

Testimony of
Coalition for the Homeless
and
The Legal Aid Society

on

**The City of New York's Plans to Create Shelters for Homeless Adults with
More than 200 Beds in Violation of Local Law**

Presented before

The New York City Council,
Committee on General Welfare

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Coalition for the Homeless and the Legal Aid Society welcome this opportunity to testify before the New York City Council in support of a resolution urging the City Council to intervene or file an amicus brief in litigation involving the City of New York's plans to create shelters for homeless adults with more than 200 beds in violation of local law.

Shelter capacity limits serve an absolutely vital purpose: to protect the health and safety of shelter residents, many of whom are individuals living with disabilities, and of surrounding communities. We support the City Council's efforts to protect those limits.

About the Coalition and the Legal Aid Society

Coalition for the Homeless: Coalition for the Homeless, founded in 1981, is a not-for-profit advocacy and direct services organization that assists more than 3,000 homeless New Yorkers each day. The Coalition advocates for proven, cost-effective solutions to the crisis of modern homelessness, which now continues past its third decade. The Coalition also struggles to protect the rights of homeless people through litigation around the right to emergency shelter, the right to vote, and appropriate housing and services for homeless people living with mental illness and HIV/AIDS.

The Coalition operates twelve direct-services programs that both offer vital services to homeless, at-risk, and low-income New Yorkers, and demonstrate effective, long-term solutions. These programs include supportive housing for families and individuals living with AIDS, a job-training program for homeless and formerly-homeless women, a Rental Assistance Program which provides rent subsidies and support services to help working homeless individuals rent private-market apartments, and apartment buildings in Manhattan which provide permanent housing for formerly-homeless families and individuals. Our summer sleep-away camp and after-school program help hundreds of homeless children each year. The Coalition's mobile soup kitchen distributes more than 900 nutritious meals to street homeless and hungry New Yorkers each night. Finally, our Crisis Intervention Department assists more than 1,000 homeless and at-risk households each month with eviction prevention assistance, client advocacy, referrals for shelter and emergency food programs, and assistance with public benefits.

The Coalition also represents homeless men and women as plaintiffs in Callahan v. Carey and Eldredge v. Koch. In 1981 the City and State entered into a consent decree in Callahan in which it was agreed that, "The City defendants shall provide shelter and board to each homeless man who applies for it provided that (a) the man meets the need standard to qualify for the home relief program established in New York State; or (b) the man by reason to physical, mental or social dysfunction is in need of temporary shelter." The Callahan consent decree and Eldredge case also guarantee basic standards for shelters for homeless men and women. Pursuant to the decree, the Coalition serves as court-appointed monitor of municipal shelters for homeless adults.

The Legal Aid Society: The Legal Aid Society, the nation's oldest and largest not-for-profit legal services organization, is more than a law firm for clients who cannot afford to pay for counsel. It is an indispensable component of the legal, social, and economic fabric of New York City – passionately advocating for low-income individuals and families across a variety of civil, criminal and juvenile rights matters, while also fighting for legal reform.

The Legal Aid Society has performed this role in City, State and federal courts since 1876. It does so by capitalizing on the diverse expertise, experience, and capabilities of 900 of the brightest legal minds. These 900 Legal Aid Society lawyers work with 600 social workers, investigators, paralegals and

support and administrative staff. Through a network of borough, neighborhood, and courthouse offices in 25 locations in New York City, the Society provides comprehensive legal services in all five boroughs of New York City for clients who cannot afford to pay for private counsel.

The Society's legal program operates three major practices — Civil, Criminal and Juvenile Rights — and receives volunteer help from law firms, corporate law departments and expert consultants that is coordinated by the Society's Pro Bono program. With its annual caseload of more than 300,000 legal matters, the Legal Aid Society takes on more cases for more clients than any other legal services organization in the United States. And it brings a depth and breadth of perspective that is unmatched in the legal profession.

The Legal Aid Society's unique value is an ability to go beyond any one case to create more equitable outcomes for individuals and broader, more powerful systemic change for society as a whole. In addition to the annual caseload of 300,000 individual cases and legal matters, the Society's law reform representation for clients benefits some 2 million low income families and individuals in New York City and the landmark rulings in many of these cases have a State-wide and national impact.

The City of New York's Plans to Create Shelters for Homeless Adults with More than 200 Beds in Violation of Local Law

We strongly support the resolution authorizing the New York City Council to intervene in Chelsea Business & Property Owners' Association v. City of New York, for the purpose of defending provisions of the New York City Administrative Code that limit the size of homeless shelters for adults to 200 persons.

As this committee knows, the New York City Department of Homeless Services (DHS) plans to create a new shelter for homeless adults with more than 200 beds in the Chelsea neighborhood of Manhattan. In addition, last autumn DHS added 200 beds to the drill floor of the already-200-bed Pamoja House shelter, located in the Sumner Avenue armory in the Bedford-Stuyvesant neighborhood of Brooklyn. (The City intended to use all 400 beds at the Pamoja House shelter beginning this past winter, but in response to opposition from advocates and the community, to date the City has not yet utilized the additional Pamoja House beds.)

The City has proceeded with these plans over the past year despite the fact that a 1999 local law (NYC Administrative Code § 21-312, § 21-315) prohibits the City from creating shelters with capacity for more than 200 persons, except for certain "grandfathered" facilities and the replacement of their beds – and the proposed Chelsea shelter and the expanded Pamoja House shelter do not meet this criteria. This local law was enacted after former Governor Pataki's administration unwisely eliminated – over the strong objections of shelter providers and advocates – a longstanding State regulation limiting shelter capacity to 200 beds.

We have communicated our concerns about the planned Chelsea facility and the Pamoja House expansion to DHS Commissioner Seth Diamond and other City officials, as well as to State officials, and we have also written to City attorneys about our concerns that the planned Chelsea shelter would violate not only the local statute but also provisions of the 1981 consent decree in Callahan v. Carey.

Nevertheless, City officials completed the costly expansion of the Pamoja House shelter, and have moved forward with the planned Chelsea facility. City officials have informed us that the new Chelsea shelter is scheduled to open, at least in part, as early as this month, and that it will have 296 beds for

homeless single adults (200 beds for homeless men living with mental illness and 96 beds for homeless men and women who have resided on the streets).

The enormous size of both the planned Chelsea shelter and the expanded Pamoja House shelter flies in the face of everything homeless service providers, advocates and government officials have learned about how to help homeless people, including the importance of smaller shelters. Shelter capacity limits serve an absolutely vital purpose: to protect the health and safety of shelter residents, many of whom are individuals living with disabilities, and of surrounding communities.

Back in the 1980s, in the early days of modern homelessness, the City responded to the crisis in haphazard fashion by crowding hundreds of homeless men into armories, old hospital buildings, and other large buildings throughout the city. Some municipal shelters had as many as 1,000 beds crowded on armory drill floors. For example, the Sumner Avenue armory in the Bedford-Stuyvesant neighborhood of Brooklyn (where the Pamoja House shelter is currently located) had 550 beds.

For more than a decade, the spread of contagious diseases and incidents of violence at such warehouse-style facilities were all too common. And often street-bound homeless men and women – the majority of whom are living with mental illness and other severe health problems – would avoid municipal shelters altogether and remain on the streets fearing for their health and safety in the armories and other gargantuan shelters.

That is the reason that government officials, homeless service providers, local communities, and advocates have all advanced reforms to reduce shelter capacity and eliminate large, barracks-style facilities. As Barbara Blum, a former New York State Department of Social Services Commissioner, wrote back in 1984, “[M]assive institutions, particularly for impoverished and disabled populations such as the homeless, are simply impossible to operate in a humane fashion” (emphasis added).

And when Governor Andrew Cuomo chaired the New York City Commission on the Homeless in the early 1990s, the “Cuomo Commission” recommended the following (emphasis added):

- “The goal must be to remove families from congregate shelters and welfare hotels and end the use of large, barracks style shelters for homeless single adults.”
- “The Commission agrees with the Mayor’s philosophy...that smaller, service-based facilities are preferable.”

State regulations at the time limited shelters for homeless adults to no more than 200 beds, but the State failed to enforce the limits systematically. In the early 1990s, advocates sued and State courts ordered the City to downsize several armory shelters, including the notorious Fort Washington armory, to no more than 200 beds. Even when the City of New York tried to add hundreds of beds to the Sumner Avenue armory in the winter of 1993-1994, in violation of the capacity limits and previous court orders, a State court once again ruled against the City.

Unfortunately, in 1995, at the request of the Giuliani administration, former Governor Pataki eliminated the State regulation involving shelter capacity limits over the strong objections of homeless service providers and advocates. Thus, after many months of dispute, in 1999 the New York City Council passed and former Mayor Giuliani signed a local law (NYC Administrative Code § 21-312, § 21-315) that limits the capacity of shelters for homeless adults to 200 beds, except for certain “grandfathered” facilities and the replacement of their beds – and the proposed Chelsea shelter and expanded Pamoja House shelter do not meet this criteria.

It is this New York City statute that the City's current plans would violate. In addition, State regulations require shelters for homeless adults to comply with applicable codes. Finally, the 1981 consent decree in Callahan v. Carey prohibits the operation of shelters in violation of applicable law, like the 1999 New York City local law. Any action by the City to open a shelter with more than 200 beds would likely result in additional litigation to enforce these legal requirements.

New York City has made significant strides forward, since the 1980s, in how it addresses the problem of homelessness. And the shelter system reforms of the last three decades, including the near elimination of warehouse-style facilities with more than 200 beds, are something we should all be proud of. The City's current plans fly in the face of everything we've learned about how to assist homeless people. Put simply, it would be a huge step backwards.

Thus, we strongly support the resolution authorizing the New York City Council to intervene in Chelsea Business & Property Owners' Association v. City of New York, for the purpose of defending provisions of the New York City Administrative Code that limit the size of homeless shelters for adults to 200 persons. Shelter capacity limits are essential to protect the health and safety of shelter residents and surrounding communities, and we support the City Council's efforts to protect those limits.

Thank you for the opportunity to share this testimony. And, as always, we look forward to working with the committee and the City Council in the coming months and years on efforts to reduce New York City's homeless population and help homeless children and adults.

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