

Testimony of Jordan Dressler, Civil Justice Coordinator, Office of Civil Justice, Human Resources Administration and Steven Foo, General Counsel, Department for the Aging, before the New York City Council’s Aging Committee on Int. No. 96 – October 26, 2016

Good morning, Chairperson Chin and members of the Aging Committee. Thank you for the invitation to provide testimony on Int. No. 96, in relation to providing legal counsel for senior citizens subject to eviction, ejection or foreclosure proceedings, as well as to discuss the Office of Civil Justice at the New York City Human Resources Administration (HRA). My name is Jordan Dressler, the City’s first Civil Justice Coordinator based at HRA, and with me is Steven Foo, General Counsel at the New York City Department for the Aging (DFTA).

HRA, which houses the Office of Civil Justice (OCJ), is the nation’s largest social services agency assisting more than three million New Yorkers annually through the administration of more than 12 major public assistance programs, playing a key role in advancing one of this Administration’s chief priorities: reducing income inequality and leveling the playing field for all New Yorkers.

In my testimony today, I will discuss the City’s extraordinary investment in civil legal assistance for low-income tenants as one of the tools this Administration is utilizing in combating poverty, addressing income inequality and reducing homelessness. I will discuss the work of the Office of Civil Justice and present recent findings from our first Annual Report, which has demonstrated a narrowing of the “justice gap” for tenants facing eviction, due in large part to the unprecedented investments in civil legal services and other tenant supports by the de Blasio Administration, the City Council and the State Judiciary.

Int. No. 96 would require the City to provide free assigned counsel to any individual who:

- is 62 years old or older; and
- is facing eviction or displacement from their home in a legal action or special proceeding, including in foreclosure; and
- is an occupant of a rental unit or an owner and occupant of a co-op (shares), a condo or a one-to-two family house; and
- has a household income that does not exceed \$50,000 (SCRIE eligibility; regardless of household size).

As we testified in September in connection with Intro 214-a of this year, we are reviewing the impact of the proposed legislation regarding the provision of counsel in Housing Court on the programs that we have funded and that are still ramping up to full implementation through this fiscal year. We look forward to continuing our work with the Council in analyzing these issues and discussing these proposals.

As a result of the ten-fold increase in tenant representation funding from this Administration, the legal services community is in the process of expanding the availability of counsel for low-income tenants in Housing Court. Even before these programs have been fully implemented, the percentage of represented tenants has already increased from 1%, reported by the Judiciary for

2013, to 27%, as we reported last August, and evictions by City Marshals are down by 24%. The programs will be fully implemented during Fiscal Year 2017 and we expect the percentage of represented tenants in Housing Court to continue to increase.

We look forward to hearing the testimony today as we evaluate the next steps that our City should take given the unprecedented commitment that we have made to expand legal representation for tenants so far.

Office of Civil Justice

In 2015, Mayor de Blasio and the New York City Council amended the City Charter with the signing and passage of Local Law 61, which created the Office of Civil Justice (OCJ). For the first time, New York City has a permanent office to oversee the City's civil justice services and monitor the progress and effectiveness of these programs. The establishment of OCJ was the latest part of our effort to enhance and coordinate these services at HRA that began at the start of the Administration in 2014.

Civil Legal Assistance Programs

In addition to consolidating contracts under one roof and establishing OCJ at HRA to oversee performance and progress, New York City has steadily and substantially increased investment in these programs since 2014, and today the City is a national leader in providing civil legal services for low-income people.

In Fiscal Year 2017, for the first time New York City's overall investment in civil legal services for low-income City residents will exceed \$100 million. This fiscal year, Mayoral programs exceeding \$83 million and City Council awards of nearly \$28 million will fund free legal services for low-income New Yorkers across a range of areas, including immigration, access to benefits, support for survivors of domestic violence, assistance for veterans and – the focus of today's hearing – anti-eviction legal services and other legal assistance for low-income tenants, including seniors.

The provision of quality legal representation for thousands of the City's low-income tenants facing eviction and displacement is a key component of our civil legal services initiatives. Mayoral funding for tenant legal services in Fiscal Year 2017 is approximately \$62 million, ten times the level in Fiscal Year 2013. HRA's Homelessness Prevention Law Project (HPLP) is the primary vehicle for our anti-eviction legal services. Through HPLP, HRA contracts with a dozen non-profit legal services providers, including both large citywide providers and smaller community-based organizations, to provide free legal representation and advice to low-income tenants at risk of homelessness because of eviction.

HPLP was funded at approximately \$4.9 million in FY13, but starting with the de Blasio Administration's first budget in FY14, funding for this program has substantially increased. In FY17, HPLP is funded at \$25.8 million, providing legal services for low-income tenant respondents in eviction cases throughout the City, with additional expanded legal services targeting specific high-need neighborhoods. The Expanded Legal Services (ELS) component of the HPLP program is intended to essentially provide universal legal representation for low-income tenants facing eviction from their homes in ten zones across the City, targeted because

they include the most at-risk households facing eviction and homelessness as reflected in rates of shelter entry.

In Housing Court, all tenants whose eviction cases involve a residence in one of the target zones are offered the opportunity upon their first appearance at court to meet with OCJ staff on site for an initial screening and determination of income eligibility. Eligible tenants are in turn referred to one of the contracted legal services providers for immediate screening and intake at the courthouse, where, barring a conflict of interest or other extraordinary factor, the tenant is provided free legal defense on the eviction case.

In total, HRA's anti-eviction legal services are expected to serve approximately 20,000 households in FY17.

The Anti-Harassment and Tenant Protection (AHTP) legal services program was launched at HRA by the de Blasio Administration in January of 2016. Whereas the anti-eviction legal services programs target tenants who are already involved in housing court proceedings, this new program provides resources for tenant outreach and pre-litigation services with the goal of preventing eviction and displacement. In addition to full representation and brief legal assistance for Housing Court and administrative proceedings, AHTP legal services providers offer community education, landlord-tenant mediation, and counsel on cooperative tenant actions and building-wide lawsuits.

Currently, AHTP services are targeted to seven neighborhoods across the City that have been identified as posing a high risk for landlord harassment and/or tenant displacement. AHTP providers work closely with the City's Tenant Support Unit (TSU) to assist households identified through TSU's outreach campaigns as in need of legal assistance. AHTP was launched in FY15 with a \$4.6 million initial startup allocation, was funded at \$18 million in FY16 and will be funded at \$32.9 million in FY17. The program is expected to serve approximately 13,000 households in FY17.

In total, through the Administration's investment of nearly \$62 million in tenant legal services, we expect that approximately 113,000 low-income New Yorkers in 33,000 households will receive free legal advice, assistance and representation this year. These programs are part of the Administration's effort to preserve and expand the availability of affordable housing for New Yorkers. Affordable housing, a precious resource, is permanently lost to the City when tenants are evicted from rent-regulated and rent-controlled apartments and rent is increased above affordable levels. Protecting these affordable units throughout New York City for families and seniors and protecting tenants in small buildings is critical. And the financial and human costs that we avert when tenants avoid eviction and preserve their tenancies are substantial; every family that stays in its home spares the City the expense of emergency shelter services – and more importantly spares the family the trauma of homelessness, including disruption of education, employment and medical care. Our legal services programs are aimed at keeping these New Yorkers in their homes, preventing displacement and preserving and protecting the City's affordable housing stock.

And we are already seeing results from our programs to protect tenants. As part of OCJ's first Annual Report this summer, we sought to update the research on the availability of legal assistance for tenants facing eviction in Housing Court. We partnered with the State Office of

Court Administration to undertake a new analysis to assess the current prevalence of legal representation among tenants in court for eviction cases and the need for counsel that remains. We found that a substantially higher proportion of tenants in court for eviction cases have legal representation than ever before. The data further indicate that among tenants with representation, more than half are low-income tenants served through not-for-profit legal assistance programs.

- Even before our housing legal assistance programs are implemented fully this year, more than one in four tenants in court facing an eviction case in New York City – 27 percent – is now represented by a lawyer, a marked increase compared to the Office of Court Administration’s findings that in calendar year 2013 only 1 percent of tenants in New York City Housing Court were represented by attorneys.
- More than half of in-court representation for tenants is provided by non-profit legal services organizations for low-income New Yorkers.
- Meanwhile, only 1 percent of landlords in eviction proceedings appeared in court without counsel.

These results suggest that we are on the right track with this investment. Furthermore, we see very encouraging signs that making access to legal representation leads to improvement in the courts and in the lives of New Yorkers:

- Residential evictions by city marshals declined 24 percent in 2015 compared to 2013, a period during which New York City substantially increased funding for legal services for low-income tenants as well as other rental support programs; and
- during 2015, orders to show cause in the City’s Housing Courts – motions by tenants to reverse a court’s order of eviction – also declined nearly 14 percent, while the volume of residential eviction cases filed remained largely stable, suggesting increased efficiency in the courts with the increase in legal representation.

Next Steps

The investment of resources in legal representation for civil legal services is taking hold and in 2017 providers will fully ramp up their services. Also in 2017, OCJ will be releasing its second Annual Report and along with it the City’s first five-year plan for increasing and enhancing civil legal services for low-income New Yorkers. We expect that the expansion and full funding of services will mean that even more tenants in need will have a more level playing field in court. However, we also know that we must study these programs carefully to fully understand the impact of the funding increases and how they relate to other investments this Administration has made with respect to fighting income inequality.

Homelessness Prevention Administration

To complement these direct investments in legal services, and as part of HRA’s overall reform effort, we created the Homelessness Prevention Administration. While HRA has always provided some homelessness prevention services, over the past two years we consolidated all of

the HRA homelessness prevention programs into a single unit, most recently, as a result of the Mayor's 90-day review of homeless services, including Homebase.

Homebase plays a critical preventative role, and in addition to transferring the unit from DHS to HRA, we are expanding the scope of Homebase as the first point of entry for those at risk of homelessness so that people can be served in their home borough. Further, we are realigning the roles of HRA staff at Homebase to prevent evictions and provide assistance. This integration will reduce inefficiencies and allow for more seamless and effective client service delivery.

Staff will use data analytics to proactively target prevention services for the most at-risk. There will be expanded onsite processing and triage for HRA benefits, including public assistance and rental assistance and Homebase nonprofit staff will expand their case management services to include family mediation, educational advancement, employment and financial literacy services.

Additionally, within the HRA Homelessness Prevention Administration, the Early Intervention Outreach Team receives early warning referrals from Housing Court Judges, early warning referrals from NYCHA for tenant arrears cases, Adult Protective Services referrals and referrals from New York City marshals. This team also works closely with the City's Tenant Support Unit to refer low-income New Yorkers to legal services providers under contract with HRA to help them avert eviction, displacement and homelessness.

Another key component of HRA's homelessness prevention work is rental assistance. The HRA budget reflects the Administration's continuing comprehensive initiatives to prevent and alleviate homelessness within the City, which has built-up over many years. During this same time, the Administration restored rental assistance programs that had been eliminated in 2011.

After Advantage – the State and City's rental assistance program supporting thousands of families – was cut in 2011, the City's shelter population increased exponentially from about 37,000 to nearly 51,000 between 2011 and 2014. Over the past two years, the new rental assistance programs and other permanent housing efforts have enabled 40,540 children and adults in 13,806 households to avert entry into or move out of DHS and HRA shelters.

We have also helped more people with emergency rent assistance, keeping thousands of New Yorkers in their homes. In FY13, HRA provided rent arrears to 42,000 households at a cost of \$124.1 million. In FY15, HRA provided rent arrears to nearly 53,000 households at a cost of \$180.7 million. The increase in spending of 46 percent resulted from increased monthly rents that families and individuals have to pay, additional households being found eligible due to the increasing gap between rents and income, and enhanced targeting of these services to prevent homelessness through partnerships with community-based organizations.

From January 2014 through June 2016, about 131,000 households – including about 390,000 people – received emergency rental assistance to help them stay in their homes, averaging about \$3,600 per case, which is much less than the \$41,000 a year for a family in a shelter.

Providing legal services and rental assistance is much less expensive than the cost of a homeless shelter. And, of course, no price can be put on averting the human costs of homelessness. I am very pleased to see that our efforts to help those in danger of losing their homes avoid eviction

are taking hold. There is certainly more to do, and we look forward to continuing to work with the Council to address the issues that are presented at this hearing.

Now I would like to turn it over to Steven Foo from DFTA who will detail legal services for seniors supported by DFTA.

Legal Services for Seniors Supported by DFTA

As the largest Area Agency on Aging (AAA) in the United States, DFTA administers and promotes the development and provision of accessible services for older New Yorkers. It is DFTA's mission to work to eliminate ageism and ensure the dignity and quality-of-life of New York City's diverse older adults, and for the support of their caregivers, through service, advocacy and education. As a City agency and an AAA under the Federal Administration for Community Living, DFTA receives Federal, State and City funds to provide essential services for seniors. Through contracts between DFTA and community based organizations, this funding provides congregate meals and activities at senior centers, home delivered meals, case management, home care, transportation, caregiver services, and legal services, among other programs.

The Federal Older Americans Act (OAA) designates legal assistance as a priority service under Title III-B¹ funding. The State Office for the Aging (SOFA) is responsible for the overall administration of the program, while direct legal services to older individuals are funded at the local level through Area Agencies on Aging and provided by their legal assistance providers. DFTA, as an AAA, operates its own legal assistance program. Legal services offered through the program are accessible and available to those individuals aged 60 and over in greatest economic and social need throughout the City.

To meet statutory and regulatory requirements, and consistent with this Administration's efforts aimed at reducing income equality and combating poverty, DFTA targets its legal assistance programs to particularly needy populations of older New Yorkers. In accordance with the OAA, this includes those in greatest economic or social need, low-income minorities and rural elders. DFTA's legal programs are therefore targeted at senior New Yorkers who:

- Have assisted living needs;
- Have chronic health problems;
- Have particular problems of access to health care;
- Are homeless, or threatened with homelessness;
- Live on a subsistence income, or are threatened with the loss of subsistence income;
- Have language barriers; and
- Are victims of abuse, neglect or exploitation (including fraudulent and deceptive financial and consumer practices).

In FY16, DFTA received \$1.25 million for Title III-B funded legal services for seniors, which covered 28,795 direct service hours. The DFTA contracted legal assistance providers are LSNY Bronx Corporation for the Bronx, Legal Services NYC for Brooklyn, MFY Legal Services for

¹ 42 U.S.C. § 3026(a)(2); OAA § 306(a)(2).

Manhattan, JASA for Queens, and the Legal Aid Society for Brooklyn and Staten Island. These organizations provided legal assistance, advice and representation to senior New Yorkers in areas including:

- Income
- Health care
- Long-term care
- Nutrition
- Housing and utilities
- Defense of guardianship
- Abuse, neglect and exploitation
- Age discrimination

In addition, DFTA supports the Assigned Counsel Project (ACP), which is a joint project of DFTA and the New York City Civil Court Access to Justice Program, which pairs staff and supervised social work students with contracted community-based legal services providers to represent seniors in Housing Court eviction proceedings, assess these seniors for psychological-social needs and then connect these seniors with needed services and benefits. Seniors are eligible for ACP if they are Housing Court litigants who are 60 years of age or older with economic and social services needs. ACP was funded at \$868,700 in FY16, which covered 511 cases in Housing Court. The ACP contract providers are the New York State Unified Court System for the Bronx, Legal Services NYC and the Legal Aid Society for Brooklyn, MFY Legal Services for Manhattan, and JASA for Queens.

Thank you for the opportunity to testify today. We look forward to your questions.