



Legislation Text

File #: Res 0902-2003, **Version:** *

Res. No. 902

Resolution calling upon the City to work to enter into a balanced settlement in Callahan v. Carey that acknowledges its obligation to provide safe shelter to homeless people and to discontinue its effort to gain judicial approval to eject homeless adults to city streets for a minimum of 30 days due to non-compliance with assessments, social service plans, housing search requirements, facility rules, or public assistance requirements.

By Council Members DeBlasio, Barron, Boyland, Brewer, Comrie, Dilan, Gerson, Gioia, Gonzalez, Jackson, Lopez, Martinez, Monserrate, Perkins, Quinn, Reed, Reyna, Rivera, Sanders, Seabrook, Serrano, Stewart, Yassky, Baez, Clarke, Felder, Foster, Sears and Espada

Whereas, for more than two decades the City of New York has agreed, pursuant to a 1981 consent order in Callahan v. Carey, to provide emergency shelter to every homeless man or woman who either (1) "meets the need standard" to qualify for public assistance, or (2) is in need of shelter "by reason of physical, mental or social dysfunction;" and

Whereas, the protections included in the Callahan v. Carey consent order have, by providing for decent emergency shelter for the homeless, successfully reduced the number of homeless individuals sleeping on the streets and in New York City communities; and

Whereas, the protections included in the Callahan v. Carey consent order have, according to City officials, successfully reduced the number of cases of fatal and non-fatal hypothermia among homeless people; and

Whereas, the protections included in the Callahan v. Carey consent order have formed the foundation for New York City's nationally acclaimed system of homeless services; and

Whereas, in 1995 New York State's Office of Temporary and Disability Assistance issued an administrative rule requiring localities to terminate emergency shelter for homeless people for a minimum of 30 days for any of the following reasons: (1) failure to cooperate and complete an assessment; (2) failure to develop and comply with a service plan developed by the shelter or the City (one instance of non-compliance results in ejection from shelter, two instances of non-compliance result in ejection from shelter for 30 days or until compliance, whichever is longer); (3) non-compliance with housing search requirements; (4) non-compliance with shelter rules involving health and safety; or (5) non-compliance with public assistance requirements; and

Whereas, during the administration of former Mayor Giuliani, the City attempted to implement this State regulation for homeless men and women, but was prohibited from doing so by a February 18, 2000, State Supreme Court ruling in Callahan v. Carey that found that the regulation, which mandates loss of shelter, was inconsistent with the protections provided by the consent order for homeless individuals, including people with physical, mental and social dysfunctions; and

Whereas, the February 18, 2000, court ruling in Callahan v. Carey cited the risk of "bureaucratic error" resulting in loss of shelter for vulnerable homeless individuals, and stated that "the simple bureaucratic error which might send an individual out into the street, because he or she was unable to understand or cooperate with these requirements, might be the error which results in that individual's death by exposure, death by violence, or death by sheer neglect. The risk is simply too great to take"; and

Whereas, the February 18, 2000, court ruling in Callahan v. Carey concluded, "If [the City and State] defendants sincerely want to create a system in which our homeless citizens can rejoin, and contribute to society, as is evident, they should do so by means which do not endanger those very persons. The court is confident that such a goal can be accomplished. This was, in fact, the goal of the Consent Decree, and still is"; and

Whereas, the City again seeks to implement the State regulation requiring loss of shelter for homeless individuals, and has pursued an appeal of the February 18, 2000, court ruling in Callahan v. Carey; and

Whereas, dozens of homeless service providers, community groups, elected officials, and religious clergy oppose the City plan to implement the State regulation, including the association of not-for-profit shelter providers who operate the majority of shelter beds in the municipal shelter system; and

Whereas, implementation of this State regulation could potentially result in more homeless individuals sleeping on the streets and in New York City communities; and

Whereas, the State regulation could potentially increase the number of cases of fatal and non-fatal hypothermia among the homeless, and increase the number of deaths and injuries among homeless individuals forced to sleep outdoors; and

Whereas, the State regulation could potentially result in loss of shelter for homeless individuals living with physical, mental, or social dysfunctions; and

Whereas, it is in the interest of the City of New York to reduce homelessness on the streets and in other public spaces, and to protect homeless New Yorkers from the risk of injury or death which results from sleeping unsheltered in public spaces;

Whereas, the City and advocates for the homeless should be applauded for their successful efforts to balance the need for client responsibility against the critical need to provide safe shelter for homeless New Yorkers in settling McCain v. Bloomberg earlier this year; and

Whereas, as with homeless families, it is critical to provide a safe place for adults who are forced to use the City's shelter system;

Whereas, the parties to Callahan v. Carey should be able to resolve the case through creative means like those used to reach a balanced settlement in McCain v. Bloomberg; now, therefore, be it

Resolved, that the Council of the City of New York calls upon the City to work to enter into a balanced settlement in Callahan v. Carey that acknowledges its obligation to provide safe shelter to homeless people and to discontinue its effort to gain judicial approval to eject homeless

adults to city streets for a minimum of 30 days due to non-compliance with assessments, social service plans, housing search requirements, facility rules, or public assistance requirements.

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