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Title: Resolution calling on the New York State Legislature to introduce and pass, and the Governor to sign, legislation: (i) requiring the Department of Homeless Services and sponsoring agencies seeking to operate cluster sites to be subjected to the notification requirements under the Padavan Law; and (ii) creating standards landlords must meet before cluster site projects are awarded and before entering into contracts.

Sponsors: G. Oliver Koppell, Gale A. Brewer, Leroy G. Comrie, Jr., Lewis A. Fidler, Helen D. Foster, Letitia James, Albert Vann

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Res. No. 2259

Resolution calling on the New York State Legislature to introduce and pass, and the Governor to sign, legislation: (i) requiring the Department of Homeless Services and sponsoring agencies seeking to operate cluster sites to be subjected to the notification requirements under the Padavan Law; and (ii) creating standards landlords must meet before cluster site projects are awarded and before entering into contracts.

By Council Members Koppell, Brewer, Comrie, Fidler, Foster, James and Vann

Whereas, Cluster sites are temporary transitional housing units of shelter for families located within apartment buildings where lease holding tenants may also be renting out apartments; and

Whereas, Various communities throughout the Bronx and the Brooklyn have voiced concerns over the high number of facilities for the homeless in their neighborhoods; and

Whereas, Under section 41.34 of the Mental Hygiene Law, commonly referred to as the Padavan Law, site selection of community residential facilities requires advance notification to affected community boards before such residential facilities are licensed; and

Whereas, Community residential facilities are defined in the Padavan Law as "Community residential facility for the disabled," which means a supportive living facility with four to fourteen residents, or a supervised living facility subject to licensure by the office of mental health or the office of mental retardation and developmental disabilities, which provides a residence for up to fourteen mentally disabled persons, including residential treatment facilities for children and youth; and

Whereas, A "sponsoring agency" is defined in the Padavan Law as an agency or unit of government, a voluntary agency or any other person or organization which intends to establish or operate a community residential facility for the disabled; and

Whereas, The Padavan Law allows community boards forty (40) days to either affirm a site for a community residential facility, recommend alternative sites, or object to the establishment to the facility; and

Whereas, While cluster sites are not required to obtain licenses in order to operate, good reasons exist why such sites ought to be subjected to the Padavan Law; and

Whereas, For example, the fact that homeless individuals are residing at least temporarily in cluster site apartments among lease holding tenants makes it important for proper notice to be provided to the community before the city or DHS enters into a cluster site program with the landlord; and

Whereas, According to the September 2009 Monthly Report issued by DHS on shelter census numbers, there is a census of 17 in the smallest cluster site location and at most 362 in the largest location; and

Whereas, Considering the fact that the number of people in these residences is above and at times significantly beyond the Padavan Law threshold of fourteen, these cluster site facilities should be subjected to the same rules stipulated by the above mentioned law; and

Whereas, The Padavan Law is efficacious, insofar as communities and neighborhoods affected are given notification and can provide valuable input into decision-making concerning the sites of residential facilities; and

Whereas, In order to avoid an oversaturation of and a significant alteration to, as mentioned in the

Padavan Law, “the nature and character of the areas within the municipality” it is imperative that DHS and sponsoring agencies be required to comply with its notification requirements; and

Whereas, In addition to complying with notification laws, landlords seeking contracts to operate transitional housing such as cluster sites with DHS ought not have any outstanding class C violations written by Code Enforcement inspectors of the Department of Housing Preservation and Development (HPD); and

Whereas, HPD violations are classified as Class A - non-hazardous, Class B - hazardous and Class C - immediately hazardous; and

Whereas, Class C violations are the most severe housing violations and must be corrected within 24 hours; and

Whereas, Class C violations include inoperable sprinklers and the lack of heat and hot water; and

Whereas, When landlords do not correct class C violations HPD will sometimes order emergency repairs and then bill the owner for these repairs; and

Whereas, Generally, when a Class C violation is written, if, in the discretion of the inspector, the condition is such that an immediately hazardous or harmful condition exists, such as an inoperable sprinkler, or a leaning parapet wall, then the inspector will go one step further and write up a form for Emergency Repair upon his or her return to the office; and

Whereas, Upon receipt of the form, Emergency Repair personnel will then send notification to the owner that repairs must be made within 24 hours or the City will do the repair work; and

Whereas, In addition to both notifying the communities regarding cluster site locations and ensuring that landlords have no outstanding class C violations, DHS must also ensure that the landlords have not harassed tenants; and

Whereas, In subchapter 1 of Chapter 2 of Title 27 of the City’s Administrative Code, also known as the Housing Maintenance Code, paragraph (48) of subdivision (a) of section 27-2004 defines “Harassment” by an owner as “any act or omission by or on behalf of an owner that causes or is intended to cause a lawful occupant

to vacate an apartment unit or forgo any occupancy rights;" and

Whereas, While the City must provide for homeless families, it should first attempt to provide services to families in locations that are traditional shelters because traditional shelters must undergo the scrutiny of community "fair share" assessments through the New York City Charter; and

Whereas, Additionally, if cluster sites are the only other location in which the City is able to house homeless families because shelters are at capacity, the units should be located in buildings that have safe conditions, and communities should have the opportunity to participate in the process of site selection; and

Whereas, The state should provide the protections afforded to communities under the Padavan Law as it relates to cluster sites because cluster sites are temporary sleeping accommodations for individuals defined as homeless who may also receive social services onsite;

Whereas, Cluster sites should be subject to the Padavan Law, and before entering into a cluster site contract or an arrangement with landlords, DHS should ensure that landlords neither harass tenants in order to open apartments for the creation of cluster sites nor have outstanding class C violations; now, therefore, be it Resolved, That the Council of the City of New York calls on the New York State Legislature to introduce and pass, and the Governor to sign, legislation: (i) requiring the Department of Homeless Services and sponsoring agencies seeking to operate cluster sites to be subjected to the notification requirements under the Padavan Law; and (ii) creating standards landlords must meet before cluster site projects are awarded and before entering into contracts.

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