

THE LEGAL AID SOCIETY

Civil Law Reform Unit

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**TESTIMONY OF THE LEGAL AID SOCIETY AT THE CITY
COUNCIL JOINT HEARING OF THE CIVIL RIGHTS,
GENERAL WELFARE, AND OVERSIGHT &
INVESTIGATIONS COMMITTEES ON LOCAL LAW 10
CONCERNING SOURCE OF INCOME DISCRIMINATION**

June 23, 2010

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, providing comprehensive legal assistance in housing, public assistance, and other civil areas of primary concern to low income families and individuals.

We appreciate the opportunity to testify before the City Councils' Civil Rights, General Welfare, and Oversight & Investigations Committees. We greatly appreciate the leadership of Chair Deborah L. Rose, Chair Annabel Palma, and Chair Jumaane D. Williams concerning the rights of all New York City tenants who receive funding via programs such as Section 8, FEPS, and Advantage.

First, we would like to commend the New York City Council for passing Local Law 10, effectively banning discrimination on the basis of source of income. By enacting this law, many of our clients have been able to use income such as Section 8 vouchers and Advantage in order to secure and maintain their housing. Many landlords, when informed by our attorneys that refusing to accept Section 8 vouchers is illegal, have chosen to settle cases and accept such income rather than pursue costly litigation.

Local Law 10 has proved successful for our clients in court as well. Many landlords believed that the City Council did not have the authority to pass Local Law 10 and continued their income discrimination practices after the law was passed. We have brought several large cases on behalf of close to 100 tenants against these landlords, and the courts have consistently upheld the law. These cases were brought on behalf of an array of tenants in New York City - individuals, families, disabled persons, senior citizens, single mothers and fathers- all who have been able to stay in their homes because of the strength of Local Law 10 in the courts. *See Jones v. Park Front Apartments*, Index No. 402878/08 (App. Div. 1st Dep't 2010); *Timkovsky v. 56 Bennett, LLC*, 23 Misc.3d 997, 881 N.Y.S.2d 823 (Sup. Ct. N.Y. Co. 2009); *Dreyster v. 195 Realty, LLC.*, Index No. 401140 (Sup. Ct. N.Y. Co. 2008); *Severina Florentino and Maria Cabrera v. Nokit Realty Corp, Orwell Mgmt and Spode Realty LLC*, Index No. 401111 (Sup. Ct. N.Y.Co. 2009); *Angel Rivas v. One More Time Realty Corp.*, Index No. 400937 (Sup. Ct. N.Y. Co.. 2009); *Rizzuti v. Hazel Towers Co., L.P.*, Index No. 406514/07 (Sup. Ct. N.Y. Co. 2008).

For instance, our client Diana R. has been living with her daughter in her Bronx apartment for twenty-one years. Her rent is \$784.21, and she earns approximately \$850 per month from employment. When she received her Section 8 voucher from NYCHA in July 2007, her landlord refused to accept it unless she would allow him to raise her rent to market price.

After Local Law 10 passed, a lawsuit in the Supreme Court of the State of New York was commenced on her behalf. The Court read the Local Law 10 to apply to current tenants, as opposed to the defendants' reading that the law only applied to potential tenants. Diana, as a current tenant, received a favorable decision, and her landlord agreed to accept her voucher. Diana now pays \$175 a month towards her rent.¹

Mr. and Mrs. T. are 73 and 75 years old respectively. They have lived in their apartment in Inwood, New York for over 14 years, and their rent was \$675. They received a Section 8 voucher in February 2007, however their landlord refused to accept it, and a lawsuit was commenced. The Court ruled that Local Law 10 required the landlord to accept their Section 8 voucher. Subsequently, the landlord entered into agreement to accept the voucher and pay compensatory damages for the additional rent paid by the couple while their voucher was illegally refused. Mr. and Mrs. T. now pay \$247 per month towards their rent. Mr. and Ms. T. testified before the Council to support passage of Local Law 10 and are now reaping its benefits.²

Ms. F. is 60 years old and has lived in a two-bedroom rent-stabilized apartment in Washington Heights for over 15 years. Ms. F. receives \$781 a month in Social Security Income and Social Security Benefits. Her rent prior to receiving Section 8 was \$843.25. The landlord refused to accept her Section 8 voucher, claiming that because her voucher was for a studio apartment and not a two-bedroom, he would be committing fraud. The Court ruled for Ms. F., and confirmed that the landlord, under Local Law 10, was prohibited from denying her Section 8

¹ See *Dreyster v. 195 Realty, LLC.*, Index No. 401140 (Sup. Ct. N.Y. Co. 2008).

² See *Timkovsky v. 56 Bennett, LLC*, 23 Misc.3d 997, 881 N.Y.S.2d 823 (Sup. Ct. N.Y. Co.. 2009).

voucher as payment towards her apartment. Ms. F. was able to continue to reside in her apartment because of Local Law 10.³

Mr. A.R. received his Section 8 voucher in December 2008. His landlord refused to complete a lead-based disclosure form required by Section 8, thus preventing Mr. A.R. from using his Section 8 voucher. The Court in this case confirmed that the landlord's behavior was "disingenuous and a pretext for discrimination" and therefore a violation of Local Law 10. Mr. A.R.'s monthly rent contribution was reduced to \$231, and the landlord was ordered to refund Mr. A.R. all of the money he paid while his Section 8 voucher was illegally denied.⁴

Mr. and Ms. M. have lived in an apartment in Inwood for 13 years. They are 83 and 75 years old respectively. After waiting on the Section 8 waiting list for over 10 years, they finally received their voucher in 2007, only to have their landlord refuse to participate in the program. Mr. and Ms. M. sued their landlord under Local Law 10, and the Court ordered the landlord to accept their voucher. Before Section 8, their share of the rent was \$565 per month. This was more than 50% of their income, forcing Mr. and Ms. M. to go without basic necessities. Today, they pay \$256 towards their rent.⁵

As a matter of law, the Supreme Court of the State of New York recently confirmed that Local Law 10 applies to current tenants as well as prospective tenants. This ruling strengthened the plain meaning of the statute, and has given vital support to those current tenants that without Section 8, would have been forced to move out of their homes and communities. Because of this plain reading of Local Law 10, our client's Ms. K, Ms. L, Gloria M., Sam S., Eyla M., Mr.

³ See *Severina Florentino and Maria Cabrera v. Nokit Realty Corp, Orwell Mgmt and Spode Realty LLC*, Index No. 401111 (Sup. Ct. N.Y. Co. 2009).

⁴ See *Angel Rivas v. One More Time Realty Corp.*, Index No. 400937 (Sup. Ct. N.Y. Co. 2009).

⁵ See *Tapia v. Successful Mgmt. Corp.*, Index No. 400563, Action No. 1 (Sup. Ct. N.Y. Co. 2009).

L.S., Mr. V., and Ms. A. have all been able to use their Section 8 vouchers for the home they currently reside in, rather than move out and find a new place to live.⁶

Despite the initial success of Local Law 10, we believe that more can be done in order to strengthen the power of this law and fulfill the City Council's legislative intent to fully ban discrimination against potential and current New York City tenants based on source of income. Tenants who are current recipients of programs such as Section 8, FEPS, and Advantage continue to face discrimination by landlords and brokers who either do not know about Local Law 10, or by those who attempt to sidestep the law in an effort to avoid accepting legitimate income.

For example, several landlords who are aware of Local Law 10 have intentionally avoided making necessary repairs to apartments in order to fail Section 8 inspections, thus continuing to successfully discriminate against tenants because of their source of income. Our client Mrs. C. is just one of many clients who received their long awaited voucher, only to have her apartment fail inspection and her voucher rescinded. This intentional lack of maintenance allows landlords to circumvent the Section 8 program, and their actions constitute violations of Local Law 10.

While intentional violations of Local Law 10 are most egregious, unintentional and uninformed acts by landlords are equally damaging to the goal behind Local Law 10. Many landlords do not know about Local Law 10, and this lack of knowledge leads to unnecessary refusals to accept programs such as Section 8 and Advantage. The mere fact that we continue to bring lawsuits against landlords illustrates the consequences due to their lack of information. Because tenants are equally uninformed, families who receive money from various programs believe that they must accept the landlord's uninformed decision as final, and subsequently lose

⁶ See *Tapia v. Successful Mgmt. Corp.*, Index No. 400563, Action No. 1 (Sup. Ct. N.Y. Co. 2009).

their homes. The New York City Commission on Human Rights (CCHR) has not taken any steps to publicize Local Law 10, so many landlords and tenants alike remain in the dark about the City Council's resolve to end income discrimination. Education about Local Law 10 will lead to less litigation, and more tenant housing security.

Finally, there is a lack of systematic research performed regarding current income discrimination. The Legal Aid Society attempts to help as many tenants who are suffering from income discrimination as possible. However, we are often limited to those tenants who contact our offices. What is needed is a concentrated look at where the problems lie,- a focus on both landlords and management companies. The Council has the authority to conduct investigations which could be very useful in such a focus and the CCHR can be directed through legislation to obtain this kind of information.

There needs to be more targeted research regarding each income program as well. Specifically, we feel that more data gathering regarding income discrimination needs to be done on programs such as Advantage and FEPS. We will continue to focus on the Section 8 program, however, because Section 8 vouchers that were initially promised are now not available, we need to turn our attention more towards programs such as FEPS that may be used to replace those rescinded vouchers.

We also need more data regarding *potential* tenants who have attempted, and are then rejected, for placement in an apartment based solely on their need to use certain income. There is very little information about potential tenants. Data gathering and periodic reporting by the CCHR together with the City Council's oversight reporting will help organizations such as the Legal Aid Society be proactive in assisting constituents. Simply put, if we are given updates

regarding people who are rejected for housing based on income, we can reach out to provide help, rather than wait for a client to seek us out.

Due to our continued concern for the tenants of New York City we would like to propose the following solutions:

1. The City Council can make it clear that any refusal to make repairs in accordance with the New York City Housing Maintenance Code that cause an apartment to fail Section 8 or Advantage inspections violates Local Law 10.
2. The City should require brokers to post signs in their place of business informing potential tenants that source of income discrimination is illegal, as well as requiring broker contracts to include information about Local Law 10, in order to raise landlord awareness that discrimination based on source of income is illegal.
3. The City Council, because of its investigatory abilities, can conduct periodic surveys and other testing in order to actively ensure that landlords are not in violation of Local Law 10.
4. The City Council can direct the CCHR to take the following steps:
 - The CCHR should stop automatically mediating a discrimination problem *prior* to filing an official complaint. Filing of a complaint helps to establish a written record which in turns helps to identify a potential systemic discrimination issue within a real estate or management company, or with a particular landlord.
 - The CCHR actively monitors electronic sites such as Craigslist in order to identify discriminatory advertising practices by brokers and landlords. Discriminatory practices observed on electronic sites include statements by landlords and brokers such as “No Programs Accepted” or “No Children Allowed.” The City Council can require CCHR to periodically report their findings.
 - The CCHR should test the market for discriminatory practices and file *Commission initiated* complaints. This testing can be accomplished by using CCHR in-house sources, or by contracting with an organization who has testing capacity, such as the Fair Housing Justice Center.

The Legal Aid Society views the passing of Local Law 10 as the first, not the last, step towards eradicating income discrimination. By implementing our proposals, the City Council

can continue towards its goal of ensuring that every New York City resident has a place to call home.

CONCLUSION:

Thank you again for the opportunity to testify before the City Council Committees on Civil Rights, General Welfare, and Oversight & Investigations.

Respectfully Submitted:

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