



## **Restructuring the Delivery of Mental Hygiene Services in New York State**

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New York State Assembly Sanding Committee on  
Mental Health, Mental Retardation and Developmental Disabilities

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My name is Jeanette Zelhof. I am the Deputy Director of MFY Legal Services, Inc. and Managing Attorney of MFY Legal Services' Mental Health Law and Adult Home Advocacy Projects. MFY's Mental Health Law Project has been funded since 1983 by the New York City Department of Health and Mental Hygiene to address the civil legal needs of mental health consumers living in private apartments, single room occupancy hotels (SROs), supportive housing, community residences and adult homes. The Department recognized that even with the latest medications and therapy, without safe, secure and affordable housing, and a steady income stream, a mental health consumer could end up homeless, hospitalized or forced into a shelter. This thinking is similar to the "three-legged stool" model cited in the Report of the Mental Hygiene Task Force to Assemblyman Peter Rivera which recognizes mental health services, jobs *and* housing as the three legs critical to recovery.

### **MFY's Work on behalf of Mental Health Consumers**

MFY'S Mental Health Law Project has represented thousands of low-income disabled individuals in cases involving public benefits and housing.

MFY's Adult Home Advocacy Project, with additional funding from the New York State Commission on Quality of Care and private foundations, including The New York Community Trust and the van Ameringen Foundation, has represented thousands of adult home residents in a variety of legal matters involving their housing conditions and rights.

My comments today are therefore based on twenty years of grassroots advocacy on behalf of mental health consumers living in a variety of types of housing throughout New York City.

### **How Mental Health Consumers on SSI Currently Afford to Pay Their Rent**

For this hearing we took a sample of approximately 75 of MFY's presently active cases in which MFY represents consumers of mental health services. (I will address MFY's adult home clients as a separate group.) We looked at the type of housing in which the person lives; the amount of rent the individual pays; and whether there is a rental subsidy. The data indicates the following:

- ◆ 20% live in public housing;
- ◆ 12% receive federal Section 8 subsidies (either project-based or vouchers);

- ◆ 12% receive State Office of Mental Health subsidies (this program is akin to the Section 8 program in that the rent is subsidized so that the tenant pays only 30% of his/her income);
- ◆ 9% live in single room occupancy hotels (SROs), many of which were created under the New York/New York Agreements;
- ◆ 8% receive other subsidies (Jiggetts, SCRIE, e.g.)
- ◆ 39% live in apartments without any subsidy, and these clients must spend approximately 61% of their monthly SSI income on rent.

These figures do not include our clients who live in the adult home system.

### **Does the Current System of Residential Services in New York State Adequately Meet the Needs of Persons with Mental Disabilities?**

The short answer to this question is “no.”

- ◆ There is insufficient federally-subsidized public housing; currently the waiting list in New York City is estimated to be 10 years or more.
- ◆ There are insufficient federal Section 8 vouchers; currently, there is a freeze on Section 8 vouchers.
- ◆ There is insufficient amount of State Office of Mental Health (OMH) supported housing subsidies; and there is no waiting list for those interested in moving to community mental health housing placements, and willing to wait their turn to access that housing.

The cost of private housing is unaffordable for those on fixed incomes such as SSI or SSD benefits. The solution is twofold. We must *create* more affordable supportive housing through the renewal of the New York/New York Agreement (NY/NY Agreement) and other initiatives. And, while such housing is created, we must *preserve* existing affordable housing by expanding OMH subsidies for supported housing, allowing mental health consumers in apartments not connected to a supported housing program to enter that system; creating a subsidy similar to the City’s Senior Citizen Rent Increase Exemption (SCRIE) program but targeted at mental health consumers; and providing additional funding for eviction prevention legal services for those consumers already in affordable housing but at risk of losing that housing. These recommendations are critical to the effectiveness of the delivery of mental hygiene services in New York. Without decent affordable supportive housing, the 3-legged stool collapses.

### **More affordable housing must be created.**

I am sure this Committee is familiar with the seminal 2002 University of Pennsylvania study “Public Service Reductions Associated with Placement of Homeless Persons with Severe Mental Illness in Supportive Housing,” by Dennis P. Culhane, Stephen Metraux, and Trevor Hadley, wherein the cost effectiveness of supportive housing is studied. The Corporation for Supportive Housing, as noted in the Mental Hygiene Task Force Report, has made similar arguments to expand supportive housing apartments through various funding initiatives. And I trust that housing development experts will be speaking today about the importance of renewing the NY/NY Agreement between the City and State. These experts will advocate the wisdom of long-range planning, and share the success of prior NY/NY Agreements. Two key points must be reiterated: one, that long-term cost savings result from developing supportive housing, and two, that “acquiring the resources for supportive housing will require local, state, and federal leadership” to provide financial incentives. We applaud this

Committee for recognizing the problem and calling these hearings, and urge further leadership to do what is necessary to make monies available to effectuate this goal.

In the meantime, I will address my comments to the importance of preserving the affordable housing in which mental health consumers currently live, but who are at risk of losing that housing. Unless housing is preserved, we will be in a never-ending cycle of short supply and much demand. For as each mental health consumer gets priced out of or evicted from the private housing market, one more unit of supportive housing is unnecessarily required where another unit of housing could be saved.

## **Recommendations to Preserve Housing.**

### **(1) Expand OMH Subsidies for Supported Housing**

OMH's supported housing model is a highly effective program. OMH contracts with not-for-profit agencies (NFP) to support an individual residing in a private apartment. OMH grants approximately \$11,000 per year per person and the NFP uses this subsidy to cover the rent above the person's share of 30% of his/her income, and to provide services such as apartment set-up costs and case management services, where necessary and appropriate, and for agency administration.

This model allows individuals to live in their own apartments, to develop and maintain living skills, to access support as needed, to live in privacy and dignity, and to support themselves with the balance of their SSI funds after paying their 30% contribution to rent.

The State must expand this cost effective and highly successful program to enable mental health consumers to live in the community by providing more funding to housing providers who administer these programs.

### **(2) Allow mental health consumers in apartments not connected to a supported housing program to obtain the subsidy.**

In addition, the State should consider a method by which mental health consumers, who are already living in private apartments in the community and whose rental costs are rising, can enter the supported housing system and receive the subsidy to enable them to preserve their apartments.

As the system is currently set up, the subsidy goes through the NFP and is paid by the NFP directly to the LL. However, when an individual is losing his/her apartment because of inability to pay the rent, that individual can neither access the subsidy directly nor apply to become part of the program. It is imperative that such a system be created to preserve the apartments in which consumers are already living and for which they already have leases.

Such a system will also obviate the legal impediments to perpetual leasing of such apartments by NFP housing providers, an issue that MFY is currently challenging in federal court under the Fair Housing Act which forbids discrimination against the disabled. The legal issue is that under New York's rent regulation system, a corporation cannot renew a lease by right. Where agencies are sole leaseholders on behalf of the supported housing tenant, we have seen regular displacement of supported housing tenants – eliminating many of the goals of the program to create permanency and security and causing great costs to the NFP providers who must seek new housing for their tenants when leases run out.

If the state created a vehicle for tenants who are already leaseholders to enter the supported housing system and access the subsidy, that tenant would gain the benefit of the OMH subsidy and the benefit of tenant protection laws, thereby relieving the NFP and the consumer of cyclic dislocation upon the expiration of the lease and preserving affordable housing for mental health consumers.

**(3) Create a subsidy similar to the City’s Senior Citizen Rent Increase Exemption (SCRIE) program but targeted at mental health consumers.**

The SCRIE program is a successful model that has enabled low-income seniors to remain in their apartments and to age in place with dignity. Once a senior applies, the program freezes the rent for those age 62 or older whose income is under \$20,000 if they are paying more than one-third of their income. New York City covers the balance of the rent through a tax credit to the landlord, as well as subsequent rental increases. This ensures that the senior citizen can continue to afford the apartment despite annual rental increases that have historically exceeded annual COLA increases to Social Security and SSI recipients.

A similar program for SSI recipients (and SSD recipients at a level of income to be determined) should be instituted. Tax credits could be given to landlords to pay for the balance of rental payments above, for example, a 30% contribution of income from the tenant. Cost of living increases to disability benefits are not keeping up with rental and other living expenses. This program would preserve affordable community based housing, and relieve the supportive housing system from yet more demand.

**(4) Provide additional funding for legal services to protect those consumers already in affordable housing but at risk of losing that housing.**

In the frenzied housing market in New York City, where landlords stand to gain hundreds of thousands of dollars by evicting one tenant and gaining possession of the apartment for rehabilitation and increased rent outside of the regulatory framework, we have seen increased efforts to evict low-income and disabled tenants in increasingly aggressive and lengthy litigations. Whereas a decade ago, a landlord in an eviction case would be happy to sign a stipulation working out a deal with the tenant to pay back rent or working out a plan with the tenant to remedy the nuisance, the endgame now is to gain possession of the apartment -- at any cost.

Tenants cannot successfully represent themselves in these proceedings. MFY has twenty years of experience in representing mental health consumers in crisis, and preserving the tenancies of the clients we are able to represent. But MFY is unable to meet the enormous demand for representation of disabled tenants in housing court. More funds must be allocated for representation in housing court to preserve apartments and private SRO rooms in which mental health consumers currently live, and relieve the pressure on the supportive housing market that becomes the default when consumers lose their private apartments.

**The Dilemma of Adult Home Residents**

Another group of MFY’s constituents are disabled adult home residents. As residents of an adult home, they are statutorily entitled to enhanced Level-II congregate care SSI benefits of \$999 per month. In addition, as recent reports of the New York State Commission on Quality of Care for the Disabled show, hundreds of thousands of dollars of Medicaid costs are spent on adult home residents who, in some instances, do not want or need the services that are facilitated by the operator.

We recommend that adult home residents be able to take their Level II benefits and move into community settings as one solution to the adult home problem which will not cost the State any more than it is currently spending. This is consistent with the Centers for Medicare and Medicaid Services position that supports the principle that “money follows the person,” where funds are attached to an individual to obtain the most appropriate setting with the most appropriate services.

## **Conclusion**

Immediate action is needed to develop new affordable supportive housing and to preserve the housing that already exists.

The current housing market is hostile to mental health consumers who are generally of low-income and who suffer from the stigma of being disabled. Private landlords are doing whatever they can to evict tenants in affordable housing so the landlord can deregulate apartments. Disability benefits barely keep up with rent increases in regulated apartments, and do not enable recipients to meet the costs of the private housing sector. OMH housing simply does not meet the large demand, and warehousing of mental health consumers in adult homes is not an alternative. We hope this Committee will take these recommendations to “create and preserve” seriously.