

**NOTICE OF ADOPTION OF EMERGENCY RULE CONCERNING THE LIVING IN  
COMMUNITIES (LINC) RENTAL ASSISTANCE PROGRAMS AND THE CITY FAMILY  
EVICTION PREVENTION SUPPLEMENT AND CITY FAMILY EXIT PLAN SUPPLEMENT  
(CITYFEPS) PROGRAMS**

The Commissioner of the New York City Human Resources Administration (HRA), working jointly with the Commissioner of the New York City Department of Homeless Services (DHS), hereby gives notice, pursuant to the HRA Commissioner's authority under Sections 603 and 1043 of the New York City Charter and Sections 34, 56, 61, 62, 77, and 131 of the New York Social Services Law, of the adoption of the following emergency rule, effective immediately, authorizing HRA to: (1) increase the maximum rent levels in the LINC I, LINC II, LINC III, LINC IV, LINC V and CITYFEPS programs for households with five or more individuals where HRA has determined in its discretion that such households are unlikely to secure housing within the next 90 days at the rents otherwise permitted in the applicable program; and (2) pay landlords one year of rental assistance payments in advance if HRA has determined in its discretion that such advance payment is needed to assist households in securing housing by converting shelter units to permanent housing.

New text is underlined.

Deleted text is [bracketed].

Section one. Title 68 of the Rules of the City of New York is amended by adding a new chapter 9 to read as follows:

**Chapter 9: Higher Maximum Rents and Advance Rental Payments for Certain Households Eligible for the LINC I, LINC II, LINC III, LINC IV, LINC V, or CITYFEPS Program**

§ 9-01 Application.

Notwithstanding any inconsistent provision of chapter 7 or chapter 8 of this title, for the Living in Communities (LINC) I, LINC II, LINC III, LINC IV, LINC V and the City Family Eviction Prevention Supplement and City Family Exit Plan Supplement (CITYFEPS) programs:

(a) If HRA determines in its discretion that due to current market conditions, it is unlikely that a household that is eligible for one or more of these programs and consists of five or more individuals will be able to secure housing within the next 90 days at the rents otherwise permitted in these programs, HRA may increase the allowable maximum rent for such household to up to 130 percent of the 2014 New York City Housing Authority Section 8 Voucher Payment Standards for units for the household size. HRA shall pay the difference between the approved rent and the maximum rent that would otherwise be allowable, absent this emergency rule, under the program in which the household will participate.

(b) HRA may in its discretion pay one year of LINC I, LINC II, LINC III, LINC IV, or LINC V rental assistance or CITYFEPS rent supplement payments in advance to a landlord entering a lease with a household certified or approved for participation in the LINC I, LINC II, LINC III, LINC IV, LINC V, or CITYFEPS program, when the housing subject to the lease was used immediately prior to lease signing as a shelter operated on behalf of the New York City Department of Homeless Services.

## **Statement of Basis and Purpose of Emergency Rule**

In order to implement the Mayor's priority of preventing homelessness and moving households into stable housing, and in a joint effort with the Commissioner of the New York City Department of Homeless Services (DHS), the Commissioner of the New York City Human Resources Administration (HRA) issues this emergency rule making various changes to the Living in Communities (LINC) Rental Assistance Programs and the City Family Eviction Prevention Supplement and City Family Exit Plan Supplement (CITYFEPS) Programs. Specifically, this emergency rule adds Chapter 9 to Title 68 of the Rules of the City of New York to authorize HRA to (1) increase the maximum rent levels in the LINC I, LINC II, LINC III, LINC IV, LINC V and CITYFEPS programs for households with five or more individuals where HRA has determined in its discretion that such households are unlikely to secure housing within the next 90 days at the rents otherwise permitted under the rule; and (2) pay landlords one year of rental assistance payments in advance for units that had been used as DHS shelter immediately prior to lease signing.

There is an urgent need for this rule. Shelter census data shows that the number of families and individuals in the DHS shelter system is at a record high, even taking into account the hundreds of households that have already been able to leave shelter under existing HRA rental assistance programs, including the various LINC and CITYFEPS programs.

Specifically, between January 1, 2002 and December 31, 2013, the number of families with children in the DHS shelter system increased by 63 percent, including an 80 percent increase in the number of children. Similarly, the number of adult families in the DHS shelter system increased by 59 percent between July 1, 2004 and December 31, 2013. Finally, there was a 20 percent increase in the average daily census for single adults between July 1, 2004 and December 31, 2013. As of June 10, 2015, there were a total of 56,362 individuals in DHS shelters for families with children, adult families, and single adults.

As shelter census has increased, the DHS shelter system has continued to experience extremely low vacancy rates. Indeed, on June 11, 2015, the vacancy rate for shelters for families with children was 0.26 percent and the vacancy rate for adult family shelters was 1.92 percent. DHS anticipates further strain on the shelter system in the coming months, as shelter entries are historically higher in the summer.

This rule will allow HRA to ensure that existing rental assistance programs are competitive in the New York City real estate market, allowing eligible homeless households to use the programs to move to permanent housing. According to the New York City Department of Housing Preservation and Development's (HPD) Selected Initial Findings on the 2014 New York City Housing and Vacancy Survey (HVS) (the most recent such survey by HPD), the city-wide rental vacancy rate was approximately 3.45 percent during the period between February and May 2014. However, the HVS also found that for rentals above \$2,000 asking rent, the rental vacancy rate was 6.26 percent, more than 81 percent higher than the city-wide average rental vacancy rate. The increased availability of rentals in New York City at rents above \$2,000 demonstrates the need for allowing HRA to increase rents for households of five or more, where necessary for the household to secure permanent housing.

Upfront payments provide an incentive to landlords to offer units currently used as DHS shelter for use in these rental assistance programs. As DHS works to convert cluster shelter units into permanent housing, the ability of HRA to offer upfront payments in connection with rental assistance programs will provide an incentive to landlords to accept LINC and CITYFEPS payments for units currently used as DHS shelter. This will decrease the number of households living in DHS shelter while returning much needed affordable housing units to the New York City housing market. Where such units are currently occupied by households that are eligible for LINC or CITYFEPS, landlords will be incentivized to enter into leases with the same household, which will permit the household to exit shelter while remaining in the same housing unit. This will provide more stability for such households and avoid the need to transfer them to other shelter placements while they search for available apartments.

HRA's authority for this emergency rule may be found in sections 34, 56, 61, 62, 77, and 131 of the New York Social Services Law and sections 603 and 1043 of the New York City Charter.

## **Required Finding Pursuant to New York City Charter Section 1043(i)(1)**

IT IS HEREBY CERTIFIED that the immediate effectiveness of this emergency rule making certain changes to the Living in Communities (LINC) Rental Assistance Programs and the City Family Eviction Prevention Supplement and City Family Exit Plan Supplement (CITYFEPS) Programs is necessary to address the immediate need to relocate homeless households from Department of Homeless Services (DHS) shelters and Human Resources Administration (HRA) domestic violence shelters and to prevent households from entering shelter. The shelter system is currently experiencing a record high need for capacity. Providing sufficient shelter capacity to meet the needs of households that do not have permanent housing is a necessary City service. Without the immediate implementation of these measures, other emergency measures would be required to meet the need for increased shelter capacity. It is therefore necessary to act by emergency rulemaking so that the City of New York and its agencies can immediately begin to use available funding to prevent homelessness and relocate households from shelters to stable housing in the community, thereby taking immediate action with respect to shelter system capacity, pending the adoption of a final rule.

This rule authorizes HRA to (1) increase the maximum rent levels in the LINC I, LINC II, LINC III, LINC IV, LINC V and CITYFEPS programs for households with five or more individuals where HRA has determined in its discretion that such households are unlikely to secure housing within the next 90 days at the rents otherwise permitted under the rule; and (2) pay landlords one year of rental assistance payments in advance for units that had been used immediately prior to lease signing as DHS shelter.

Shelter census data shows that the number of families and individuals in the DHS shelter system is at a record high, even taking into account the hundreds of households that have already been able to leave shelter under existing HRA rental assistance programs, including LINC I, LINC II, LINC III, LINC IV, LINC V and CITYFEPS.

Specifically, between January 1, 2002 and December 31, 2013, the number of families with children in the DHS shelter system increased by 63 percent, including an 80 percent increase in the number of children. Similarly, the number of adult families in the DHS shelter system increased by 59 percent between July 1, 2004 and December 31, 2013. Finally, there was a 20 percent increase in the average daily census for single adults between July 1, 2004 and December 31, 2013. As of June 10, 2015, there were a total of 56,362 individuals in DHS shelters for families with children, adult families, and single adults.

As shelter census has increased, the DHS shelter system has continued to experience extremely low vacancy rates. Indeed, on June 11, 2015, the vacancy rate for shelters for families with children was 0.26 percent and the vacancy rate for adult family shelters was 1.92 percent. DHS anticipates further strain on the shelter system in the coming months, as shelter entries are historically higher in the summer.

This rule will ensure that existing rental assistance programs are competitive in the New York City real estate market, allowing eligible homeless households to use the programs to move to permanent housing. According to the New York City Department of Housing Preservation and Development's (HPD) Selected Initial Findings on the 2014 New York City Housing and Vacancy Survey (HVS) (the most recent such survey by HPD), the city-wide rental vacancy rate

was approximately 3.45 percent during the period between February and May 2014. However, the HVS also found that for rentals above \$2,000 asking rent, the rental vacancy rate was 6.26 percent, more than 81 percent higher than the city-wide average rental vacancy rate. The increased availability of rentals in New York City at rents above \$2,000 demonstrates the need for allowing HRA to exercise its discretion to increase the maximum rent amount for households of five or more, where necessary for the household to secure permanent housing.

Upfront payments provide an incentive to landlords to offer units currently used as DHS shelter for use in these rental assistance programs. As DHS works to convert cluster shelter units into permanent housing, the ability of HRA to offer upfront payments in connection with rental assistance programs will provide an incentive to landlords to accept LINC and CITYFEPS payments for units currently used as DHS shelter. This will decrease the number of households living in DHS shelter while returning much needed affordable housing units to the New York City housing market. Where such units are currently occupied by households that are eligible for LINC or CITYFEPS, landlords will be incentivized to enter into leases with the same household, which will permit the household to exit shelter while remaining in the same housing unit. This will provide more stability for such households and avoid the need to transfer them to other shelter placements while they search for available apartments.

No price can be placed on the human costs of homelessness, and the record level of homelessness has a substantial fiscal impact for government. The immediate implementation of these new measures will enhance efforts to assist households that are currently living in DHS shelters or HRA domestic violence shelters. The measures established under this rule will prevent homelessness and increase the number of exits from shelter, helping to address and alleviate current demands on the shelter system.

Delaying implementation of this rule pending non-emergency rulemaking would result in longer stays in shelters for currently homeless households, increasing the strain on the shelter system, which, as indicated, provides a necessary service to large numbers of such households.

Pursuant to section 1043(i)(2) of the Charter, the emergency rule will remain in effect for not more than 120 days while HRA prepares a permanent rule.

IT IS THEREFORE HEREBY CERTIFIED that the immediate effectiveness of a rule authorizing HRA, under limited circumstances, to increase maximum rent levels for larger households in the LINC I, II, III, IV and V and CITYFEPS programs and make a year's worth of advance rental assistance payments to certain landlords participating in these programs is necessary to address an imminent threat to a necessary service.

