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**TESTIMONY BEFORE THE NEW YORK CITY RENT GUIDELINES
BOARD HEARING ON RENTS FOR RENT STABILIZED APARTMENTS
JUNE 2006**

This testimony is submitted on behalf of the Legal Support Unit of Legal Services for New York City (LSNY) and The Legal Aid Society.* LSNY provides free legal services in civil matters to low-income households in New York City. The seventeen neighborhood offices of LSNY in diverse communities throughout the city represent thousands of low-income tenants annually in disputes involving tenants' rights to remain in their homes. The Legal Aid Society is one of the oldest and largest providers of legal assistance to the poor 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 the poor. The Society is counsel on numerous class-action cases concerning the rights of individuals, tenants, and homeless families in New York City.

Introduction: The city's housing crisis has worsened in the past year, and will continue to burden New Yorkers at an escalating rate if rent increases are enacted this year.

Many low-income tenants will be forced out of their homes if the preliminary increases proposed by the Rent Guidelines Board are enacted. Currently the number of homeless New York City residents in shelters each night is at one of the highest points in New York City's history, with over 35,000 NYC residents in homeless shelters,¹

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¹ 2006 Rent Guideline Board's (RGB) Income and Affordability Studies (RGBIAS).

including 7,892 families, a 78% increase from 4,429 families who lived in shelters in 1998. 12,500 NYC children sleep in a shelter every night. Rising homelessness is especially costly to taxpayers, since the average length of stay by families in the shelter system has nearly doubled in the past decade, from six months in 1992 to nearly twelve months today. A family living in a shelter for a year costs the city \$36,000 per year.²

Citywide vacancy rates are extremely low, meeting the legal definition of a housing emergency in New York City.³ William C. Thompson Jr., the City Comptroller, recently said that, due to the large number of apartments withdrawing from the state Mitchell-Lama program⁴ and similar federal and state subsidy programs,⁵ the city's "impending crisis in affordable housing" has arrived.⁶ The United States Department of Housing and Urban Development (HUD) noted that the "increasing unavailability of housing units at affordable prices remains one of the largest obstacles for low-income households."

Recently, rents have been allowed to increase far in excess of tenant incomes. Between 2002 and 2005, the median monthly rent, including utility payments, increased by 16.8% to \$920. The median monthly rent, not including utility payments, increased 20.4% to \$850. Adjusted for inflation, these increases were 5.4% and 8.7%, respectively.⁷ However, from 2000 to 2004, annual wages fell 5.3% and hourly wages fell 6.5% for workers in the bottom third of the earnings ladder.⁸ In this context, the

² Coalition for the Homeless, http://www.coalitionforthehomeless.org/advocacy/basic_facts.html

³ Dr. Moon Wha Lee, *Selected Findings of the 2005 New York City Housing and Vacancy Survey (HVS)*: 3.09% vacancy for all rental units, and 2.68% for rent-stabilized units. A vacancy rate lower than 5.0% is classified as a city-wide housing emergency.

⁴ Office of the NYC Comptroller, *Affordable No More: An Update – New York City's Mitchell-Lama and Limited Dividend Housing Crisis Is Accelerating*, 2006. Since 2004 owners of buildings have either withdrawn or filed to withdraw 25,000 units from Mitchell-Lama, up from 4,700 between 2001 and 2003. If all pending withdrawals occur, 49,000 units, or a third of all units created under these programs, will have been lost since the programs began.

⁵ Tom Waters and Victor Bach, Community Service Society (CSS), *Closing the Door: Accelerating Losses of New York City Subsidized Housing*, May 2006. Owners withdrew approximately one-fourth of apartments constructed under federal and state subsidy programs in the 1960s and 1970s from those programs over the past 15 years, with the attrition rate at its highest last year.

⁶ *New York Times*, May 27, 2006, "Lower-Priced Housing Is Vanishing at a Faster Pace," Janny Scott.

⁷ Dr. Moon Wha Lee, *Selected Findings of the 2005 New York City Housing and Vacancy Survey (HVS)*.

⁸ Community Service Society (CSS), Annual Report – September 2005: *Poverty in New York City, 2004: Recovery?* <http://www.cssny.org/pdfs/PovertyinNYC2004Sept.pdf>

massive rent increases proposed by the New York City Rent Guidelines Board (RGB) must be substantially reduced. Even though real wages rose in the past year,⁹ that increase is minimal compared to the substantial decline in wages over the past several years,¹⁰ and landlords have continued to profit by taking advantage of some of the lowest mortgage rates in history.¹¹ Increasing rent, despite evidence that owners are receiving significant profits,¹² will have a devastating impact on the city's affordable housing crisis and accelerate the already increasing homelessness rate.

In a slow economic year, rent increases are especially burdensome for low-income New Yorkers and will create housing affordability hardships.

The city's worsening economy continues to plague New Yorkers, hitting the city's poor the hardest, as the poverty rate has increased over the past several years.¹³ Even before the recent recession began, the Department of Housing and Urban Development noted that low-income renters were left out of the economy's growth in past years and that "millions of families struggle to secure decent affordable housing...[L]ow-income renters are left to compete for a dwindling supply of affordable housing available."¹⁴

The *2006 RGB Income and Affordability Study* shows that in rent-stabilized households the median rent-to-income ratio in New York City is 31.2%, above the federal hardship level of 30%— meaning more than half of all stabilized households

⁹ *2006 Rent Guideline Board's (RGB) Income and Affordability Study (RGBIAS)*. There was a 3.7% increase in inflation-adjusted wages in 2004.

¹⁰ *2005 RGBIAS*. There was a 5.0% decrease in inflation-adjusted wages in 2002, and a 1.5% decrease in 2003.

¹¹ *2005 and 2006 Rent Guideline Board's Mortgage Study (RGBMS)*. Until last year, interest rates for mortgages had decreased for six straight years, setting record lows each year.

¹² *2006 RGB Income and Expense Study (RGBIES)*. In 2004, owners' net operating income (NOI) in rent stabilized apartments averaged approximately \$315.00/unit/month. Multiplied by twelve months and more than one million stabilized units, the owners' total profit from rent-stabilized apartments was more than \$3.7 billion.

¹³ The *2006 RGBIAS*, p. 4, noted that "after declining from 26.4% in the mid-nineties to 19.8% in 1999-2000, the poverty rate has begun to rise, up 1.1 percentage points in 2003-2004 (the most recent available data) from the previous year's rate, to 21.8%." This followed an increase in the poverty level of 0.2% in 2002-2003 (*2005 RGBIAS*).

¹⁴ Department of Housing and Urban Development Report, *Waiting in Vain: An Update on America's Rental Housing Crisis*, April 29, 1999, p 2.

cannot afford to pay their rents.¹⁵ In addition, 28.8% of all renter households paid more than 50% of their income for rent, up from 25.5% in 2002; the median rent-to-income ratio in renter households was 31.9%, up from 28.2% in 2002.¹⁶ Median rent burdens for poor families in regulated rentals, where the largest share of poor renters live, rose from 57 to 62 percent of income over the 1993-2002 decade, and the proportion of poor renters paying 50% or more of their income for rent rose from 66% in 1993 to 74% in 2002.¹⁷

The affordability problem is especially acute for low-income families living in private apartments that are not publicly-subsidized. In private regulated units half of poor families were spending more than 74% of their income on rent in 2004, with a median rent of nearly \$600/month, leaving only \$125 per person in after-rent monthly income, or about \$30/week per person for all other expenses,¹⁸ such as food, clothing and transit, and heating or utilities costs not included in the contract rent.¹⁹ In 2005, to afford an average two-bedroom apartment in New York City, an individual earning the minimum wage would either have needed to work 145 hours per week, every week of the year, or require a wage increase to \$21.79/hour, working 40 hours/week.²⁰ These disturbing statistics have become even more aggravated by increasing unemployment and lost wages.

Landlords continue to thrive despite the recent citywide recession.

While so many New Yorkers are struggling to pay their rents and affordable housing remains unavailable, landlords are still benefiting from notable increases in

¹⁵ The HUD benchmark for housing affordability is a 30% rent-to-income ratio. Source: Basic Laws on Housing and Community Development, Subcommittee on Housing and Community Development of the Committee on Banking Finance and Urban Affairs, revised through December 31, 1994, Section 3(a)(2).

¹⁶ Dr. Moon Wha Lee, *Selected Findings of the 2005 New York City HVS*.

¹⁷ Victor Bach, Community Service Society (CSS), *Making the Rent: Rent Burdens and Hardship Among Low Income New Yorkers*, June 2005.

¹⁸ Victor Bach, Community Service Society (CSS), *Housing Hardship and Rent Burdens Among Poor New Yorkers*, April 2005.

¹⁹ Community Service Society (CSS), *CSS Unheard Third Annual Survey* <http://www.cssny.org/pdfs/2005-04-Housing-Presentation.pdf>

²⁰ National Low-Income Housing Coalition, Annual Report: *Out of Reach 2005*. <http://www.nlihc.org/oor2005/>

income.²¹ Landlords' expenses have also risen more slowly. In 2005, the landlords' expenses climbed by 5.8%, which represented a decline from 6.9% the previous year, and 16.9% in 2002.²² We can expect landlords to continue to benefit from the trends of the last decade, including low interest rates, recent statutory changes that make rent increases easier to impose, and a significant decrease in loan fees.²³

The burden of rising costs falls on tenants

The detrimental effect of rent increases and low-rent surcharges imposed in the past continue to burden New York City. With inflation, foreclosures, evictions, and personal bankruptcies sharply on the rise, any rent increase will unduly burden low-income tenants. The poverty rate in New York City has increased every year since 2000, and in 2004 was at 21.8%, or over one out of every five NYC residents.²⁴ While the affluent benefit from economic growth, a significant percentage of low-income residents are forced out of their homes due to the increasing rents that come with better economic times.²⁵ Moreover, the substantial loss in the number of stabilized units, coupled with the minimal vacancy rate of existing rent-stabilized units, creates a serious housing crisis for these families.

As children growing up in New York City face unique and increasingly difficult challenges at school and in society, they have a critical need for secure and stable homes. 32.5% of NYC's children live below the poverty line, and 55.8%, more than half, of children in single-parent households in NYC live in poverty.²⁶ Adding an additional financial burden on struggling families will place an unwarranted risk on the lives of

²¹ 2006 RGBIES. The average monthly net operating income for landlords was \$315/unit per month in 2004, an increase over the 2003 value, and operating cost-to-income ratios declined in 2004 to 62.0% from 69.6% in 2003.

²² *New York Times*, May 4, 2005, "City Rent Board Again Opts for Ambiguity," David W. Chen.

²³ 2006 RGBMS, pp. 3-4: The average service fee for new loans decreased significantly from .56% last year to .44% (a 21.2% decrease from last year). Current loan rates are at their lowest since RGB began the *Mortgage Survey* in 1981.

²⁴ Community Service Society (CSS), Annual Report – September 2005: *Poverty in New York City, 2004: Recovery?* <http://www.cssny.org/pdfs/PovertyinNYC2004Sept.pdf>

²⁵ *Washington Post*, March 14, 2004, "In New York City, Fewer Find They Can Make It," Michael Powell.

²⁶ Community Service Society (CSS), Annual Report – September 2005: *Poverty in New York City, 2004: Recovery?* <http://www.cssny.org/pdfs/PovertyinNYC2004Sept.pdf>

many children. Stabilized housing with affordable rents is essential to the health, well-being, and safety of these children and their families.

Welfare does not solve the city's housing crisis.

Welfare programs do not adequately protect New York's low-income tenants from rent increases. Welfare reform has further hindered the ability of many families to pay rising rents, as hundreds of thousands of families continue to have benefits wrongfully denied or terminated. Some families have been able to obtain interim relief under the *Jiggetts* lawsuit²⁷ or Family Eviction Prevention Supplement (FEPS), the new subsidy offered by the Office of Temporary and Disability Assistance (OTDA).²⁸ However, to qualify for *Jiggetts* relief or FEPS, families must be sued in Housing Court. To successfully obtain relief under *Jiggetts*, many families are forced to find roommates or have other third parties to pay part of their rent,²⁹ and countless thousands of other eligible families have been unable to secure assistance in getting *Jiggetts* or FEPS relief due to inadequate funding of civil legal services. Moreover, FEPS does not allow third parties to cover rent for tenants. These programs will become less available as families reach the federal time limits for public assistance.

Drastic cuts in low-income housing vouchers coupled with an unnecessary rent increase will likely result in evictions from federally-subsidized housing and an increase in homelessness.

²⁷ *Jiggetts v. Grinker*, 75 NY2d 411, 553 N.E.2d 570, 554 N.Y.S.2d 92 (1990); (1st Dept., May 6, 1999) requires the state to provide families on public assistance a reasonable shelter allowance to obtain housing in today's market. The standard shelter allowance is \$277/month for a family of one, \$283 for a family of two, \$400 for three, and \$450 for four. The Office of Temporary and Disability Assistance (OTDA) states that the shelter allowances are designed to "reflect the cost of acceptable quality housing," but even a 50% increase will not afford a family of three an apartment in New York City at the median cost of \$920 per month (2005 *New York City HVS*).

²⁸ *City Limits WEEKLY*, Week of May 16, 2005, No. 485, "No More Jiggetts? The State Launches Rent Subsidy," Alyssa Danigelis. Families on welfare in New York City who receive an eviction notice have a choice: apply for *Jiggetts*, a monthly benefit that helps pay their rent, or opt for the Family Eviction Prevention Supplement (FEPS), a subsidy launched on May 2, 2005 by OTDA. Under FEPS, a family of four gets \$900 per month, \$200 more than it would under *Jiggetts*. However, FEPS also has several new restrictions, including a five-year time limit and a disallowance of third-party assistance. Furthermore, the FEPS program does not pay back rent if a welfare case is closed and reopened later, while *Jiggetts* does. This amounts to a "full-family sanction" that leaves families and children vulnerable to homelessness.

²⁹ *Jiggetts* relief for a family of three is typically beneath the median rent cited in the 2005 *New York City HVS* of \$920 for all rental units.

Low-income tenants displaced from rent-stabilized apartments face an increasingly difficult situation with regard to federal Section 8 rent vouchers, relied on by more than 110,000 New Yorkers. NYCHA's Section 8 waiting list has been closed for ten years except for emergency applicants. Over 127,000 families are on the waiting list for Section 8. NYCHA estimates that very few of these families will be reached this year. Because of NYCHA's deficit, NYCHA plans to use 8,400 vouchers in public housing and use an additional \$150 million of Section 8 funds in public housing.³⁰

The situation has worsened due to last year's cut to Section 8 funding in the federal budget.³¹ The decrease in funds has forced housing agencies to freeze the number of vouchers and demand more money from low-income tenants, and has caused tenants to be evicted from federally subsidized housing. This year, according to the Center on Budget and Policy Priorities, the budgetary allotment for federal housing will remain the same, but a flaw in the method for allocation of funds could result in a massive cut in the number of vouchers provided. Since 2004, 100,000 families have lost federal voucher assistance.³²

The Center on Budget and Policy Priorities indicates that New York State presently authorizes about 200,000 vouchers. That number was reduced by over 8,000 in 2005 and is expected to be reduced by over 36,000 by 2010.³³ Families that have avoided homelessness by using a voucher in previous years will be forced into a shelter.

Conclusion

The Rent Guidelines Board should help slow the increase in homelessness, evictions, and poverty by freezing rents at their current rate. If rent increases as proposed are enacted, additional financial burdens will be shifted to low-income tenants and then to

³⁰ New York City Housing Authority, *The Plan to Preserve Public Housing*, <http://www.nyc.gov/html/nycha/html/about/ppph.shtml>

³¹ *Center on Budget and Policy Priorities*, February 18, 2005, "Low-Income Vouchers Could Be Cut Significantly Under Administration Budget Proposal" Michelle Bazie. Due to inadequate funding for the voucher program in 2005, the Department of Housing and Urban Development, which administers the program, informed local housing agencies that their funding for 2006 would be reduced below the levels needed to maintain current levels of assistance.

³² *Center on Budget and Policy Priorities*, April 25, 2006, "President's 2007 Budget Renews Same Number Of Housing Vouchers Funded In 2006, but Many Local Programs Could Face Cuts Due to Flawed Funding Formula." The 2006 federal budget uses a flawed formula to allocate voucher funding, which will cause an estimated 70% of agencies to be under-funded in 2007.

³³ *Center on Budget and Policy Priorities*, <http://www.cbpp.org/states/2-18-05hou-ny1.pdf>

all New York residents. If the board chooses to enact the proposed rent increases, increasing numbers of families will be forced into shelters.

In addition, safe, affordable housing contributes to a wide range of social goods. Decent housing helps improve educational progress and reduces the risk of HIV/AIDS, as well as providing better access to needed medical care.³⁴

The proposed rent increases of 3.0% to 6.5% for one-year leases and 5.0% to 8.5% for two-year leases are irreconcilable with the RGB's stated goal—to protect “public health, safety, and welfare...and to prevent exactions of unjust, unreasonable, and oppressive rents and rental agreements.”³⁵ In order for the actions of the RGB to coincide with its purpose, the board must prevent rent increases this year. Therefore, we call upon the board to freeze rents, so that paying rent will not become needlessly difficult for low-income tenants.

Respectfully submitted,

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³⁴ The National AIDS Housing Coalition, *Housing is the Foundation of HIV Prevention and Treatment*, November 30, 2005

³⁵ Report of the Housing Committee of the New York State Reconstruction Commission 3 (1920), See also Block v. Hirsh, 254 U.S. 649 (1921); People ex Rel. Durham realty Corp. v. La Petra, 230 NY 429, 130 N.E. 601 (1921), appeal dismissed 257 U.S. 665 (1922).