

Testimony Of Steven Banks, Commissioner Of The New York City Department of Social Services | Human Resources Administration, Mindy Tarlow, Director of the Mayor's Office of Operations and Anne-Marie Hendrickson, Commissioner of Asset and Property Management at the New York City Department of Housing Preservation and Development at the New York City Council's General Welfare and Housing and Buildings Committees on Oversight Three Quarter Housing – October 6, 2016

Good afternoon, Chairman Levin and Chairman Williams, and distinguished members of both the General Welfare and Housing and Buildings Committees. Thank you for inviting us to appear before you today to discuss Three-Quarter Housing. My name is Steven Banks and I am the Commissioner of the New York City Department of Social Services which oversees the Human Resources Administration as well as the Department of Homeless Services. I am joined today by my colleagues, Director of the Mayor's Office of Operations Mindy Tarlow and Deputy Commissioner of Asset and Property Management at the New York City Department of Housing Preservation and Development Anne-Marie Hendrickson.

HRA is the nation's largest social services agency assisting over three million New Yorkers annually through the administration of more than 12 major public assistance programs including cash assistance, employment programs, food stamps and other supports helping New Yorkers remain in the workforce. HRA also plays a role in the administration of housing programs and services, including individuals with HIV, survivors of domestic violence and supportive housing. And much of our work plays a key role in advancing one of this Administration's chief priorities: reducing income inequality and leveling the playing field for all New Yorkers.

As part of HRA's overall reform effort, we created the HRA Homelessness Prevention Administration. While HRA has always provided some homelessness prevention services, we have now consolidated all of the HRA homelessness prevention programs into a single unit, and most recently, as a result of the Mayor's 90-day review of homeless services, Homebase, which had been administered by the Department of Homeless Services. In addition to Homebase, within HPA, the HRA 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. Rental assistance programs to keep families and individuals in their homes and help those in shelter exit to permanent housing are both better for families and individuals and more cost-effective for taxpayers. After Advantage – the State-City 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 Department of Homeless Services (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 has 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.

And finally, within HPA, the HRA Office of Civil Justice oversees the City's civil justice services and monitors the progress and effectiveness of these quality free legal assistance programs, a key component of the Administration's plan for addressing the needs of low-income New Yorkers and addressing poverty and income inequality. Providing coordinated homelessness prevention programs, including legal services and rental assistance, is much less expensive than the cost of a homeless shelter. As I testified last week at the hearing on legal services, the Administration has increased funding for legal services to prevent evictions, harassment, and homelessness 10-fold, from \$6.4 million in FY2013 to \$62 million in this fiscal year when the program will be fully implemented. Even before full implementation, we have seen a 24% decrease in evictions by City marshals over the past two years and an increase in legal representation of tenants in Housing Court from 1% as reported for 2013 by the State Office of Court Administration to 27% this year. When this tenant legal services program is fully ramped up, the funding will enable legal services organizations to provide legal assistance to 33,000 low-income households, including some 113,000 New Yorkers.

In our testimony today we will provide an overview of three-quarter housing, the work of the three-quarter housing task force established by Mayor de Blasio, and comments on the bills before the committees today.

Three-Quarter Housing

Three-quarter housing has come into existence over the past several decades as a result of many of the same drivers that are affecting the shelter census: the lack of appropriate substance use and mental health treatment programs, criminal justice system-involved individuals who are discharged to New York City from upstate prisons, the \$215 monthly public assistance rent allowance that has not increased since 1988, stagnant wages, the increasing gap between income and rents, the loss of Single Room Occupancy (SRO) housing units, and a lack of available supportive and low-rent housing units across the City. These are factors that have built up over many years to the point where 56% of New York City residents are paying more than a third of their income for rent and three in ten New Yorkers pay more than 50%; more than 500,000 New Yorkers fell into rent arrears during the past year.

Three-quarter houses are unlicensed and unregulated buildings, generally two- or three-family homes, where many of the City's most vulnerable and economically disadvantaged residents live. Residents include those discharged from psychiatric or substance use treatment programs,

those reentering the community after serving time in correctional facilities, and those on public assistance left to find housing with the \$215 state-set monthly shelter allowance. The name three-quarter house is taken from the view that they exist somewhere between regulated halfway houses and actual homes.

As a vehicle for profit, many operators divide and crowd apartments beyond what is permissible within the building's occupancy limits, which subjects residents to unsafe conditions. In addition, some operators fail to maintain their properties, thereby creating unhealthy or undesirable living environments.

Typically found in low-income neighborhoods across the City, three-quarter houses are sometimes billed as transitional housing facilities that provide residents an opportunity to 'get back on their feet.' Some operators advertise and recruit individuals to their programs with the promise of connections to employment, training, permanent housing, and case management or counseling with the intention that Medicaid benefits will pay for outpatient services. Operators may require that residents abide by a set of 'house rules' which can include vacating the premises during the day, or require participation in off-site substance use treatment programs, regardless of the individual's treatment needs, to increase the operator's profit.

This type of housing is difficult to track; very little data exists on how many three-quarter houses exist in New York City. Unlike, for example, housing facilities for individuals with addiction which are licensed by the state Office of Alcoholism and Substance Abuse Services (OASAS), three-quarter houses do not provide treatment and therefore are not licensed. Operators instead rent rooms, without providing leases, leaving the residents with little to no legal protections. Operators often unlawfully evict individuals without seeking a court order, which results in housing instability and can lead to cycles of relapse and reincarceration.

Many residents within three-quarter houses are low-income and receive outpatient medical care reimbursed by Medicaid. The federal Anti-Kickback Statute prohibits the knowing and willful exchange (or offer to exchange) of anything of value in an effort to induce (or reward) the referral of items or services reimbursed by federal health care programs. Unscrupulous actors target these vulnerable individuals by requiring them to receive substance abuse or other medical treatment from a specific provider in order to receive lucrative kickbacks in violation of federal law. This practice is made worse by the fact that this network of fraudulent referrals often times inhibits individual choice related to healthcare as well as results in interruptions to work schedules and other commitments these residents have as they seek to improve their lives.

To begin to address the problems presented by these houses that have built up over several decades, the City of New York has instituted measures to prohibit referrals of homeless individuals to three-quarter houses. As chair of the General Welfare Committee of the New York City Council, then-Council Member de Blasio introduced legislation, which led to the promulgation of rules of the City of New York to prevent Department of Homeless Services shelters for single adults from referring clients to permanent housing in buildings that meet one or more of a set of detailed criteria with the aim of ending referrals to three-quarter houses.

To begin to address violations of the federal Medicaid law and the Anti-Kickback Statute, in the fall of 2014, as part of the HRA reform efforts, the HRA program integrity unit began working with law enforcement agencies to investigate operators of three-quarter houses that were

requiring residents to participate in specific Medicaid-funded drug treatment programs as a condition of living in a three-quarter house. HRA staff developed a metric to begin to identify three-quarter houses for this investigative and enforcement work. The metric consists of identifying locations at which 10 or more unrelated adults are receiving the \$215 state-set monthly public assistance rent allowance. Within HRA, the Investigation, Revenue and Enforcement Administration (IREA) is responsible for helping ensure the integrity of social services programs administered by HRA, including Medicaid. IREA is comprised of three major operating units: the Office of Investigation, the Office of Revenue and Administration, and the Medicaid Provider Investigations and Audit (MPIA). IREA has been working closely with the New York State Office of the Medicaid Inspector General, the Medicaid Fraud Control Unit within the New York State Attorney General's Office, the United States Department of Health and Human Services' Office of the Inspector General, the Special Narcotics Prosecutor of New York City, the District Attorneys, and other local law enforcement and prosecutorial agencies within New York City to identify and pursue Medicaid fraud involving the operators of three-quarter houses. These strong and collaborative relationships have led to the successful arrest and prosecution of individuals engaged in fraud which not only diverts much needed funding from the Medical Assistance Program but frequently victimizes those most in need of health care services. For example, these collaborative enforcement actions in which HRA has participated include the arrests of Yury and Rimma Baublitz on charges of Medicaid Fraud and Money Laundering as a result of kickbacks from forcing residents living in three-quarter houses to attend drug treatment programs. Additional investigations are continuing.

I will now turn to my colleague, Mindy Tarlow from the Mayor's Office of Operations to discuss the Three-Quarter Housing Task Force.

Three-Quarter Housing Task Force

Good afternoon members of the General Welfare and Housing and Buildings Committees. My name is Mindy Tarlow and I am the Director of the Mayor's Office of Operations. Thank you for the opportunity to discuss the work of the Three-Quarter Housing Task Force.

In June of 2015, following a New York Times investigation, Mayor de Blasio announced the formation of an interagency task force to review the use of three-quarter houses in New York City and to address a decades old problem. The Mayor's Office of Operations plays a coordinating role in several interagency initiatives including the Three-Quarter Housing Task Force, monitoring the project management and performance management of these programs.

This interagency task force is made up of multiple City agencies, including the Mayor's Office of Operations, the Human Resources Administration, the Department of Housing Preservation and Development, the Department of Buildings, and the Fire Department. The work of the Task Force began with a review of all residences identified by the Human Resources Administration that housed 10 or more unrelated adults who receive the \$215 State-set public assistance rent allowance. In addition to the addresses identified using the HRA metric, we include addresses that come to us from advocates and through 311 complaints. This combination of information has served as a proxy to identify three-quarter houses because there is no registry of three-quarter houses or other means to identify such locations. We acknowledge that there are ways that three-quarter housing operators can conceal their locations from HRA, but this is the best information available to us and it is routinely refreshed by HRA.

Since the launch of the Task Force, inspectors from task force agencies have visited and inspected the locations identified through the information gathering described earlier to determine whether there were health and safety violations. The Task Force has convened regularly for post-inspection discussion and follow-up.

This joint task force inspects each of the buildings with a focus on addressing immediate health and safety issues for residents. These inspections result in a number of actions. For example, when crowding is discovered at individual locations, members of the task force return to the building and conduct voluntary relocations from these sites to bring the building to acceptable safety standards.

Each of the agencies, when appropriate, issues violations and follows up in their standard course of business. For example, serious enough violations result in the agency sending out inspectors to follow up within 30 days. Some conditions are remedied by HPD’s Emergency Repair Program (ERP), a program by which HPD completes the repairs on the most serious conditions on a location and bills the building owner for the repair. These conditions are often associated with ensuring that locations have the proper means of egress.

I will turn the testimony back over to Commissioner Banks to discuss the role of HRA in the Task Force, specifically related to the individuals who were voluntarily relocated as the result of the joint task force inspections.

Results

As of October 4, the Task Force has conducted 169 inspections, across 95 unique buildings and 428 single adults have voluntarily moved from 44 of these buildings into temporary emergency housing similar to that operated when an individual is relocated due to a fire, an unsafe condition, a gas leak or a natural disaster. At the temporary housing sites there is 24-hour 7-day a week security, and each client is provided with case management services and permanent housing relocation assistance by vendors contracted through HRA.

Case management includes initial and ongoing psychosocial/needs assessments and, as necessary, referrals to substance use, and/or mental health programs or other services. Case management also includes coordination of and assistance in attending treatment and service appointments, including mandated appointments with HRA for those who have an HRA case.

For the 428 individuals voluntarily relocated from three-quarter houses and those in former Narco Freedom locations which had to be closed when that entity ceased operating as a result of a federal court enforcement action, the rehousing program has achieved the following permanent housing placements using the HRA rental assistance programs and other housing assistance.

Placements of Residents by Program and Placement Type			
Permanent Placements as of 10/05/16	Former Narco Freedom Residents	TQH-Relocated Residents	Total
Apartments	37	35	72
Rooms	205	88	295
Other Placement Type	12	14	26
Total Placements	254	139	393

While much has been accomplished in the past 15 months to address the problems associated with three-quarter housing that have built up over several decades, to truly address the complex problems that the Task Force has uncovered, a comprehensive approach by all three levels of government is needed in order to tackle the availability of affordable and supportive housing throughout the New York City.

Legislation Before the Committees

As the committees consider the package of legislation before it today, we want to provide some initial feedback on the bills that impact HRA.

Intro 1164 - A local law to amend the administrative code of the City of New York in relation to information regarding unlawful evictions

Enhancing tenant rights and knowledge pertaining to those rights is of paramount importance to this Administration. As part of the implementation of the ten-fold increase in free legal services, in 2015 we also launched the Tenant Support Unit (TSU), which proactively engages New Yorkers who may be at risk of displacement or harassment. This unit goes door-to-door in neighborhoods across the City, informing tenants of their rights, documenting building violations, soliciting complaints related to harassment and eviction, and making referrals to free legal support whenever necessary.

TSU's specialists have identified and worked with thousands of tenants in need of assistance, resolving their respective issues by connecting them with a range of services from basic repairs to legal representation in housing court.

TSU informs tenants about their rights under rent regulation, helps enroll tenants in SCRIE/DRIE, helps secure rent reductions when tenants are overcharged, prevents evictions in court, keeps New Yorkers in their homes by leveraging HRA resources such as One Shot Deals (OSDs) and gets rental arrears paid through Homebase.

To date, TSU has knocked on 101,542 doors, placed 52,919 calls and attended 624 events across the city to inform tenants of their rights and connect them to resources, including 770 referrals to legal service providers. Out of 4,129 cases, resulting from tenant intakes by TSU through the approaches described above, 2,479 have been resolved, resulting in repairs made, referrals to legal service providers, or referrals to HPD.

We support the intent of Intro 1164, as it aligns with existing efforts of the Administration. We would like to work with the Council regarding the best approach to ensure that clients are able to be better informed of their rights and have proof of payment concerning rent through rental subsidies.

Through AccessNYC, the current system used for clients to obtain information about their public assistance case, those in receipt of rental assistance can now obtain proof of rental payment through the AccessNYC self-service portal. As an alternative to the current approach in the bill, we suggest that it would be more effective to require this rent payment receipt available from AccessNYC to contain a statement explaining that pursuant to local law persons who lawfully

occupy dwelling units for 30 consecutive days or longer may not be evicted without a court order.

Intro 1166 - A local law in relation to reporting on violations issued to three-quarters houses.

This bill would require the Human Resources Administration (HRA) to submit to the Council and post on its website a quarterly report that includes the number and type of violations issued to three-quarter houses inspected by the Task Force comprised of inspectors from HRA, the Department of Buildings, the Fire Department and the Department of Housing Preservation and Development.

In partnership with the members of the Task Force, HRA is able to compile some of the information requested in the bill to be included in a report on a quarterly basis. HRA has reported information concerning the findings of the Task Force to advocacy groups with which we have been working. Since the Task Force was formed, I have met regularly with advocates including MFY, Legal Aid, the Tenants Organizing Project (TOP), and Neighbors Together. In these meetings, as we have done today in our testimony, I have provided updates on the number of buildings the Task Force has inspected and voluntary relocations and housing placements.

In addition to this basic information, we are able to report on the number of instances in which the Department of Social Services/Human Resources Administration stopped rent payments to a landlord due to the findings of the three-quarter houses Task Force. HRA currently stops the rent payments of clients relocated by the Task Force.

We cannot, however, identify buildings and violations in such a way that would disclose a building's address because we are required to maintain the confidentiality of clients in accordance with New York Social Services Law §136 and associated regulations.

Overall, we agree with the aim of the bill to track the activity of the Task Force. We have some concerns, however, that some of the reporting requirements related to violations contained within the bill are not clear, and could have unintended consequences resulting in the displacement of residents who want to and can safely remain in their housing. We would like to work with the Council on modifications in order to develop reporting metrics that will be clear and useful, and accurately capture the work of the Task Force.

Res. No. 1035 - calling upon the New York State Office of Temporary and Disability Assistance to promulgate a rule which would increase the current public assistance rental allowance levels from the existing rates.

The state-set monthly shelter allowance of \$215 for single adults has not been raised in decades, which has limited the ability of low-income individuals to find suitable and affordable housing. We have been on record in pointing out that the \$215 allowance is a factor in the three-quarter houses problem that has built up over several decades. We have recently received a proposal that Assemblyman Hevesi, Chair of the Assembly Social Services Committee, plans to introduce to address the current state-set shelter allowance. We are reviewing that proposal and look forward to reporting back to the Council regarding how this proposal relates to the shelter allowance and the City programs that we have establish to address the gap between rents and income.

I will now turn to HPD for their responses to the other bills before the Committees today.

Intro 1167 - a local law to amend the administrative code of the City of New York, in relation to time limits on the receipt of relocation services.

In mid-2015, HPD implemented a new rule changing HPD's relocation payments and services. One change in the new rules, which was carefully considered during the rulemaking process, provides for a 90-day time period for occupants to decide whether or not they wish to apply for relocation benefits. At any point during these 90 days, vacated occupants can apply and, if found eligible, register to enter temporary shelter. Once in shelter they will receive relocation assistance and housing placement services, counseling, benefits advocacy, referrals to other external human services, and independent living workshops. Alternatively, residents can choose to decline shelter and remain with friends, family, or other living situations, but still receive the same relocation assistance and housing placement services.

The decision to limit the amount of time that vacated occupants have to inform HPD of whether they need relocation benefits, including temporary shelter, was informed by our experiences with the prior rule, which did not provide a time limit for applying for relocation benefits, and was made after carefully considering comments and input from the public. In fact, the original proposal of 30 days to apply for benefits in the proposed rulemaking was increased to 90 days in response to public comment.

Intro 1167 would effectively overturn the standard that was adopted after careful consideration and hearing from the public, and revert the Department back to older practices. The Department opposes this legislation because we believe, as our Rule indicated, that 90 days is a reasonable period of time for residents impacted by a vacate order to apply for services. In our experience, once 90 days have passed, vacated occupants who request assistance have most likely experienced another triggering event such as job loss or eviction from a different unit, separate from the vacate event. In order to provide efficient services targeted to the households most in need, there must be a closing date so that the agency can manage and assist those households.

Intro 1168 - A local law to amend the administrative code of the City of New York, in relation to making it unlawful to mandate medical treatment and expanding who may institute and housing court claim.

Intro 1168 prohibits owners from conditioning occupancy upon an occupant seeking, receiving, or refusing medical treatment. It provides that a violation of this prohibition can be challenged in housing court. The bill carves out certain state and federal programs that presumably mandate participation in certain treatment programs. We agree that it is important to prevent owners from locking out occupants or committing fraud by mandating participation in unnecessary or inappropriate medical treatments.

HPD is reviewing the introduction for any legal issues raised by state or federal laws that provide similar or overlapping protections for those occupants.

Intro 1171 - A local law to amend the administrative code of the City of New York, in relation to verification occupancy for relocation services.

The Department also has concerns with Intro 1171, which seeks to codify the documentation requirements for demonstrating eligibility for relocation benefits. Currently, the Department's Rules allow for a flexible administrative process. HPD has a broad checklist of items that allows us to verify occupancy so that households can receive relocation benefits. Under our current process, we work with each client individually and account for their unique circumstances. We believe that legislating eligibility documentation prevents us from having full flexibility and the ability to change as needed, particularly for the benefit of tenants. We would be happy to share our documentation checklist and discuss our current process with you.

There is an additional reason to limit changes to the relocation provisions of the Administrative Code at this time. There is pending litigation against the Department regarding the relocation liens that are authorized under the statute. The relocation statute provides HPD with authority to place a mechanics lien against the vacated property for the costs of providing temporary shelter to relocates, where the vacate order resulted from owner negligence. At question in the litigation is the length of time that HPD paid for temporary shelter expenses and placed a lien on the property to cover these expenses. Given the impact a Court of Appeals decision is likely to have on the enforceability of HPD's relocation liens and its relocation procedures, we believe it best to wait and assess the outcome of the case before considering legislation amending any provision in the relocation statute. For this reason, we do not support Intro 1171 at this time.

Thank you for the opportunity to testify today and to share the progress of the Three-Quarter House Task Force and to respond to the bills before the committees. We look forward to your questions.