



New York City Council Subcommittee on Public Housing and  
Committee on Fire and Criminal Justice Services

**Oversight: NYCHA's Administrative Hearing  
Process and Judicial Proceedings**

Testimony by  
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My name is Runa Rajagopal. I am a staff attorney with MFY Legal Services, Inc. I work in the Mental Health Law Project, which has been funded by the New York City Department of Health and Mental Hygiene since 1983 to address the civil legal needs of disabled mental health consumers living in New York City.

The Mental Health Law Project is a general practice project in which we advise and represent individuals in various substantive issue areas - including public benefits, consumer rights, family law and social security. However, the greatest need for legal assistance, and a priority issue for our project and organization, has been and continues to be related to eviction prevention and preservation of affordable housing.

### **The Mentally Ill Are Particularly Susceptible to Homelessness**

The connection between mental illness and homelessness is well documented. According to the Coalition for the Homeless, approximately 75% of all homeless individuals sleeping on the streets in New York City suffer from chronic mental illness. They also estimate that on any given day, between 40 and 50 percent of all single adults residing in the municipal shelter system suffer from chronic mental illness. This alarming statistic combined with the reality of increasing poverty and the shrinking affordable housing stock in New York City make it imperative that those poor, mentally disabled individuals fortunate enough to have qualified for and secured low income housing be able to maintain their homes.

My comments today come from this perspective, and are further based on my experience as an attorney and advocate of disabled mental health consumers living in public housing throughout New York City.

### **The Administrative Hearing Process is in Need of Reform**

Our project is regularly contacted by mental health consumers who reside in public housing and are seeking representation or legal advice related to administrative hearings. The charges vary from undesirable conduct to chronic rent delinquency, from alleged unauthorized occupants to general breach of rules and regulations. However, no matter what the charges may be, the scene at 250 Broadway remains the same-- unrepresented tenants who often are not even aware of why the termination of his/her tenancy is being sought, who are unaware of their rights and who nervously wait for hours to face the Housing Authority's lawyers, a meeting which, if the tenant is lucky, results in the signing of a blanket two year stipulation of settlement that prohibits the tenant from any and all conduct that may be deemed a breach of NYCHA's rules and regulations. These stipulations are unduly harsh, disproportionate to the offense, and cannot be subsequently modified.

What I would like to focus on today, however, is the process by which a tenant is assessed and recommended for termination of tenancy. NYCHA, in its Management Manual and General Management Directives, currently has policies and procedures in place that, in theory, ensure broad protections for tenants and create an affirmative duty by the Housing Authority to attempt to resolve problems prior to a situation necessitating termination. This is especially true when an individual is mentally disabled and the individual's disability may prevent the tenant from following certain rules or regulations or may require additional education, mediation or services that help the tenant to understand his or her responsibilities in Public Housing.

However, as a practice, NYCHA rarely follows its own policies and procedures and tenancies are often arbitrarily recommended for termination without any effort to resolve issues at the Project level.

### **Housing Managers Routinely Fail to Meet Their Duties and Responsibilities as Set Forth in the Housing Authority's Management Manual**

NYCHA's Management Manual, clearly provides that "the Authority's primary function is to house families." NYCHA Management Manual, Chapter VII, Appendix B, V. p. 9. As such, a termination of tenancy proceeding should be an action of last resort.

The NYCHA Management Manual sets forth detailed policies and procedures before contemplating termination and charges the Housing Manager of each project with the responsibility of "prevention of the development of conditions which might lead to termination of tenancy." NYCHA Management Manual, Chapter VII, II, A., p. 2. Accordingly, it is the Housing Manager's job to "acquaint" the tenant with his or her responsibilities where it appears that the tenant is not fully aware of them and as a result, is jeopardizing his/her tenancy. NYCHA Management Manual, Chapter VII, II, A., p. 2. Additionally, when there is a situation that involves the tenant's behavior or a member of the tenant's family, the Housing Manager must make attempts, "through discussions and referrals to social agencies, to correct the conditions *before they reach a stage where there is no alternative but termination proceedings.*" See NYCHA Management Manual, Chapter VII, II, A., p. 2 (emphasis added).

General Management Directive (GM) 3627 expounds upon the Housing Manager and other NYCHA employees' obligations to tenants who have issues that appear to need additional services. It sets up the protocol for social service referrals to the NYCHA social service division. In illustrating types of referrals that can be made, the directive specifically refers to problems associated with mentally incapacitated persons and other vulnerable populations, such as the elderly and domestic violence victims.

The Housing Manager's specific responsibilities include tenant education and orientation, early recognition of problem situations, expeditious follow-up and investigation of such situations, making referrals for specialized assistance, as well as written warnings in addition to discussions, where corrective action is feasible. When termination is inevitable, the Housing Manager must process termination recommendations with "complete documentation of all actions taken. This will include written substantiation or reasons for action taken, records of interviews, approvals, record of tenant's rebuttal and filing copies of all notices, legal or otherwise, served on tenant." See NYCHA Management Manual, Chapter VII, Sec. II, A.7, p. 2.

Although the role and responsibility of the Housing Manager is specifically set forth in the Management Manual, and although the Management Manual clearly indicates that there must be

strict compliance with these policies, Housing Managers rarely investigate or make efforts to resolve situations prior to recommending termination.

## **CASE EXAMPLES**

### ***Tenants Are Often Not Interviewed and Facts Are Not Investigated PRIOR to Termination Being Recommended***

Mr. W, living in Brooklyn, is a 46 year old, mentally disabled, deaf mute. He has lived in public housing for his entire life. NYCHA is currently in the process of terminating his tenancy. The charges initially rested solely on the allegation that an unauthorized occupant lived in his apartment.

The reality of Mr. W's situation is that his nephew, one of few people in his family who knows sign language, goes to Mr. W's apartment to help his deaf uncle but maintains a separate residence. Whenever NYCHA needs to communicate with Mr. W, the Management Office contacts Mr. W's nephew. However, believing the nephew was living with Mr. W without permission, Mr. W's file was forwarded for termination without any attempts to investigate or resolve the situation.

Neither Mr. W nor his nephew was ever called into his Management Office to address this allegation. In fact, Mr. W never received any notice that his tenancy was in jeopardy until he received a notice that because he had missed his appointment at 250 Broadway, he had been defaulted and his tenancy would be terminated. Upon notice that his tenancy was being terminated, Mr. W requested that his case be reopened, after which time he went to his Management Office to resolve the issue.

In attempting to communicate with the Management Office, Mr. W got very frustrated at the Office's inability to understand or communicate with him. Mr. W only got himself in more trouble by taking the trip to the NYCHA Management Office. The charges against him have now been amended to include non-desirable conduct, specifically in that he directed abusive or threatening remarks to a NYCHA employee when he went to the Management Office (this is despite the fact that Mr. W cannot speak). Mr. W now waits to defend against these allegations at a termination of tenancy administrative proceeding.

### ***Social Services Referrals Are Not Made Where Necessary or Appropriate to Resolve Problems***

Mr. R is mentally disabled with Bipolar Disorder, is 57 years old and lives in Manhattan. He has lived in Public Housing for 20 years. Mr. R's disability is well documented in his tenant file and the Management Office is aware of his specific diagnosis. His file was forwarded recently for chronic late payment of rent.

The reality of Mr. R's situation was that although he has always paid his rent, for several months in 2006, he paid his rent after the 5<sup>th</sup> day of the month. But because Mr. R had previously signed a 5 year probationary stipulation, despite the rent reaching NYCHA during the first week of the month, it was still technically late, and thus, considered a breach of probation. Mr. R's tenancy file was thus automatically forwarded for termination.

If NYCHA had investigated his case, the Management Office would have found that although Mr. R has the financial ability to pay his rent, sometimes Mr. R has trouble handling his finances and the stress related to these responsibilities often exacerbates the symptoms related to his mental illness.

Although payment of rent is made, it takes Mr. R several days to complete tasks related to handling his bills.

Mr. R's tenant file was forwarded for termination in mid 2007, after which time Mr. R secured legal representation. Since securing representation, a social services referral (pursuant to GM-3627) was made by his attorney and after investigation, NYCHA's Social Worker found that Mr. R's "late" payments were paid after the 5<sup>th</sup> day of the month because he only received his Supplemental Security Income check on the third of each month. She also found that payments were made regularly each month and that they tended to be received only a couple of days after the 5<sup>th</sup> of each month.

The Social Worker also found that Mr. R had independently connected with additional mental health services and now receives help attending to his monthly bills and has counseled Mr. R about his other payment options (using the "pay-o-matic" to secure immediate payments.) NYCHA's Social Worker intends to testify that termination should not have been recommended in this situation.

In this case, proper investigation and a social services referral prior to the recommendation for termination would have clarified or resolved the perceived problem. However, Mr. R's Housing Manager failed to do any of these things. Now Mr. R now anxiously awaits a hearing date to defend against the allegations.

### ***Are You in Management's Favor? How Files Are Arbitrarily Forwarded For Termination***

Ms. A is a 46 year old, mentally disabled individual with two minor children who reside with her. She has lived in public housing for over ten years and until recently, has had an unblemished tenancy. Ms. A's diagnoses are related to anxiety disorder, specifically exhibiting anger when she gets anxious or feels attacked. This has been well documented in her NYCHA tenant file and the Management Office is aware of her specific diagnoses and has the contact information to Ms. A's treatment providers.

For several months in mid 2006, Ms. A has felt that she and her children have been targeted and harassed by another tenant who is a member of the Tenant's Association. This tenant went so far as to hit Ms. A with her cane in one instance.

On several occasions, Ms. A complained to her Management Office about this individual, but was advised to call the police instead. She has called the police several times and has even reached out to the housing liaison at her City Councilmember's Office. She requested that the Management Office set up a meeting between the tenant and Ms. A, so that the issues between them could be mediated.

Despite having reached out numerous times, Ms. A received no response to her complaints from the Management Office. In fact, she was perceived as a nuisance for continually making complaints and requesting assistance.

In early 2007, Ms. A was entering an elevator in her apartment building with her minor son and came face to face with the tenant who she believed was harassing her and her son. They all rode the elevator down to the lobby together. When they reached the lobby, the tenant exited first. Ms. A made a comment to her son and the tenant turned around and attempted to hit Ms. A with her purse. Ms. A, in defense, put her hand up to shield her son and herself against the blow. In the process, her finger slightly scratched the tenant's face.

Ms. A immediately called the police. She also went directly to her Management Office. However, she was turned away, and her file was automatically forwarded for termination.

Ms. A's administrative hearing is still pending. However, the case against her, which started with the allegation of one undesirable act, has now been amended numerous times. The allegations have been amended to include every time Ms. A has gone to her Management Office and attempted to acquire assistance-which the Authority has interpreted as causing intimidation or fear for NYCHA's employees. She has been advised by her Housing Manager that she will be "put out." To Ms. A's knowledge, termination of the tenancy of the tenant who attempted to hit her has not been recommended.

Where a problem-solving approach by the Housing Manager could have possibly resolved the issues between Ms. A and the tenant or at least quelled the escalation of the situation, now Ms. A must defend each allegation at an adversarial hearing which places her and her minor children at risk for eviction.

## **CONCLUSION**

In all of the above case examples, the Housing Manager's role could have been pivotal in resolving the perceived problems with the tenancy. However, as illustrated above, Housing Managers routinely fail to take the problem-solving approach that is set forth in NYCHA's Management Manual. Termination of tenancies are often recommended with little investigation, without interviewing the tenant, without making the appropriate or necessary social services referrals and without making any attempt to resolve problems. Fact development often takes place after a tenancy has been recommended for termination. Moreover, when individuals are not easy to deal with, as mentally impaired individuals often are not, files may be arbitrarily forwarded for termination, despite alternative options being available.

I cannot emphasize the importance of education and orientation of Housing Managers to their responsibilities and duties. Allocating resources to pre-hearing interventions would alleviate the numbers of tenants who are churned through the administrative system. It will also alleviate the time consuming, intimidating, and dehumanizing hearing process where public housing tenants are often held to a higher standard of conduct than other tenants living in private apartments. The effect of training NYCHA employees to exhaust alternative options prior to recommending termination may prevent the eviction of countless individuals and may save the city's scarce resources to be used in more effective ways- perhaps to be used towards securing more affordable housing.