

**TESTIMONY BY THE LEGAL AID SOCIETY, BEFORE THE SENATE
STANDING COMMITTEE ON SOCIAL SERVICES SENATE STANDING
COMMITTEE ON HOUSING, CONSTRUCTION AND COMMUNITY
DEVELOPMENT ON THE NEW YORK CITY HOUSING AUTHORITY'S
SECTION 8 VOUCHER WITHDRAWALS**

APRIL 15, 2010

INTEREST AND EXPERTISE OF THE LEGAL AID SOCIETY

The Legal Aid Society is the oldest and largest provider of legal assistance to low income families and individuals in the United States. The Society's Civil Practice operates 14 neighborhood offices and city-wide units serving residents of all five boroughs of New York City and providing comprehensive legal assistance in housing, public assistance and other civil areas of primary concern to low income New Yorkers. The Society is counsel in numerous class action cases concerning the rights of Section 8 recipients and applicants.

We appreciate the opportunity to testify before the Senate Social Services Committee and the Housing Committee.

BACKGROUND OF THE SECTION 8 PROBLEM:

The New York City Housing Authority (NYCHA) administers the largest Section 8 voucher program in the country and currently provides rental subsidies to 101,654 families. The Department of Housing and Urban Development (HUD) determines authorization and funding for the Section 8 program based upon annual Congressional appropriations. In May 2009, HUD reduced NYCHA's funding allocation for Section 8 vouchers by \$58 million dollars. Further exacerbating this loss of funding was the decreased attrition rate for vouchers from 8% in 2007 to 3.8% in 2009. Even though NYCHA was well aware that this cut in funding would drastically

reduce its ability to fund Section 8 vouchers since May 2009, it continued to issue new Section 8 vouchers. Indeed, in August 2009, HUD denied NYCHA's requests for additional funding for Section 8 vouchers, ensuring that NYCHA would be unable to fund its rapidly expanding Section 8 program. Despite a keen awareness of its precarious financial situation, NYCHA did not notify the public of the fragile state of the Section 8 program. Instead, it continued issuing vouchers. Tellingly, in May 2009, HUD urged NYCHA to stop issuing new Section 8 vouchers as there plainly was no money to fund them. NYCHA ignored this advice and continued to issue vouchers to New Yorkers without warning them of the likelihood that it could not sustain any further additions to the Section 8 voucher program.

THE SECTION 8 VOUCHER TERMINATIONS:

A week before Christmas, NYCHA announced that it would not honor the Section 8 vouchers of 2,600 low income New Yorkers. None of the affected people received any prior notice. These New Yorkers were all searching for an apartment to use their voucher and were still within the time allotted to do so. This group includes 1,505 formerly homeless families with barriers to employment, 168 youth aging out of the foster care system, 52 intimidated witnesses and 492 domestic violence victims.

This marked the first wholesale termination of Section 8 vouchers in the thirty-five (35) year history of NYCHA's administration of the Section 8 program. The affected Section 8 voucher holders have no recourse against NYCHA and are not receiving any assistance from NYCHA. These families rightfully assumed NYCHA would honor the vouchers it issued and acted to their detriment. This unprecedented action will undoubtedly force families into the shelter system. Children who are aging out of the foster care system will be unable to find affordable housing. Witnesses who worked with the District Attorney's office will be unable to

escape the environment inhabited by the person(s) and confederates of the person(s) they testified against.

NYCHA justifies its unprecedented cancellation of these several thousand Section 8 vouchers by citing a lack of funding. This is cold comfort to the affected families who face imminent homelessness due to a crisis that might have well been avoided had NYCHA revealed its dire circumstances earlier and sought assistance from HUD. At this point, we have been told that New York City and New York State will have to resolve this crisis, if it is to be resolved. In a city like New York, with a tight, high-cost rental market, the loss of thousands of Section 8 vouchers is devastating for families who so desperately need safe, affordable housing. On average, NYCHA pays \$800.00 per month for each Section 8 voucher. However, it costs the City \$3,000.00 per month to keep families in a homeless shelter.

CURRENT PLAN TO TERMINATE ANOTHER 10,000 SECTION 8 VOUCHERS

More recently, NYCHA indicated that if its budget deficit of \$46,000,000 is not closed, starting this summer, it will revoke rental-assistance vouchers for approximately 10,000 of the 101,654 participants under lease. NYCHA has yet to reveal how this will take form, but most of these 10,000 participants will be rendered homeless as a result. The resulting cost for homeless services will exponentially exceed the costs of funding vouchers for affected participants.

PERSONAL EXAMPLES OF THE SECTION 8 VOUCHER CRISIS' EFFECT:

Ms. Z is 104 a year old Brooklyn resident who waited 16 years for a Section 8 voucher. Her current income is \$761 per month, and her rent is \$535. Over 70% of her income goes towards rent. She thought her prayers were answered when she received a voucher in 2009. Her landlord initially refused to accept the voucher. After the Legal Aid Society informed the landlord that this refusal violated Local Law 10, Ms. Z's landlord finally agreed to accept the

voucher. As soon as the necessary documents were executed, Ms. Z's granddaughter contacted NYCHA only to be told that the Section 8 program was on hold and that the voucher was rescinded. According to NYCHA, this case does not qualify as an emergency for purposes of gaining priority on the waiting list for public housing.

Ms. L is a single mother of two children from the Bronx who subsides on public assistance. After being issued a Section 8 voucher, she started searching for another apartment. She found an apartment and tendered her "final inspection package" but was told that she no longer had a voucher. At this time she was in an eviction proceeding and agreed to move from her current apartment by January 19, 2010. She thought she would be able to move into her new apartment with her voucher. She has no where else to go.

Mr. Y is a disabled single father of a six-year-old child. After a period of homelessness, he and his son moved into their current residence. He was certified as eligible for Section 8 in July 2009. He is disabled and suffers from multiple medical conditions. His income is limited and he is only able to afford the rent because he receives an Advantage subsidy. However, the subsidy is for a limited duration. Without Section 8 assistance, Mr. Y cannot pay his rent as it exceeds his income. He fears that he and his son will fall back into homelessness.

Ms. R, a disabled woman who lives alone in the Bronx, received a Section 8 voucher in May 2007. She subsists on \$652.00 a month from social security income. Her monthly rent is \$747.67 per month. In violation of Local Law 10, her landlord refused to accept her voucher. The Legal Aid Society's attempts to discuss this issue with her landlord were ignored. This landlord did not respond to the subsequent lawsuit filed against it and continued to refuse to accept her voucher. A judgment by default was entered against this landlord. The landlord's attorney said he would complete the papers. Unfortunately, this occurred after NYCHA

announced it would not process any rental packages. She received a notice of petition and petition for non-payment of rent in January 2010. After years of litigation, Ms. R remains in peril as the Section 8 voucher, which is her only means of affording her home, was rendered worthless by NYCHA.

Ms. P is a homeless mother who, for the past five years, has resided in a Manhattan shelter with her child. She received a Section 8 voucher and found an apartment but cannot move in because NYCHA will not process her package. She cannot move out of the shelter without Section 8. Since she was not referred by DHS for Section 8, she is in the "other" category, which is low priority for purposes of admittance to public housing.

Ms. C is a nineteen-year-old college student and has been in foster care since her parents passed away by the time she was thirteen. After she was certified as eligible for Section 8 in August 2009 and found a landlord willing to accept her voucher in November, she submitted her package on November 20, 2009. Her application was delayed because NYCHA demanded documents that were not requested in the Section 8 package. When Ms. C appeared at the NYCHA Leased Housing Department on December 14, 2009, she was met by two security guards who informed her that "all appointments are cancelled." Ms. C—who will soon age out of foster care—relied on the Section 8 program to find housing.

Ms. R is a single mother of two children. Her current monthly rent is \$907.75. Her monthly income currently consists of \$600 from employment, \$50 in child support payments and \$550 in food stamp assistance. She was certified as eligible for Section 8 on September 7, 2007. She wanted to use her voucher to remain in her apartment of fifteen (15) years, but her landlord refused. Ms. R was given extensions of time to use her Section 8 voucher while she sought judicial relief for her landlord's violation of local anti-discrimination laws. After fighting in

court for over a year, she prevailed and her landlord agreed to complete the Section 8 rental package. But, upon submission of her package on December 15, 2009, she too was rebuffed by NYCHA. Her rent exceeds her monthly income and she is falling behind in her rent.

Ms. Y is a mother of three who lives in an unregulated building in Queens. Without the protection of a leasehold agreement or any rent regulation, her landlord took her to court in a "no defense" holdover eviction proceeding. She was fortunate to receive time to move. She found an apartment and was ready to submit her rental package until NYCHA announced it would not process any vouchers. Instead of moving into a new apartment, her family is at immediate risk of homelessness with no where else to go.

Ms. G and her husband live in Manhattan. Their combined monthly income from work and Supplemental Security Income (SSI) is \$1310 per month. Based on disability, they receive a DRIE subsidy that caps their rent at \$746.45. Nevertheless, their rent exceeds 50% of their income. Ms. G received her voucher in June 2007. Despite her attempts and the efforts of a community based organization, her landlord refused to accept her voucher. After contacting Mrs. G's landlord in February 2008 and receiving no response, The Legal Aid Society initiated a lawsuit on her behalf. In December 2009, this landlord finally agreed to process the rental package. However, NYCHA turned her away when she went to tender the papers. Her landlord recently sent her a rent demand and will likely sue her for non-payment of rent.

This is a mere snapshot of the chaos that this crisis has visited upon needy New Yorkers. Clearly, there are thousands more facing similar and worse circumstances. This urgent situation necessitates swift action from New York City and New York State government officials. Accordingly, we ask elected officials to join The Legal Aid Society in advocating for the following measures to ensure that the affected Section 8 voucher holders are protected:

1. The New York State Office of Temporary and Disability Assistance (OTADA) should:
 - A. Cover all households that are currently receiving the Advantage subsidy by extending the duration of the Advantage subsidy by at least two years.
 - B. Cover a significant amount of households that are currently receiving the Advantage subsidy while The New York City Department of Homeless Services (DHS) uses its homelessness prevention stimulus money to cover the rest of the households until they receive Section 8 vouchers in the normal course.
 - C. Increase the shelter allowance it pays to families living in NYCHA Section 8 to the maximum that is appropriate for the respective family's size. This would raise almost \$15 million a year. The State's share would be \$7.5 million.
 - D. Require DHS to refer the affected families for public housing.
 - E. Use funds reserved for homeless services to prevent the homelessness of affected persons.
 - F. If Section 8 rents are increased, OTDA should approve the use of FEPS for these families.
2. The New York State Division of Housing and Community Renewal should use its available Section 8 vouchers and affordable housing resources to assist these needy families.
3. NYCHA should take the following steps to alleviate this crisis:
 - A. Give affected voucher holders a priority for public housing apartments immediately and inform them how to apply for this priority.
 - B. NYCHA should fund the Section 8 Voucher program with the funds it currently uses to provide Section 8 in its City and State public housing developments units since it recently received funding for these developments under the Mixed-Finance Modernization Plan. NYCHA gets \$20 million a year from Section 8 used in public housing.
4. The City of New York should take the following steps to alleviate the crisis:

- A. New York City Department of Housing Preservation and Development (HPD) should give Section 8 vouchers it is currently holding to the affected voucher holders and give its turnover vouchers to these households and should make its affordable housing programs available to these families.
 - B. The New York City Administration for Children Services (ACS) should cover the families they referred to NYCHA for Section 8 vouchers.
 - C. The City of New York should abandon their appeal of Casado v. Markus, 402267/08. This case invalidated the “poor tax” rent increase NYCHA has had to absorb for Section 8 voucher recipients that were subject to the Rent Guidelines Board Orders in 2008 and 2009. This would raise almost \$8 million a year for NYCHA's Section 8 program.
 - D. New York City should cover any increases in rent of Section 8 voucher holders with a combination of SCRIE, DRIE and FEPS.
5. The District Attorneys should cover the intimidated witnesses they refer.
6. HUD should approve NYCHA's application for \$30 million in emergency funds To prevent voucher terminations.

Absent quick intervention by all levels of government, 10,000 Section 8 families will face homelessness in the fall of 2010 and 2600 former voucher holders are already facing homelessness. If 10,000 families enter the homeless system, it will cost New York State \$180,000,000 (and New York City another \$180,000,000. It would be far less expensive for New York State to implement the modest recommendations itemized above.

CONCLUSION

Thank you again for the opportunity to testify before the Senate Committees on Social Services and Housing.

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