way.

The bill effectively takes away the Real Estate professionals' ability to protect those currently living in the buildings. It does not benefit our children who would be, under the proposed bill, more likely to fall victim to a sexual crime. Nor does it benefit anyone of us who has an increased likelihood of falling victim to a violent crime. The statistics speak for themselves.

Shame on those who are putting all of us & our families in harms way! Your duty is to do just the opposite, to protect your citizens and constituents.

New York City Council  
Committee on Civil and Human Rights

Testimony of Irene Linares  
Research and Policy Coordinator, TakeRoot Justice  
[ilinares@takerootjustice.org](mailto:ilinares@takerootjustice.org)

Tuesday, September 15, 2020

Good morning. My name is Irene Linares and I am the Research and Policy Coordinator at [TakeRoot Justice](#). TakeRoot Justice provides legal, participatory research and policy support to strengthen the work of grassroots and community-based groups in New York City to dismantle racial, economic and social oppression. I'm here with VOCAL-NY, with whom we partnered on a research project documenting the search for housing using housing vouchers and subsidies. VOCAL-NY is a statewide grassroots membership organization that builds power among low-income people impacted by HIV/AIDS, the drug war, mass incarceration and homelessness in order to create healthy and just communities.

I appreciate the opportunity to testify today, to highlight how harmful source of income discrimination is and to discuss the reforms needed to ensure that subsidy holders have access to permanent and affordable housing. As you will hear from others today, New York City's rental assistance programs were designed to help communities like VOCAL-NY's access stable housing by guaranteeing a portion of their rent. But, as others here will testify, source of income discrimination is pervasive throughout New York City, subsidy holders often do not have information on the rights available to them, and voucher amounts are too low to keep up with market rent. These issues and more are highlighted in VOCAL-NY and TakeRoot Justice's new research report "[Vouchers to Nowhere: How Source of Income Discrimination Happens and the Policies Than Can Fix It](#)".

Our report documents the experience of looking for housing using housing subsidies and vouchers. Our primary research method was *matched pair testing*, a method used to test for differential treatment and discrimination. Matched pair testing calls for partners to be matched in all characteristics except for the one being tested. We contacted 114 real estate agents with listings on Zillow and Trulia presenting as someone having a housing subsidy and then contacted the same agent again presenting as having income from employment.

Our findings echo the experiences of VOCAL-NY members and confirm that getting a real estate agent to engage with prospective tenants who plan to pay their rent using subsidies is often fruitless and that the search for housing can feel hopeless.

Our research findings show that:

- **People with housing subsidies heard back from agents nearly three times less often** than those with income from employment.
- **When subsidy holders did hear back from agents, they were more likely to be told that units were not available.** Several also experienced blatant source of income discrimination, being told that subsidies were not accepted.
- **Subsidy holders were less likely to be invited to view apartments** than people with income from employment.

- **Subsidy holders waited longer to hear back from agents** than people with employment income.
- **The resource sheet provided by the Human Resources Administration to subsidy holders seeking housing in Brooklyn is outdated and ineffective** as a resource.

More detailed data on each of these findings is available in our report. Our testing process also made clear the limitations of the CityFHEPS voucher. Setting housing search parameters on websites like Zillow and Trulia using only the CityFHEPS voucher amount yields relatively few results: demonstrating that the current maximum payment amount of the voucher relegates recipients to compete for a small pool of lower quality housing. Including higher-paying subsidies in our search (Section 8 and HASA) yielded more listings. This reinforces what many here will be saying today: that one of the largest barriers faced by those with the CityFHEPS voucher is that the voucher does not cover apartments at the market rate.

Our research demonstrates that source of income discrimination keeps subsidy holders out of safe, stable and affordable housing. We urge the City Council to take immediate action to protect renters from source of income discrimination. During the COVID-19 crisis, access to housing is a more urgent need than ever.

We call for the city to:

- **Pass Int. 146**, which calls for increasing the CityFHEPS voucher to market rate.
- **Pass Int. 1339**, to ensure that subsidy holders know their rights and how to report source of income discrimination.
- **Increase financial penalties for source of income discrimination** so that they serve as meaningful deterrents.
- **Expand the triggering criteria for the City's Certificate of No Harassment Program to include cases in which landlords discriminated against applicants or tenants based on source of income.**
- **Pass legislation to eliminate credit checks for subsidy holders.**

These recommendations, and more, are detailed in our report.

Now more than ever, it is imperative that the City Council ensure that every New Yorker has safe housing.

Thank you for your time.

Irene Linares, MSW  
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# **M. FRUCHT REAL ESTATE SERVICE INC.**

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September 17, 2020

To Whom it May Concern,

I am writing in regard to the proposed bill, Intro. 2047, which prohibits Landlords from performing criminal background checks on prospective tenants.

As background, I am a residential building manager, managing 6 buildings with a total of 131 units. I have been managing buildings in NYC for 11 years and during that time I have had multiple experiences that lead me to believe this bill would harm tenants.

Without going into specifics, so as to not invade the privacy of any tenants, I have limited my testimony to four examples that I believe show the importance of allowing criminal background checks.

- 1) We had a tenant who ended up using his apartment as a brothel and drug den.
- 2) Another tenant, in a different building, used his apartment to deal drugs.
- 3) In another building one tenant was harassing his neighbors constantly. One day he attacked one of the tenants. One person was stabbed. The tenant, who was causing the trouble, was arrested but was back in the building less than two days later.
- 4) Lastly, a tenant killed his father in the apartment.

It is impossible to know what someone, even with a clean record, will do in the future but it is possible to mitigate the risks. The four examples I mention above demonstrate the dangers inherent in disallowing criminal background checks. By bringing individuals such as these into a building the quality of living inevitably is brought down for all tenants. Whether it is unknown individuals doing drugs in stairwells, to people coming and going at all hours of the night or people being afraid for their physical wellbeing, it degrades the quality of life for the rest of the tenants, who are generally good people looking to live their lives and/or raise their families in peace.

From my own experiences I have seen how hard it is to evict someone from their apartment. One of the above mentioned examples was in court for a year and a half before the Landlord could evict him. Tenants would call and ask why he was still in the building and when they heard it's because the courts have not yet evicted him I was always met with a response of shock.

The only real remedy for Landlords is to not allow a known violent offender or drug dealer into their building in the first place. This isn't to say that people should not be given a second chance but the first responsibility of a Landlord is to keep their tenants safe. This bill would effectively keep Landlords hands tied and not allow them to prove the safety and security that all tenants want and deserve.

Though, I am writing this as a residential building manager, I am also writing this as someone who has lived and worked in NYC for the better part of my life. I imagine what my apartment living situation would have been if this rule had been in effect at the time and it doesn't look as enjoyable as it was. I can't imagine raising my kids in a building not knowing who is living in the building, on my floor or ever directly next door.

I respectfully ask the Council to carefully consider the effects both anticipated and unanticipated that this bill would have on the lives of every day New Yorkers.

Thank you,

Joseph Frucht  
Managing Agent

Government's primary responsibility is to protect the people. When considering how to best integrate people with a criminal history back into society, the first priority is to do so safely. Hiding a person's criminal history when he or she applies for housing does not respect this priority.

If the Council is truly looking to help people with a criminal history, you should pass a law that would have the appropriate city agency work with owners and the community to help in integrating these people into society, rather than hiding their history and using deception to trick people, which will always end up creating resentment rather than compassion.

If, however, the Council insists on pursuing this misguided legislation, in order to include a modicum of fairness, it must include a clause indemnifying owners from any liability related to unknowingly providing housing to a person with a criminal history.

The City Council has consistently maintained that owners have both a legal and ethical obligation to protect their tenants. This bill would take away the most important tool owners have to meet these obligations. If an elderly woman is murdered, or a young child is sexually molested, will you blame the owner for not protecting his/her tenants, or will you take personal responsibility for endangering the people you represent?

Why pass a law that will only serve to scare even more people away from living in NYC? People will no longer have confidence that their landlords can protect them from becoming neighbors of convicted murderers, thieves, drug dealers, sex offenders and other violent criminals.

Just as even the proponents of the "bail reform" law concede that it directly contributes to the recent increase in crime, so will this law lead to an open door policy for all the nation's criminals, exacerbating the shocking increase in crime in this city.

I urge the Council to reconsider, and to turn their focus to developing a bill that will address this important issue in a more constructive, compassionate, transparent and inclusive way.

Robert Berger

**3V Realty LLC  
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September 15, 2020

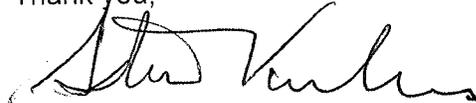
The New York City Council  
Council Committee on Civil and Human Rights

RE: Intro 2047 - 2020 proposed bill

To Whom It May Concern:

In regard to the above-mentioned proposed bill, 3V Realty LLC is firmly against it. 3V Realty LLC believes that building owners and realtors should have knowledge of criminal records for the safety of our existing and future tenants. Criminal history obtained through background checks are in the best interest of the community, including tenants and landlords.

Thank you,



Steve Varkaris

Testimony by the New York Legal Assistance Group (NYLAG)  
Oversight – Rental Assistance and Source of Income Discrimination  
Before the New York City Council Committees on General Welfare and Civil and Human  
Rights  
September 15, 2020

Chairs Levin and Eugene, Council Members, and staff, good morning and thank you for the opportunity to speak to the Committee on General Welfare and the Committee on Civil and Human Rights on rental assistance and source of income discrimination. My name is Deborah Berkman, and I am a Coordinating Attorney in the Public Benefits Unit and Shelter Advocacy Initiative at the New York Legal Assistance Group (NYLAG). NYLAG uses the power of the law to help New Yorkers in need combat social and economic injustice. We address emerging and urgent legal needs with comprehensive, free civil legal services, impact litigation, policy advocacy, and community education. NYLAG serves immigrants, seniors, the homebound, families facing foreclosure, renters facing eviction, low-income consumers, those in need of government assistance, children in need of special education, survivors of intimate partner violence, people with disabilities, patients with chronic illness or disease, low-wage workers, veterans, low-income members of the LGBTQ community, Holocaust survivors, as well as others in need of free civil legal services.

The Shelter Advocacy Initiative at NYLAG provides legal services and advocacy to low-income people in the shelter system. We work to ensure that every New Yorker has a safe place to sleep by offering legal advice and representation throughout each step of the shelter application process. Additionally, we assist and advocate for clients who are

already in shelter as they navigate the transfer process, seek adequate facility conditions and resources for their needs, and we offer representation at fair hearings.

NYLAG's Tenants' Rights Unit fights to preserve housing, prevent homelessness, ensure economic security for families, and promote stability in communities. Safe, affordable housing is disappearing throughout the city. The housing crisis brought on by rising rents, and exacerbated by the COVID-19 pandemic, is hitting communities of color, single parent households, people with disabilities, and veterans particularly hard. Eviction uproots families, jeopardizing employment and education, and often leads to homelessness. Our Tenants' Rights Unit lawyers fight for safe and affordable housing by representing individuals and families in Housing Court eviction cases, advocating before administrative agencies, including NYCHA and Section 8, and obtaining and preserving rent subsidies.

I- Prohibitions Against Discrimination in Housing Accommodations Must Be Expanded

The proposed legislation to expand prohibitions against discrimination based on legal source of income in housing accommodations is a sorely needed adjustment that should help permanent housing become more attainable. However, it does not go far enough.

Preconsidered Int. to amend paragraph (o) of subdivision 5 of section 8-107 would expand the prohibition of lawful source of income discrimination to any housing accommodation comprised of three or more units, rather than the six or more units currently, to all rent controlled apartments, and to any owner of any size building that otherwise owns three or more units. Int. 1339 would mandate that voucher "shopping letters" provide information about lawful source of income discrimination to city rental

assistance applicants. While we fully support the important expansion of these protections, much more is needed to ensure that vouchers are actually usable by clients.

In order to truly fix source of income discrimination, this Council must look at all of the causes of said discrimination. Some landlords simply don't want to rent to lower-income tenants. According to many NYLAG clients, so much of landlords' reticence to rent to voucher holding tenants stems from the New York City's Department of Social Services' (DSS) own practices, not the clients themselves. Landlords are reasonably concerned that there will be administrative problems with the City paying the rent.

Many NYLAG clients have rental vouchers but cannot obtain apartments with them. First, the rental amount cap is far below the market rate in New York City (which another proposed amendment being considered today seeks to address). Even when NYLAG clients are able to find apartments that fit within the rental guidelines, the process of getting an apartment approved for a voucher is slow and overly burdensome for landlords, and is often riddled with administrative errors by DSS.

After a client finds an apartment and a landlord willing to take CityFHEPS, it can take months for that apartment to be approved for CityFHEPS voucher use. One reason for this delay is that for clients in shelter seeking to use a voucher, shelter housing specialists or caseworkers are the ones processing the application and act as an intermediary between DSS and the landlord. Clients report a total breakdown of information between their shelter caseworkers, DSS, and the landlords. If a willing landlord makes a mistake on the application (as often happens), it can take many days or even weeks before that information is relayed from DSS to caseworkers to the landlord. The landlords do not work directly with DSS, and often information can get lost in translation. Clients report

forms being filled out incorrectly multiple times and landlords not being able to get information about what parts of the form are incorrect.

Clients also report that often DSS is not able to schedule apartment inspections in a timely manner. Even when a landlord is willing to hold an apartment to complete the process, often after several weeks they will be forced to rent an apartment to someone who can start the lease more quickly. NYLAG clients report having to wait months between finding an apartment with a landlord willing to take a voucher and actually getting approval to execute the lease. Many such apartments are lost in the process.

Once the apartment is approved and the client moves in, problems with DSS persist. Clients who rely on both the FHEPS voucher and the CityFHEPS vouchers report that DSS does not pay their rent on time, and sometimes will discontinue paying rent without notice. Many NYLAG clients report that their rent is being paid late every single month. Clients also report that their vouchers were discontinued without notice to them or to the landlord. Indeed, landlords have created a website, [www.nycfheps.com](http://www.nycfheps.com), to warn each other about the pitfalls of renting to voucher holders. Although some of the stories posted complain about so-called “difficult” tenants, most complaints state that they will not rent to voucher holders because of DSS’s slow processing and late rents. Evidently, much of the reluctance to rent to voucher holders is attributable to DSS’s administrative failures, which is entirely within the City’s control. We urge this Council to pass the current legislation and to create further legislation aimed at DSS administrative practices and procedures.

## II- CityFHEPS Eligibility Must be Expanded

Int. 146 is a positive step in in the right direction. This amendment would eliminate the current restrictions on renewals and ensure that eligible individuals can continue to receive rental assistance vouchers, so long as they meet eligibility criteria. In addition, it sets the rent thresholds at fair market rent value, which would ostensibly allow more individuals to access this assistance. We wholeheartedly support these changes and urge the City Council to pass this legislation immediately. Given the risks of the pandemic, it is crucial that families have access to financial assistance that allows them to stay in their homes and effectively social distance.

In addition to these proposed changes, we urge the Council to expand CityFHEPS eligibility to include long-term tenancies. Expanding current eligibility criteria would allow more families to access this aid and reduce long term shelter costs.

Currently, NYC tenants must meet one of the following criteria in order to be eligible for CityFHEPS: have veteran status, have prior shelter history, receive Adult Protective Services (APS), or live in a rent-controlled apartment. Prior to its supersession by CityFHEPS, the City's Special Exit and Prevention Supplement (formerly known as "SEPS") allowed program administrators to grant the Supplement to long-term tenants. Once the program converted to CityFHEPS, the long-term tenancy criteria was eliminated.

Only a small fraction of NYLAG's clients meet the current CityFHEPS criteria, while many meet the prior long-term tenancy criteria. Many tenants with non-payment housing court cases are elderly and have resided in their apartments for decades and have rent and income thresholds that meet CityFHEPS guidelines, yet remain ineligible due to this restrictive criterion.

For example, NYLAG recently represented an elderly couple who were forced out of their home due to lack of access to a sustainable rent subsidy. This couple had resided in their apartment for over 40 years and had a combined monthly income of less than \$1,100. Neither of them was able to return to the workforce, nor did they have family or friends able to provide ongoing financial support. In addition, one of them grappled with severe medical issues that required life-sustaining dialysis. Despite persistent advocacy to Adult Protective Services, DSS, and other entities, we were unable to secure a rental voucher and eventually the couple lost their home. Had CityFHEPS retained the criteria for long-term tenancies, they would currently have a voucher to pay their ongoing rent.

A significant portion of elderly tenants need a rental subsidy. Older renters comprise 26.9% of total renters in NYC, and a 2019 report from the Center for an Urban Future notes that adults in New York City older than 65 have a poverty rate of 20 percent<sup>1</sup>. Many long-term tenants rely on monthly social security incomes that usually are not enough to keep up with the cost of their rent, even with rent freezes.

Expanding CityFHEPS eligibility criteria for long-term tenants will also save the City hundreds of thousands of dollars in shelter costs. The average cost of shelter for a single person in NYC is \$38,000 per person per year, while subsidizing a CityFHEPS apartment for a single person costs significantly less. Thus, we strongly recommend that the City Council pass the stated resolution and expand current CityFHEPS criteria to include long-term tenancies.

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<sup>1</sup> *New York's Older Adult Population is Booming Statewide*, Center for an Urban Future (February 2019) <https://nycfuture.org/research/new-yorks-older-adult-population-is-booming-statewide>.

### III- Prohibiting Housing Discrimination on the Basis of Arrest or Criminal Record is Crucial

Proposed Int. 2047, which prohibits housing discrimination on the basis of arrest or criminal record, is critical to reducing homelessness in New York City. Formerly incarcerated people routinely struggle to find stable homes. In fact, people who were formerly incarcerated are almost 10 times more likely to experience homelessness than the general public.<sup>2</sup> The reasons for this disparity are complex, but discrimination by public housing authorities and private property owners are a large factor in excluding formerly incarcerated people from the housing market. And as this Council is well aware, lacking safe and stable housing can lead to numerous other problems, for example, reducing access to healthcare services (including addiction and mental health treatment), making it harder to secure a job, and preventing people from accessing educational programs. Lack of housing has a snowball effect, one that is even more dramatic for formerly incarcerated people. Proposed Int. 2047 is an important step in the right direction.

### IV- People Must Have Access to Rental Assistance Program Status

The Preconsidered Int. to amend Chapter 1 of title 21 of the administrative code to allow online access to rental assistance program status is also vitally important. The application process for a client to apply for CityFEHPS is generally opaque and can only be initiated by shelter staff or a CityFHEPS qualifying program. Clients often have no idea whether they are eligible for a voucher or if any application has been made. Clients who have resided in shelter for over 90 days and meet other qualifications for CityFHEPS frequently are not immediately awarded a voucher and have to plead with housing

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<sup>2</sup> *Nowhere to Go: Homelessness Among Formerly Incarcerated People*, Lucius Couloute (August 2018) (<https://www.prisonpolicy.org/reports/housing.html#:~:text=While%20we%20found%20that%20203.every%2010%2C000%20%2D%20were%20housing%20insecure>).

specialists to help them obtain a voucher. Clients routinely report having no idea about the status of their applications, and if they have been denied, what they will need to do to address the reason for the denial. This lack of communication can cause months of unnecessary shelter stays, which are not only devastating for our clients, but also cost the City a great deal of money. Allowing clients (and their advocates) access to robust application status information through an accessible online portal would not only allow clients to know where in the process they are, but would also allow clients and advocates to advocate for people who meet eligibility requirements but whose applications have not been initiated.

#### V. NYLAG Supports Other Proposed Amendments

Int. 1020, which would require DSS to track and report data about rental assistance programs, is a critical step towards determining whether these programs are effective in combating homelessness. Int. 2018, which would require DSS to provide domestic violence services at all shelters, will address the unique needs of domestic violence survivors. Domestic violence has consistently been among the leading causes of family homelessness,<sup>3</sup> and most victims of domestic violence in the shelter system are not in dedicated domestic violence shelters. Int. 2018 will help address their needs and help them heal.

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<sup>3</sup> *The Intimate Relationship between Domestic Violence and Homelessness*, Institute for Children, Poverty & Homelessness (October 2018)( <https://www.icphusa.org/commentary/the-intimate-relationship-between-domestic-violence-and-homelessness-2/>)

We thank the Committee on General Welfare and the Committee on Civil and Human Rights for the work it has done to assist vulnerable New Yorkers and we hope we can be a resource for you going forward.

Respectfully submitted,

New York Legal Assistance Group

**104-22 Astoria Blvd Enterprises LLC  
104-22 Astoria Blvd  
East Elmhurst NY 11369  
(718) 706-8500**

September 15, 2020

The New York City Council  
Council Committee on Civil and Human Rights

RE: Intro 2047 - 2020 proposed bill

To Whom It May Concern:

In regard to the above-mentioned proposed bill, 104-22 Astoria Blvd Enterprises LLC is firmly against it. 104-22 Astoria Blvd Enterprises LLC believes that building owners and realtors should have knowledge of criminal records for the safety of our existing and future tenants. Criminal history obtained through background checks are in the best interest of the community, including tenants and landlords.

Thank you,

A handwritten signature in black ink, appearing to read 'Steve Varkaris', written over the printed name below.

Steve Varkaris



## Make the Road New York

### Testimony on Amending the Administrative Code of the City of New York, in relation to Requiring City Employers to Provide Earned Safe and Sick time to employees.

September 11, 2020

My name is Gabriela Siegel, and I am a Skadden Fellow and Staff Attorney on the Workplace Justice team at Make the Road New York (MRNY). Thank you for the opportunity to share this testimony regarding proposed amendments to NYC's Paid Safe and Sick Leave Law. We strongly support the adoption of these proposed amendments to update NYC's Paid Safe and Sick Leave Law, particularly as these apply to domestic workers.

Make the Road New York is a non-profit community-based membership organization with over 24,000 low-income members dedicated to building the power of immigrant and working class communities to achieve dignity and justice through organizing, policy innovation, transformative education, and survival services. Our Workplace Justice legal team represents hundreds of low-wage immigrant workers each year to enforce their rights under labor and employment laws. We frequently see domestic worker clients deprived of their right to Paid Safe and Sick Leave because of the widespread perception that such protections do not apply to this historically excluded workforce. The proposed amendments strengthen these protections and help ensure more domestic workers access their right to Paid Safe and Sick Leave at this critical time.

Domestic workers across New York City perform critical but often invisible work. Countless New Yorkers rely on domestic workers to clean their homes, look after their children, and care for their elderly family members and loved ones. And although domestic workers are entrusted with the care of those whom we hold most dear, they and their work are routinely devalued. Domestic workers are among the most exploited workers in New York: the most comprehensive study in New York City to date found that 50% of nannies and 26% of housekeepers interviewed had experienced a minimum wage violation in the prior week, and approximately 84% experienced overtime

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**LONG ISLAND**  
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BRENTWOOD, NY 11717  
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**WESTCHESTER**  
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FAX 914 948 0311

violations.<sup>1</sup> These violations are often symptomatic of a broader culture of noncompliance and abuse, where exploitation and denial of basic workplace protections go hand in hand.

Our legal system has historically excluded domestic workers from the most basic labor protections afforded to other working New Yorkers. Additionally, domestic workers' physical isolation in private homes, coupled with fragmented and informal employment arrangements present unique challenges to implementation and enforcement of their rights. Although many domestic workers are subject to workplace violations, for much of this predominantly immigrant women workforce,<sup>2</sup> fear of retaliation and deportation, limited English language proficiency, and limited awareness of their rights further heighten the likelihood of exploitation.<sup>3</sup>

The proposed amendment will allow domestic workers to accrue their Safe and Sick time at the same rate as other employees in New York City. Moreover, it will enable them to do so at the commencement of their employment and eliminate the 80-hour threshold currently in place, facilitating their ability to qualify as an employee for purposes of the Safe and Sick Leave. Similarly, the proposed amendments also eliminate the 120-day threshold to begin using Safe and Sick time for all workers, including domestic workers. These are critical fixes to ensure that domestic workers are able to use Safe and Sick leave when they most need it.

While New York City has made significant progress over the last decade strengthening protections for domestic workers and undoing many of the historic carve outs that denied them basic legal workplace protections, the persistence of certain exemptions sends employers a clear message that they can operate with impunity. Perhaps even more insidiously, the persistence of these carve outs sustains the idea that domestic work is not in fact work or is somehow not deserving of the same protections as other industries, and means that an employer of a domestic worker has fewer responsibilities than a 'regular' employer. Thus, an employer may view domestic workers as interchangeable and replaceable, and an employer who believes they can get

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<sup>1</sup> Annette Bernhardt, Diana Polso & James DeFilippis, *Working Without Laws: A Survey of Employment and Labor Law Violations in New York City*, National Employment Law Project (2010). Cited Aug. 31, 2018. Available from: <https://www.nelp.org/wp-content/uploads/2015/03/WorkplaceViolationsNYCpresentation.pdf>

<sup>2</sup> Lorelei Salas, *Lifting Up Paid Care Work: Year One of New York City's Paid Care Division*, The Department of Consumer Affairs – Office of Labor Policy & Standards (2018). Cited Aug. 31, 2018. Available from: <https://www1.nyc.gov/assets/dca/downloads/pdf/workers/Lifting-up-Paid-Care-Work.pdf>

<sup>3</sup> *Id.*

away with it may prefer, for example, to fire a domestic worker than pay for her Safe and Sick Leave.

Domestic workers are entitled to the same assurance from our legal system that their dignity, wellbeing, and safety in their workplaces are worth protecting. Strong legal protections and enforcement are essential to changing these patterns, particularly for the low-wage and immigrant workers who are among the most vulnerable members of the workforce. At a time when immigrant workers are increasingly vulnerable and these workers are less able to rely on protection from the federal government, New York City's commitment to protecting its immigrant population is more important than ever. Robust public education campaigns to educate employers about their responsibilities and legal obligations and workers about their protections against unlawful discrimination will be critical to making these expanded protections real for domestic workers.

These proposed amendments to facilitate working New Yorkers' access to Paid Safe and Sick Leave is particularly critical now, as all New Yorkers strive to maintain healthy and sustainable public health practices in the midst of the ongoing COVID-19 pandemic. We commend the City Council for holding these hearings, and urge you to amend the law to ensure that domestic workers are afforded the same protections as other workers.

## **City Council Intro. 2047-2020 – Prohibition of Use of Criminal Records in Rental Applications**

### **9/15/2020 10:00 AM Public Hearing Testimony**

My parents have been providing housing for over 40 years and some of our tenants have been there for just as long. We have amicable relationships with our residents. We have residents who are single working moms with young children, elderly empty nesters; and tenants with at-home daycare. Their home is their safe space and when they feel that is compromised, they look to us. We often act as their first line of defense. Residents look to us as so much more than just a housing provider. We often looked to fill the roles of mediator, social workers, 2<sup>nd</sup> guardian, etc.

At the minimum, residents expect safe housing and that includes a **safe community**. Not only do they expect it, they need reassurance. They *expect* vetting of prospective tenants and criminal records is one factor that residents expect to be considered. This is not the only factor but it is one potentially important factor that enables us to have an informed honest discussion with prospective tenants. Just like anything else noted in an application, I want be able to have a candid open conversation with a prospective and understand the nuances of their situation. I appreciate someone who has worked hard to get out of a bad situation, more so than someone who has experienced little hardship.

I understand the need for a fair chance but also understand the need to do it in a methodical safe manner and not in a haphazard blanket approach. I urge you all to consider other ways: like implementing a system that enables someone with a criminal record to demonstrate a history of good behavior and/or limiting the rule to certain types of offenses, history/frequency, and timeline. There are better ways than the blanket approach of Intro-2047.

**Testimony of**  
**Alison Wilkey, Director of Public Policy**  
**On behalf of**  
**John Jay College Institute for Justice and Opportunity**  
**Before**  
**The Council of the City of New York**  
**Committees on General Welfare and Civil and Human Rights Oversight Hearing:**  
**Rental Assistance and Source of Income Discrimination**

Good morning. My name is Alison Wilkey and I am the Director of Public Policy at the John Jay College Institute for Justice and Opportunity. I want to thank Councilmember Levin and Councilmember Eugene for the opportunity to present testimony today about Intro 2047-2020, Prohibiting housing discrimination based on arrest or criminal record.

I. John Jay College Institute for Justice and Opportunity

The John Jay College Institute for Justice and Opportunity's (the Institute) mission is to create opportunities for people to live successfully in the community after involvement with the criminal legal system by addressing structural racial and economic inequalities. Much of our work focuses on increasing access to higher education and career pathways for people with conviction histories. Our comprehensive approach includes direct service, research, technical assistance, and policy advocacy.

Housing policy became a focus for the Institute because so many of the college students we serve who have been impacted by the criminal legal system have trouble finding and maintaining housing. While I am speaking today about discrimination based on a conviction history, we also want to voice support for increased rental assistance and ending voucher discrimination. All the bills under discussion today are important pieces of the changes we need to break down the racial and economic barriers that prevent New Yorkers from accessing a safe and stable place to call home.

II. Housing Discrimination based on Conviction History

The widespread use of background checks in tenant selection is a contributor to the City's housing and shelter crisis. People with conviction histories, who have served their time and paid their penalty, face ongoing and perpetual punishment through background checks. Research shows that a conviction record reduces the probability of New York City landlords' allowing

prospective tenants to even *view* an apartment by over 50%.<sup>1</sup> Nationally, formerly incarcerated people are nearly 10 times more likely to be homeless than the general public.<sup>2</sup>

This is not only an issue that affects people with convictions, it affects entire families. Landlords often require background checks for every person on the lease, so families are losing out on housing opportunities when landlords reject a family because of one member's conviction. A conviction history should be a history, not a life sentence.

In New York City each year, around 20,000 single adults become homeless and enter the DHS system; about 30 percent of these adults enter shelters directly from institutional settings, like Rikers and state prisons.<sup>3</sup> Significant numbers of people enter shelter in the year after incarceration in Rikers. In 2018, over 3,400 people were released from State prison directly into New York City shelters.<sup>4</sup> People living in shelter who have conviction histories have a hard time exiting shelter because they keep getting rejected, even when they have the financial means or assistance to afford an apartment.

Using background checks to determine whether a person would be a good tenant entrenches our racist criminal legal system. The racial inequities of our criminal legal system are well documented, and have been brought fully to attention in the recent months of protests to support Black lives. Yet, we are still living with the reality that 1 in 3 African-American adult men has a felony conviction in the United States.<sup>5</sup> Black and Brown people also make up 40% of the homeless population in the United States despite only making up 13% of the population.<sup>6</sup> The racism and harm of our criminal legal system is perpetuated when we continue to allow housing providers to make tenancy decisions based on background checks resulting from an unjust system.

### III. Fair Chance for Housing

Intro 2047-2020 would address this problem by making it a discriminatory practice to deny a person housing because of their arrest or conviction history. This law is similar to other laws—known as “Fair Chance Housing” laws—passed in a dozen other cities and counties in the United States. Cities like Berkeley, California enacted a Fair Chance Housing law “critical strategy to house currently unhoused people and also prevent more people from becoming homeless.”<sup>7</sup>

<sup>1</sup> Evans, D.N. & Porter, J.R. Criminal history and landlord rental decisions: a New York quasi-experimental study. (2015). *Journal of Experimental Criminology*, 11(1), 21–42. doi: 10.1007/s11292-014-9217-4

<sup>2</sup> <https://www.prisonpolicy.org/reports/housing.html>

<sup>3</sup> <https://www.coalitionforthehomeless.org/state-of-the-homeless-2020/>

<sup>4</sup> *Id.*

<sup>5</sup> Shannon, S.K.S. Uggen, C., Schnittker, J. et al. (2017). The Growth, Scope, and Spatial Distribution of People with Felony Records in the United States, 1948-2010. *Demography*, 54(5), 1795-1818. <https://doi.org/10.1007/s13524-017-0611-1>

<sup>6</sup> <https://endhomelessness.org/homelessness-in-america/what-causes-homelessness/inequality/>

<sup>7</sup> Oakland Municipal Code Chapter 8.25

Increasing access to housing also increases safety. An inability to meet economic needs is a key driver of violence.<sup>8</sup> Housing is a core human need; it provides a foundation for people to get and keep jobs, to care for their families, and to contribute positively to their communities. For people who have been in the criminal legal system, stable housing also decreases recidivism. When we eliminate barriers to housing, we improve neighborhood safety for everyone.

Removing the ability of landlords to deny housing based on a background check poses no risk to landlords. No landlord has ever been held liable for failing to perform a background check. Courts have held that landlords are expected to protect tenants only from reasonably foreseeable harm. And landlords will save costs of doing background checks, since a new State law passed last year prohibits housing providers from charging a prospective tenant more than \$20 for a background check.

However, there is one issue that cannot go unmentioned: the plight of public housing residents. Given Federal and State law, the City has limited ability to mandate changes to the admission policies of public housing residents. Currently, NYCHA rejects all applicants if they have been convicted of a B misdemeanor—the lowest level conviction—in the past two years, with automatic denials for other convictions extending up to six years. NYCHA also evicts residents who are arrested—sometimes before a person has been convicted. While Intro 2047-2020 cannot help NYCHA residents, we cannot let New York City’s largest landlord continue with these racist and inequitable policies. NYCHA can change their policies and it is long past time for them to do so.

#### IV. Conclusion

It is critical for New York City to give people a fair chance to obtain and maintain housing. Intro 2047-2020 is a necessary step because housing is a human right. If you have any questions, you can reach me at [awilkey@jjay.cuny.edu](mailto:awilkey@jjay.cuny.edu).

September 15, 2020

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<sup>8</sup> <https://www.vera.org/downloads/publications/accounting-for-violence.pdf>



## NEIGHBORHOOD DEFENDER SERVICE OF HARLEM

September 15, 2020

**The New York City Council Committee on General Welfare  
Jointly with the Committee on Civil and Human Rights**

Board Chair  
**Matthew Mazur**

Board Members  
**Jonathan Abady**  
**Damaris Hernández**  
**Miriam Gohara**  
**Melody Rollins-Downes**  
**David Sanford**  
**Elinor Tatum**

Executive Director  
**Rick Jones**

Managing Director  
**Alice Fontier**

### **Written Testimony of the Neighborhood Defender Service of Harlem in Relation to Int 2047-2020**

**By Sara Wolkenstorfer, Supervising Attorney, Civil Defense Practice**

The Neighborhood Defender Service of Harlem (“NDS”) is a community-based public defender office that provides high-quality legal services to residents of Harlem and Northern Manhattan. Since 1990, NDS has been working to improve the quality and depth of criminal and civil defense representation for those unable to afford an attorney through holistic, cross-practice representation. Consistent with our expanded approach, NDS’s Civil Defense Practice represents tenants in all matters of housing defense.

Through our criminal defense practice and community intake, the Civil Defense Practice frequently represents individuals at risk of losing, or unable to find, stable housing due to criminal record screening by housing providers. Our clients are rarely, if ever, afforded the opportunity to defend themselves against these discriminatory practices: the stigmatization and prolonged punishment surrounding their conviction histories continue for months, years, and even decades after having served their time.

For example, consider the following: an NDS client, unable to afford a market rate apartment, applies for an affordable housing apartment. The client’s application is denied after a private background check shows two recent convictions. To make matters worse, the criminal record reporting agency misreported the dispositions of each case – both cases actually ended in *non-criminal* violations that should not have come up on a private background check. Since there is no current law protecting individuals with conviction histories from the discriminatory use of background checks by housing providers, the client’s only recourse is to correct the misreporting with the criminal record reporting agency and inform the housing provider once the correction is made. By the time this correction is made, however, it is too late, and the client’s opportunity for stable housing is lost.



## NEIGHBORHOOD DEFENDER SERVICE OF HARLEM

This scenario plays out every single day in Harlem, Manhattan, and every other borough of the City of New York. Individuals, families, and entire communities – largely low-income and/or Black, indigenous, and people of color – face conviction history discrimination and end up in unstable housing or worse, homeless. Lack of stable housing makes it harder for individuals and families to break out of generational poverty, negatively impacts physical and mental health, and often requires families to separate. The classist and racist implications of using background checks to discriminate against individuals with conviction histories are endless.

NDS proudly supports Intro 2047-2020, the Fair Chance for Housing bill, which ensures that all New Yorkers be given a chance to have stable and affordable housing. Eliminating housing providers' use of background checks and prohibiting blanket bans on individuals with conviction histories will strengthen anti-discrimination laws and give individuals with conviction histories the opportunity they were promised upon release – a chance for their conviction to be a part of their history, so that they can create their own future free of discriminatory restraints. NDS believes in affordable housing for all New Yorkers and calls for an end to the discriminatory use of background checks.



**NEIGHBORHOOD DEFENDER SERVICE**  
**OF HARLEM**

**32-42 55<sup>th</sup> Street Realty LLC  
104-22 Astoria Blvd  
East Elmhurst NY 11369  
(718) 706-8500**

September 15, 2020

The New York City Council  
Council Committee on Civil and Human Rights

RE: Intro 2047 - 2020 proposed bill

To Whom It May Concern:

In regard to the above-mentioned proposed bill, 32-42 55<sup>th</sup> Street Realty LLC is firmly against it. 32-42 55<sup>th</sup> Street Realty LLC believes that building owners and realtors should have knowledge of criminal records for the safety of our existing and future tenants. Criminal history obtained through background checks are in the best interest of the community, including tenants and landlords.

Thank you,



Demetrios Varkaris



**TESTIMONY OF:**

**Alexandra Dougherty, Senior Staff Attorney and Policy Counsel  
Civil Justice Practice**

**BROOKLYN DEFENDER SERVICES**

**Presented before**

**The New York City Council  
Committee on Civil and Human Rights  
Jointly with the Committee on General Welfare**

**Oversight Hearing on Rental Assistance and Source of Income Discrimination  
and Introduction of Bills Int 0146-2018, Int 2047-2020, T2019-4051**

**September 15, 2020**

**I. Introduction**

My name is Alexandra Dougherty, and I am a Senior Staff Attorney and Policy Counsel of the Civil Justice Practice at Brooklyn Defender Services (BDS). I want to thank the Committee on Civil and Human Rights and the Committee on General Welfare, and Chairs Mathieu Eugene and Stephen Levin, for inviting us to testify today. I would like to take this opportunity to speak in support of removing barriers to permanent affordable housing for New York City tenants.

Brooklyn Defender Services provides multi-disciplinary and client-centered criminal, family, and immigration defense, as well as civil legal services, social work support and advocacy, for nearly 30,000 clients in Brooklyn every year. BDS' Civil Justice Practice (CJP) aims to reduce the civil collateral consequences for our clients who have had interaction with the criminal, family or immigration legal systems. We also serve our clients with additional civil legal needs; we know that even a minor housing or benefits issue, if unaddressed, can have insurmountable repercussions, especially for our clients who are already dealing with serious problems in other forums.

## II. Proposed Legislation

Given that clients of the Civil Justice Practice are already embroiled in other legal systems, they routinely face multiple barriers to stable and affordable housing. Our clients experience housing instability in a variety of forms: we defend clients from eviction in Housing Court, provide proactive relocation assistance and benefits advocacy, and guide clients through the shelter system. Our affordable housing specialist works with clients who are coming from the shelter system or facing eviction from their current housing to secure stable housing. Through this work we see how our clients are forced to compete over a limited housing pool because of restrictive vouchers. For many of our clients, housing options are even further limited by an old arrest or conviction history. These clients are also ineligible for federally subsidized and public housing—supposedly the housing of last resort.

BDS supports Intro numbers 0146-2018, 2047-2020, and T2019-4051. We applaud the city’s efforts to remove barriers to affordable housing by banning discriminatory background checks and strengthening rental assistance voucher programs. Our colleagues in the Fair Chance for Housing Coalition have made clear how discriminatory background checks perpetuate cycles of homelessness, and we encourage the Council to continue supporting access to stable housing for all New Yorkers.

### **Int. 0146-2018, Int. 2047-2020, and T2019-4051**

Brooklyn Defender Services supports Int 2047-2020, a Fair Chance for Housing law for New York City. An arrest or conviction should not constitute a permanent barrier to stable housing. Yet formerly incarcerated individuals are nearly ten times more likely to experience homelessness than the general public, and in New York City eighty percent of people leaving Rikers directly enter the DHS shelter system. Prohibiting housing discrimination on the basis of an arrest or conviction record is an important step towards guaranteeing equal access to stable housing for all New Yorkers.

Brooklyn Defender Services also supports Int 0146-2018 and T2019-4051. Rental assistance vouchers are a vital resource for New Yorkers experiencing homelessness or at risk of eviction, but continued source of income discrimination and the current voucher rent caps strictly limit the pool of housing available to voucher holders. This limited pool of low-rent housing is already the most competitive, with the lowest vacancy rate in the city. By more fully prohibiting source of income discrimination and raising voucher rent limits, today’s bills will enable more homeless New Yorkers to secure stable housing.

The need for these bills is made even greater by the impending eviction crisis brought by the Covid-19 pandemic. Although vacancy rates are increasing and rents are decreasing city-wide, the opposite is true in neighborhoods hardest hit by the pandemic.<sup>1</sup> These neighborhoods also see the highest rates of eviction filings in the city.<sup>2</sup> The experiences of our clients over the past six months support that data. Clients who are searching for stable housing—either moving out of the

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<sup>1</sup> Nancy Wu, *A Tale of Two NYCs: Neighborhoods Most Burdened by Rent Were Hit Hardest by Covid-19*, Streeteasy, Sept. 10, 2020, at <https://streeteasy.com/blog/covid-19-nyc-rents/>

<sup>2</sup> The Furman Center, *State of New York City’s Housing & Neighborhoods: Eviction Filings*, at <https://furmancenter.org/stateofthecity/view/eviction-filings>

shelter or relocating due to a holdover proceeding—have been universally unsuccessful since March. Most of these clients are voucher-holders, and we have found that the voucher-eligible housing stock has dramatically decreased since March.

One Civil Justice Practice client, Mr. J, has been living in a DHS shelter for over nine months and trying to move into permanent housing with a CityFHEPS voucher. He continued his diligent apartment hunting throughout the pandemic. He was even approved for an apartment in June, but days before his scheduled move date he learned, with no explanation, that the apartment was no longer available. Every time he manages to contact a broker with an available FHEPS-eligible apartment he has arbitrarily lost out to one of the dozens of other hopeful voucher holders competing for the same apartment. Mr. J's experience is exemplary of the way in which our clients are effectively barred from permanent housing.

When housing discrimination, rising rents, and other factors make affordable housing inaccessible, our clients are forced to remain in living situations made unsafe by abusive relationships or building disrepair. One such client, Ms. R, owes a small amount of rental arrears from when she lost employment due to the pandemic. Despite the eviction moratorium still in place, her landlord began threatening to lock her out unless she paid the arrears immediately. Ms. R, who is a Spanish speaker and a noncitizen, was terrified that her landlord would illegally evict her, or worse, physically harm her. We acted quickly to diffuse the situation and assert Ms. R's rights, but ultimately she wants to move to an apartment where she feels safe from retaliation. Removing barriers to housing is vital for clients like Ms. R.

### **III. Recommendations**

BDS enthusiastically supports the council's commitment to removing barriers to housing for justice-involved New Yorkers. With that commitment in mind, we urge the council to consider public housing residents and applicants. While the passage of Int 2047-2020 will provide much needed support for justice-involved New Yorkers hoping to gain access to private housing, the bill does not apply to state or federally funded housing including NYCHA, which officially houses 400,000 tenants, and unofficially is home to up to one million New Yorkers.

While NYCHA tenancy requirements are governed by federal law, NYCHA's own regulations go significantly further than legally required in barring potential tenants with conviction records and in evicting current tenants who have any contact with the criminal justice system. At BDS, we represent clients every year who are denied by NYCHA after years on the waiting list or face eviction from their longtime NYCHA homes because of an old conviction or an arrest, even one that does not result in a criminal conviction. Amidst Brooklyn's affordable housing crisis and rampant gentrification, these clients have nowhere else to go.

We ask the council to consider Int 2047-2020 as a necessary starting point in our goal to ensure truly equal access to stable housing. Going forward, it is vital that we work towards returning public housing to its intended purpose of providing safe stable housing for the most vulnerable New Yorkers.

#### **IV. Conclusion**

BDS supports today's bills and the city's ongoing efforts to remove barriers to stable housing for all New Yorkers. With our partners in the Fair Chance for Housing coalition, we will continue to fight to remove remaining barriers facing justice-involved New Yorkers. Thank you for considering my comments. If you have any questions, please feel free to reach out to me at 718-254-0700 ext. 141 or [adougherty@bds.org](mailto:adougherty@bds.org).



Letter in Support of Int. No. 2047-2020

Date: 09/17/2020

NYC Council Committee on Civil and Human Rights:

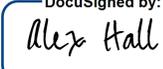
As the Housing Associate at the Bard Prison Initiative (BPI), and I am writing this letter in support of Int. No. 2047-2020, a Local Law to amend the administrative code of the city of New York, in relation to prohibiting housing discrimination on the basis of arrest or criminal record.

I assist BPI students and alumni secure housing as they return to their communities. In my work, I am constantly confronted with the discrimination Int. 2047-2020 would eliminate. Housing is difficult enough in NYC without this additional barrier for justice impacted people. Financial, credit, and tax histories pose challenges for so many prospective tenants, but are amplified for formerly incarcerated people who have not had the ability to participate in these systems. When you add criminal backgrounds to this problem, it's nearly insurmountable. And the problem is not only with private landlords, criminal background checks also preclude entrance to NYCHA and other affordable housing projects that could act as an effective housing resource for men and women returning to NYC.

Many people assume incorrectly that the root of the housing challenges for formerly incarcerated people stem from a lack of employment. To the contrary, over 85% of BPI alumni obtain substantive employment within 60 days of returning to their communities. They gain employment in diverse industries across the public and private sectors, including recycling, the NYC Department of Health, non-profits, and the NYC Board of Education. Yet even BPI alumni face extreme challenges obtaining permanent housing because of discrimination on the basis of justice involvement.

We write in support of this bill because we believe that housing is a fundamental human right. It is as important to the success of our students and alumni community as nearly any other variable during their transitions out of prison. We believe this bill would be a powerful tool in helping us successfully support reentry.

Sincerely,

DocuSigned by:  
  
B5FF519086AE4B9...  
Alex Hall

Housing Associate