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The Critical Need for Legal Services for Mental Health Consumers

**Testimony by
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The Council of the City of New York
Committee on Mental Health, Mental Retardation,
Alcoholism, Drug Abuse & Disability Services

Mental Health Preliminary Budget Hearing
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My name is Jeanette Zelhof and I am the Managing Attorney of MFY Legal Services' Mental Health Law Project. I am here today with our Executive Director, Lynn Kelly, and with two teams of MFY attorneys and their clients, both of whom are now MFY Board members. For more than 20 years MFY's Mental Health Law Project has provided direct legal representation to consumers of mental health services throughout New York City. We provide full representation and conduct outreach and training to thousands annually, in addition to training city hospital and outpatient case workers throughout the five boroughs of New York City. Our most recent class action litigation against the MTA to make the Half-Fare benefit accessible to SSI recipients with psychiatric disabilities has benefited thousands.

Our Adult Home Advocacy Project is the first and only project to focus on the legal needs of adult home residents for over a decade --protecting civil rights, exposing abuse and neglect, and litigating cases to vindicate residents' rights. It was MFY's groundbreaking organizing and litigation that brought the plight of adult home residents to the public's attention.

What MFY Does

Sometimes it is hard to understand what lawyers do and what lawyers accomplish. Here are examples that will illustrate the importance of our work:

A resident of a notorious Queens adult home was hospitalized at a local hospital for a temporary lapse in his mental health. When it came time for him to be discharged, the adult home refused to let him return. The hospital tried to negotiate with the home for one month, but the home adamantly refused to take him back. His wife was desperate to get him home. She finally contacted MFY – knowing of our work through the outreach and training we do for adult home residents. We immediately interviewed the client and hospital staff, drafted papers, and did a full trial in court. At the close of trial, the judge issued an order restoring our client to his adult home. And what was the cost of this in human terms? Enormous. Our client agonized for the months he unnecessarily languished in the hospital; his wife, with whom he lives at the adult home was frantic thinking he would not be able to return.

MFY Saves Money

And the cost to Medicaid? Approximately \$700 per day while in the hospital. For the 6 weeks of his unnecessary hospitalization we estimate a cost of at least \$32,000 before MFY got involved. We estimate countless thousands more if our client had no lawyer and remained in the hospital with nowhere to go.

MFY Enforces Civil Rights

Some people think that civil rights cases are more symbolic than tangible. I'd like to illustrate the many positive ramifications of such cases. MFY represented the 17 mentally disabled men subjected to unnecessary prostate surgery while living in an adult home in Queens. We brought a civil rights action alleging various causes of action and, after much litigation, we recently reached a partial settlement in the amount of \$432,000 for *each* of the men, with the case going to trial in the Fall against the remaining defendants. The home is now out of business -- as is the operator - - and we expect that such gross violations of residents' rights, not to mention Medicaid fraud, will not happen in an adult home again. That's what civil rights cases accomplish.

MFY Looks for Larger Impact Thus Improving the Lives of Many New Yorkers and Saving More Money:

Most recently we filed, along with several other legal groups, a challenge to large segregated adult homes under the Americans with Disabilities Act (ADA) pursuant to the United States' Supreme Court's landmark *Olmstead* decision. The Supreme Court held that the ADA requires the states to provide mental health treatment in the most integrated setting appropriate. Large adult homes housing hundreds of psychiatrically disabled individuals together under one roof does not meet this standard. The costs to individuals living in the homes are high; and the costs to the system are high, as well -- unnecessary medical and psychiatric services have been documented as causing hundreds of thousands of dollars annually in needless Medicaid costs.

MFY is also working with Community Access and GEEL Community Services on what we hope will have a huge impact on the supported housing model. Both Community Access and Geel participate in the State Office of Mental Health (OMH) supported housing program. OMH provides funding to agencies such as these who, in turn, use the funding to provide support services and rental subsidies to mental health consumers. Providers find the apartments, but the landlords have, for the most part, been unwilling to put the lease in the name of the individual tenant, preferring instead out the lease in the name of the agency.

Having an agency listed as the tenant on a lease, however, has a negative impact on the person actually living in the apartment who does not get right to a lease renewal. Thus, each time a lease expires, the landlord can evict the program without cause. Over the past several years, MFY has represented countless groups of supported housing tenants in these no-cause evictions, and we are now challenging the practice in federal court, and hope to obtain a decision that will benefit supported housing programs and tenants citywide.

In closing, I ask "Who will provide this legal representation when funding is cut? Who understands the key legal issues from the ground, and who has the skills to litigate these important matters?" For MFY, these cuts to our Mental Health Law Project in the amount of \$159,000 in addition to a recent State cut to our Adult Home Advocacy Project in the amount of \$105,000, total more than a *quarter of a million dollars*. Loss of these funds translates into loss of staff lines and fewer clients served. We can't afford to continue the important work we do without these funds.