



**LEGAL
SERVICES**
INCORPORATED

TESTIMONY

ON

**REFERRAL CRITERIA FOR SINGLE ADULT
PERMANENT HOUSING:
PROPOSED AMENDMENT TO TITLE 31 OF
THE RULES OF THE CITY OF NEW YORK**

PRESENTED BEFORE:

NEW YORK CITY DEPARTMENT OF HOMELESS SERVICES

PRESENTED BY:

**MATTHEW MAIN
STAFF ATTORNEY
MFY LEGAL SERVICES, INC.**

MARCH 18, 2013

MFY Legal Services, Inc. (MFY) submits this testimony to the New York City Department of Homeless Services (DHS) to express our support for the passage of the proposed amendment to the Department's Single Adult Permanent Housing Referral Criteria. We believe that the proposed amendment to Title 31, Chapter 2 of the Rules of the City of New York will address some gaps in the original rule adopted in 2010 and will further enhance the safety and protection of low-income tenants in New York City.

MFY envisions a society in which no one is denied justice because he or she cannot afford an attorney. To make this vision a reality, for 50 years MFY has provided free legal assistance to residents of New York City on a wide range of civil legal issues, prioritizing services to vulnerable and under-served populations, while simultaneously working to end the root causes of inequities through impact litigation, law reform and policy advocacy. We provide advice and representation to more than 8,000 New Yorkers each year. MFY's Three-Quarter House Project provides assistance and representation to tenants of illegal boarding houses, or so-called "three-quarter houses," in Brooklyn and the Bronx.

Today there are more than 300 three-quarter houses operating in New York City.

When MFY first undertook this specialized housing work in September 2009, the Coalition for the Homeless had compiled a list of 180 three-quarter houses citywide. Since then, that list has exploded to more than 300 such substandard housing facilities, at least 250 of which are located in Brooklyn alone. And these are only the three-quarter houses that we have learned about. We believe that there are many more and that their numbers are continuing to grow.

Our clients are referred to three-quarter houses from jails, prisons, parole programs, substance abuse programs, hospitals, and soup kitchens. Prior to DHS's 2010 adoption of the existing rule setting forth Single Adult Permanent Housing Referral Criteria, New York City homeless shelters also referred a large number of our clients to three-quarter houses. Although the 2010 DHS rule successfully and significantly reduced referrals to unsafe three-quarter houses by city shelters, the three-quarter house industry has continued to flourish, in part because other programs and entities – most notably the NYS Office Alcoholism and Substance Abuse Services (OASAS) and the NYS Department of Corrections and Community Supervision (DOCCS) – are not similarly constrained.

Three-quarter houses are demarked by horrendous and unsafe conditions.

Virtually all of MFY's three-quarter house clients report hazardous living conditions, such as extreme overcrowding, no heat or hot water in cold weather, and vermin infestation. Sleeping rooms are often crammed with two to four bunk beds for up to eight individuals, impeding access to doorways and windows. Closets and kitchens are turned into bedrooms. Prevalent substandard conditions also include jury-rigged electrical wiring, plumbing back-ups, and buildings with no fire escapes or sprinklers housing dozens of tenants. These living conditions are dangerous for the tenants who reside there,

as well as for residents of adjacent buildings. In the past year alone, at least four three-quarter houses in which clients of MFY resided were damaged or destroyed by fires, resulting in the displacement of numerous tenants. To our knowledge, no one was seriously injured in those fires. Given the prevailing conditions described above, however, we believe that injuries and even deaths in these overcrowded buildings are inevitable.

MFY has witnessed three-quarter houses operate with impunity, even after NYC agencies issue vacate orders or notices of serious violations. The operators warn residents against answering the door to NYC inspectors. When ordered by city agencies to reduce the number of occupants, the operators comply only briefly, but then reassemble the bunk beds and fill them again as quickly as they can.

In addition to suffering abominable living conditions, tenants of three-quarter houses also endure illegal evictions (often carried out at night), verbal threats and violence, and civil rights violations. Tenants are commonly induced to pay building operators extra “fees” out of their meager cash assistance and food stamps. Prospective tenants are often promised various services to help them maintain their sobriety, obtain employment, establish mental health stability, transition back into the community, and obtain permanent housing. Instead, they find that there are no services, and that the odds are even more stacked against them than before they moved in: the chaotic and dangerous conditions in the houses make stability and community reintegration extremely difficult to achieve.

The proposed amendment will advance the goal of protecting the rights and safety of tenants in New York City.

Although MFY’s on-the-ground experience in three-quarter houses reflects that far fewer of our clients are referred to this substandard housing from shelters as a result of the 2010 DHS rule, we believe that the proposed amendment will serve to further protect the rights and safety of tenants.

By strengthening the 2010 DHS rule to prohibit DHS shelters from making referrals (1) when a client refuses to accept a housing option based on a report that the housing option is inappropriate under the referral criteria or (2) where there are NYC Department of Buildings (DOB) Blank Disposition Codes or C1 through C4 codes (indicating failure to gain access or access denial), DHS is taking yet another important step to protect the safety of persons who are homeless or at risk of homelessness.

Furthermore, by requiring shelter providers to (1) evaluate housing options provided by a potential landlord before the landlord may present the option to potential tenants, (2) offer to assist DHS clients to make a complaint to 311 in cases where the client believes that the housing option meets one or more of the prohibited criteria and (3) distribute a plain language document to all DHS clients in shelters that describes the conditions that preclude a referral by DHS, DHS is creating awareness about housing conditions in New York City and providing tools to DHS clients that will help protect them from being

steered to housing options that are dangerous or unlawful.

The proposed amendment would improve upon the 2010 housing referral criteria by taking into consideration the invaluable information available from the very persons who are affected by it: DHS client-tenants. Considering information obtained from the client to determine the permissibility of a referral is a practical, common-sense approach that is crucial in the context of this underground housing market where, in some cases, it is only the DHS client-tenants themselves who possess firsthand information necessary to assess the safety of a given placement.

Importantly, by prohibiting referrals to buildings that refuse access to inspectors, DHS will remove the perverse incentive for landlords to avoid accountability by keeping NYC inspectors out of their buildings. Instead, the proposed amendment will actually create an incentive for three-quarter house operators that are out of compliance with NYC DOB standards and the DHS rule to improve conditions and maintain safe, lawful dwellings for their tenants. Furthermore, the proposed amendment promotes awareness about housing conditions in New York City and provides DHS clients with tools that will help protect them from housing options that are dangerous or unlawful.

Currently, DHS clients unknowingly accept placement in substandard and dangerous three-quarter houses.

As an example of how the proposed amendment can protect tenants, consider the case of one MFY client who is currently residing in a three-quarter house to which he was referred by a DHS shelter. The building in which he lives has a C3 disposition code, indicating that access to the building was denied. The building also has category 31 and 71 complaints, indicating use contrary to the certificate of occupancy and illegal work with A1 and A8 violations, which indicate a failure to file a certificate of correction and a violation for illegal conversion. Our client did not have the opportunity to tour the building before he was referred and moved in. The three-quarter house operator promised to provide him with services, including job training and assistance finding permanent housing, but none of those promised services were provided. Our client reports conditions of extreme overcrowding and harassment from building staff. Additionally, MFY has received numerous reports from other clients in that building that fellow tenants are regularly illegally evicted. Indeed, our client has been subject to ongoing threats of eviction by the three-quarter house operator.

Under the proposed amendment to the DHS rule, referrals from shelters to this address would be prohibited because the house meets at least five of the conditions for restricting referrals, including denial of access, illegal conversion, and use contrary to the certificate of occupancy. While the current tenants continue to struggle with the overcrowded and unsafe conditions at the building, under the amended DHS rule shelter staff would be prohibited from making any referrals to that address, sparing future shelter residents exposure to the hazards at this building. Further, because of the existing violations and disposition codes on the DOB website, the operator of the three-quarter house in which this client resides would be prohibited from conducting any presentations to recruit

potential residents at DHS shelters until it remedies the conditions that render it out of compliance with the amended DHS rule.

Conclusion

MFY Legal Services supports the proposed amendment to Title 31 of the Rules of New York City. The housing referral criteria rule, as amended, should serve as a model for other agencies, including specifically OASAS and DOCCS, the sources of the vast majority of referrals to this type of unsafe and unregulated housing. We thank the City Council, Speaker Quinn and the Department for taking action to protect the safety and wellbeing of low-income New Yorkers and for setting standards that New York State agencies should likewise adopt.

Please feel free to contact me or Tanya Kessler in MFY's Three-Quarter House Project should you have any follow-up questions.

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