

Testimony Of Steven Banks, Commissioner, Department of Social Services
Before the New York City Council's Courts and Legal Services Committee
HRA's Fiscal Year 2018 Preliminary Budget
March 7, 2017

Good afternoon, Chairman Lancman. Thank you for inviting me to appear before you today to discuss the work of the Office of Civil Justice at the New York City Human Resources Administration (HRA). My name is Steven Banks and I am the Commissioner of the Department of Social Services. I am joined by Jordan Dressler, the Civil Justice Coordinator who oversees the Office of Civil Justice at HRA, and HRA's Executive Deputy Commissioner for Finance, Erin Villari.

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 as well as the nation's largest municipal identification program, IDNYC. Since June of 2015, HRA has been the home of the Office of Civil Justice, a permanent office created through a local law enacted by the City Council and the de Blasio Administration to oversee, manage, and monitor the City's programs to provide civil legal assistance to New Yorkers in need. Most recently, with the integration of the Department of Homeless Services (DHS) and HRA into the Department of Social Services in April of 2016, HRA now oversees HomeBase, which connects households on the brink of homelessness with an extensive network of neighborhood-based services to help them remain in their communities and avoid entering shelter. The entirety of these programs represents a comprehensive set of public assistance programs and preventative services to enable New Yorkers to stably remain in their homes and in their neighborhoods.

In administering these programs, HRA is at the forefront of this Administration's efforts to combat poverty and reduce homelessness, and the provision of civil legal services for New Yorkers in need, in particular legal services for tenants, is a critical element in that fight. By investing in these important services, we are already seeing results: in 2016, 27% of tenants facing eviction in housing court in New York City – more than one in four – had counsel, up from just 1% in 2013. At the same time, residential evictions by marshals have declined by about 24%.

Now, as we announced last month with the Speaker and the Council, we are continuing to build on our tenfold increased investment in tenant legal services as we implement over the next five years an unprecedented universal access to counsel program for all tenants facing eviction in Housing Court in New York City. With this step, the City of New York becomes the first city in the United States to implement a universal access to counsel program for tenants in Housing Court, with the largest tenant legal services program anywhere in the country. This is another important step this Administration has taken in the ongoing fight to address income inequality and level the playing field for all New Yorkers.

We are happy to be here today to discuss the work of the Office of Civil Justice and the City's extraordinary investment in civil legal assistance for low-income New Yorkers across the City.

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.

Located within HRA, the Office currently includes 43 staff, including central administration, program development staff, our contract management team, and a group of HRA liaisons located in the Housing Courts to assist with identifying service-eligible tenants in need, connecting them with a legal services provider and also interfacing with the court and the attorneys regarding assignments and logistics and linking them with HRA-administered benefits as needed.

As part of HRA/DSS, OCJ are able to leverage the substantial resources a large agency provides. We can take advantage of broader HRA/DSS infrastructure in areas ranging from data and budget analysis (which is instrumental in the preparation of our Annual Reports), to legal counsel, from facilities management to payroll and human resources. Operating as an office within HRA/DSS provides our Office both capacity and flexibility.

Civil Legal Services Programs at OCJ

In addition to consolidating contracts under one roof and establishing OCJ at HRA to oversee progress and performance, the City has substantially and steadily increased investment in these programs since 2014, and today New York 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 exceeds \$100 million. This fiscal year, Mayoral programs exceeding \$83 million and City Council awards of nearly \$28 million 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 anti-eviction legal services and other legal assistance for tenants in need.

Specifically, the January 2018 Plan includes baseline funding as follows:

- **\$62.2 million** for legal services programs for tenants facing eviction, harassment and displacement, which includes \$28.8 million for eviction defense legal services for low-income tenants in Housing Court and \$33.4 million for anti-harassment/displacement legal services, as well as administrative and staff support;
- **\$11.2 million** for immigration legal assistance, which includes \$3.2 million for legal assistance programs including the Immigrant Opportunities Initiative (IOI) and \$2.1 million in immigration legal programs funded by Community Service Block Grants, as well as \$5.9 million for legal and navigation services as well as outreach through the ActionNYC program operated in partnership with MOIA and CUNY;

- **\$2.1 million** for civil legal services for seniors; and
- **\$1.9 million** for legal services related to access to federal benefits such as SSI.

In addition to the Administration's commitment to supporting civil legal services, I want to again acknowledge the ongoing commitment of City Council Speaker Melissa Mark-Viverito and the entire City Council to expanding access to justice by funding legal services. In FY17, HRA is overseeing \$24.5 million in funding added by the City Council for legal services for the working poor; immigration legal defense services for detained individuals, unaccompanied minors, and families with children facing deportation; assistance for survivors of domestic violence and veterans; anti-eviction and SRO legal services; and general support for civil legal services providers.

Together, the Administration and the Council has invested \$111 million in legal services for low-income New Yorkers with civil legal needs. No other city allocates even a small fraction of what New York City is committing to provide access to civil justice. The City's financial and administrative commitment to these important services has perhaps never been more crucial to serving and assisting low-income New Yorkers, as the federal government reportedly plans to defund entirely the main vehicle for federal funding for civil legal services in the United States, the Legal Services Corporation. Federal funding for civil legal services was dramatically cut over the last two decades, including a more than 30% cut in 1996, as funding by the City and by the State Judiciary has increased dramatically in recent years. Now, despite comprising a tiny fraction of the total annual federal budget – one ten-thousandth, by some estimates – the loss of LSC funding, nationwide and in New York City, would be felt acutely by low-income litigants in areas including consumer rights, disability access and veterans' issues. We continue to monitor this situation and remain in close dialogue with our provider partners as we gauge the impact of any cuts to non-City civil legal services funding here in New York.

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 funded 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 nonprofit 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. Through this program, legal service providers in each borough provide assistance and in-court representation of tenants in Housing Court eviction proceedings, actions seeking repairs, proceedings following illegal lockouts or evictions, and administrative hearings that may result in the loss of tenancy or de-regulation of the rental unit. HPLP primarily targets low-income families with children who are at risk of eviction, with households without children making up a portion of the caseload.

HPLP was funded at approximately \$4.6 million in FY13, but starting with the de Blasio Administration's first budget in FY14, funding for this program 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 access to legal representation for low-income tenants facing eviction in ten zones across the City, which are targeted because they include the most at-risk households of eviction and homelessness as reflected in the 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 (in most cases also at the courthouse), where, barring a conflict of interest or other extraordinary factor, the tenant is provided free legal defense in the eviction case.

HRA's anti-eviction legal services initiatives also include the Housing Help Program (HHP). In this program, the Legal Aid Society, the sole provider selected through a competitive bidding process, employs a court-based "open door" model offering full representation and brief legal services coupled with social work services including assessment, counseling, referrals, and benefits advocacy. The HHP work is funded by HRA at \$3 million for FY17 and is also supported by a grant from the Robin Hood Foundation. Eligibility for HHP services is limited to low-income clients residing in one of a number of "high-risk" ZIP codes (as determined by rates of shelter entry in these areas).

The Anti-Harassment and Tenant Protection (AHTP) legal services program was launched at HRA by the de Blasio Administration in January of 2015. Whereas the anti-eviction legal services programs target tenants who are already involved in housing court proceedings, this newer 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 identified as posing a high risk for landlord harassment and/or tenant displacement. AHTP providers work closely with the City's Tenant Support Unit 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 is funded at \$33.4 million in FY17.

Most recently, we expanded the reach of our anti-harassment legal services by placing legal staff in all of the City's Family Justice Centers (FJCs), to protect survivors of domestic and intimate partner violence and their families by providing housing legal assistance and representation. The FJCs are the City's comprehensive resource and support centers for survivors of domestic and intimate partner violence. A \$500,000 increase in annual baseline funding for this program enables our legal provider partners to provide legal intake and advice services at all five of the FJCs, five days a week. In partnership with our colleagues at the Mayor's Office to Combat Domestic Violence, OCJ is ensuring these survivors have access to trained and skilled legal advocates to assist them to remain in homes that are safe and stable for them and their families.

In total, since January of 2014, as the Administration's tenant legal services programs were brought under HRA's supervision and the investment and support for these services were

dramatically increased, over 100,000 low-income New Yorkers in 34,000 households have received free legal advice, assistance, and representation. And these programs are only 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 non-rent-regulated buildings is critical. And the financial and human costs we avert when tenants avoid eviction and preserve their tenancies are substantial; every family that stays in their home spares the City the expense of emergency shelter services – but 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 now have legal representation than ever before.

- Even before our housing legal assistance programs are fully implemented 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 we are on the right track with this investment. Furthermore, we see very encouraging signs that by making access to legal representation more widely available, we are realizing concrete improvement in the courts and in the lives of New Yorkers:

- Residential evictions by City Marshals declined about 24 percent in 2016 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.
- 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.

The numbers, however, only tell part of the story. The legal services we provide to tenants have a real-life impact on households in need of quality legal help, and at acute risk for displacement from their homes and the instability that comes with it. One of those households is that of Mr. S, who lives with his four minor children in the Bronx. Mr. S and his family had been living in their apartment for two years when their landlord claimed their lease expired and sued to have them evicted in Bronx Housing Court. Mr. S first appeared in court without the assistance of counsel, and, unaware of his legal rights, he signed an agreement which gave the family a little over one month to find a new home. However, Mr. S was thereafter referred to one of our legal provider organizations. After intake, the attorney handling Mr. S's case noticed that the apartment was in fact rent-stabilized, unbeknownst to Mr. S. Armed with this information, Mr. S' attorney was able to successfully move to dismiss the eviction case against Mr. S, despite the existence of the agreement he signed. The attorney was able to ensure that Mr. S and his family receive a lease to renew their tenancy, with a regulated rent, which permits them pay a rent they can afford and remain in their home.

Our legal services also assisted JM, a man who had lived in his building in Harlem for his entire life. He suddenly found himself facing an eviction proceeding, a holdover case brought without merit. JM was connected to one of our legal providers which conducted extensive factual and legal investigation into his situation as well as that of his neighbors. First, the provider determined that the building is an SRO that should be subject to rent regulation, but it had never been registered. Next, the provider found that the building was not owned by the person who brought the eviction case. The eviction case against JM was dismissed, but the legal assistance did not end since there were still outstanding legal issues. The provider is now working to secure a decision from the State's Division of Housing and Community Renewal (DHCR) that the entire building – 10 units – is rent-regulated, which will help preserve these units in a neighborhood at risk of losing its' precious affordable housing stock.

Each of these successes represents a victory for the households who now have leases and rental protections. But the victory extends beyond the individual household through longer lasting impacts as a result of our investments: buildings full of families can remain in their homes and avoid the disruptive impact of displacement or homelessness; apartment units are restored or preserved as affordable. And while harder to quantify or measure, there is a positive impact for other tenants in court facing eviction when there is a critical mass of housing attorneys zealously advocating for their clients, bringing and often winning motions and proceedings, and helping to develop the law around landlord-tenant issues. All of these factors help to level the playing field between landlords and tenants in New York City.

Now, building on these results, we will be expanding our tenant legal services program in the coming years to reach an historic goal. In partnership with the City Council, led by Speaker Mark-Viverito and Councilmembers Levine and Gibson, we will for the first time provide universal access to legal services for tenants facing eviction in New York City Housing Court. New investments will be implemented and phased in over the next five fiscal years, starting with \$15 million in FY18, to reach \$93 million by FY22. At full implementation, the City's investment in tenant legal services will total \$155 million, by far the largest commitment to legal services for tenants in need of any city in the United States.

Universal access will provide free legal representation in court to New Yorkers with household incomes below roughly \$50,000 (200% of the federal poverty level for a family of four), and

legal advice and counseling to those earning more. At full implementation in five years, we estimate that 400,000 New Yorkers will be served under the program annually.

New York City is the first city in the nation to implement a program to provide all tenants facing eviction with a lawyer to help them. We at OCJ and HRA/DSS are honored to oversee and implement this program with our provider partners, and we are pleased to be working with the City Council to create legislation to implement this groundbreaking initiative.

Homelessness Prevention Administration

These legal services work in conjunction with the comprehensive prevention services within HRA's Homelessness Prevention Administration such as rental assistance, emergency grants and the recently transferred HomeBase program. The budget for these programs will be discussed in full at HRA's budget hearing on March 27; however, each of these programs are making a difference in the lives of our clients.

By working to ensure that clients have access to the benefits they are eligible for, such as public assistance, SNAP (food stamps), Medicaid, and SSI, New Yorkers are connected to benefits that can weave a safety net to lift them out of poverty. The prevention programs HRA oversees expand this safety net to include case management services like family mediation; educational advancement; employment; financial literacy services; early warning referrals from NYCHA, Adult Protective Services and City Marshals for tenants on the verge of eviction; and finally emergency grants and rental assistance to keep families and individuals in their homes and prevent and alleviate homelessness.

The cost of averting eviction, displacement, and homelessness is significantly less than the cost of shelter, to say nothing of the human costs associated with homelessness.

In order to prevent evictions and displacement, we have also provided emergency grants, keeping thousands of New Yorkers in their homes. In calendar year 2013, HRA provided rent arrears to 47,000 households at a cost of \$127 million. In calendar year 2016, HRA provided rent arrears to 58,100 households at a cost of \$214 million. The increase in spending resulted from increased monthly rents 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 December 2016, about 161,000 households received emergency rental assistance to help them stay in their homes, averaging about \$3,400 per case, which is much less than the \$41,000 a year for a family in a shelter.

This prevention first strategy streamlines and focuses already successful initiatives recognizing the many benefits of keeping New Yorkers stably housed and in their communities. These proven models represent a comprehensive set of tools aimed at achieving better outcomes for those who are most at risk of eviction and homelessness in our great city. As we continue to implement and expand our legal services programs, we look forward to working with the Council so that New Yorkers across the city are aware not only of their rights, but also what programs and services are available to help them.

Immigration Legal Services

HRA also oversees an array of legal services programs for immigrant New Yorkers in need of legal advice, assistance, and representation. We work in close partnership with our colleagues at the Mayor's Office of Immigrant Affairs (MOIA) and with the legal services providers and community-based organizations (CBOs) to understand the legal needs experienced by immigrant New Yorkers and the fastest and most effective service responses to these needs.

In FY17, the Administration baselined \$3.2 million in funding for the Immigrant Opportunity Initiative (IOI). Through IOI, networks of legal providers and CBOs, which were selected through a competitive bidding process, conduct outreach in immigrant communities across the city, and provide legal assistance to low-income immigrant New Yorkers in matters ranging from citizenship and lawful permanent residency applications, to more complex immigration matters, including asylum applications and deportation defense work. In FY17, in recognition of the acute need for quality legal representation for immigrant New Yorkers in more complicated legal cases, IOI providers received supplemental Mayoral funding of \$2.7 million to provide representation in 1,000 complex immigration cases. The Council similarly added \$2.6 million to support immigration legal providers as part of the IOI program. In total, IOI is funded at approximately \$8.5 million for FY17 and is expected to serve approximately 5,000 New Yorkers in need of immigration legal advice and representation. So far this year, IOI legal services providers have provided over 3,800 immigrant New Yorkers with legal assistance, including 450 immigrant New Yorkers who have received legal representation in complex immigration matters.

One of those New Yorkers is Ms. X. She is a mother of three daughters and a survivor of domestic abuse by her husband. Her husband had told her that he would seek lawful status for her, but he never did. Instead, he subjected her to extreme physical violence, which led Ms. X to obtain an order of protection from him for herself and her daughters. At the time, Ms. X's abuser was threatening to have her deported, and to take custody of their three children.

Fortunately, Ms. X came to one of our IOI legal services providers in search of immigration advice. The provider went beyond simply giving advice, filing a successful application for a self-petition that allowed Ms. X to also file for a work authorization and obtain a job so she could cover her rent and remain in her home. Ms. X had an order of removal against her, filed in absentia by an immigration court in Texas. The legal provider filed a motion to reopen that order, and in January of this year, the Texas immigration court terminated the order, clearing the way for Ms. X to apply for lawful permanent status (a green card). Ms. X's path from family instability and legal jeopardy, to getting necessary supports and achieving a sound legal footing exemplifies the impact that our immigration legal services can have for New Yorkers in need.

In addition to IOI, HRA oversees immigration legal services programs funded through Community Service Block Grants, administered by HRA in partnership with the Department of Youth and Community Development (DYCD). Through CSBG, \$2.1 million funds citywide and community-based legal services organizations to provide a range of services such as legal assistance to help immigrant adults and youth attain citizenship and lawful immigration status; legal and social services for immigrant survivors of domestic violence and human trafficking; and services designed to provide information, education, advocacy and legal services to protect low-wage immigrants from exploitation and violations of their employment rights. These services are expected to serve approximately 2,000 individuals in FY17.

OCJ also oversees immigration legal services programs funded through Council discretionary grants. The New York Immigrant Family Unity Project (NYIFUP) is funded by a City Council discretionary grant providing legal representation for detained immigrants in the United States. This in-court legal representation for immigrant New Yorkers in detention facing deportation assists those who cannot afford an attorney. NYIFUP is funded at \$6.2 million for FY17 and is expected to serve approximately 1,250 individuals in FY17. The Unaccompanied Minors Initiative (UMI) / Immigrant Children Advocates Relief Effort (ICARE) was developed by the City Council in partnership with the Robin Hood Foundation and the New York Community Trust to provide legal and social services to address the surge of immigrant children living in New York City. The program provides unaccompanied immigrant and refugee children in New York City with counsel, the opportunity to apply for relief from removal, and the opportunity to receive much-needed social, medical and mental health services. With \$1.5 million in funding for FY17, the program is expected to serve approximately 600 individuals.

Reporting and Five-Year Plan

Since we testified last year in regard to the budget, OCJ issued its first Annual Report, which presented a comprehensive summary of public funding for civil legal services in New York City and examined legal services available for tenants and immigrants, and unaddressed needs that remain. As we testified before this Committee in September, OCJ will be releasing its second Annual Report later this year. We expect the expansion of services for tenants in Housing Court will mean even more tenants in need will have the aid of quality legal representation and a more level playing field in court. We will also present information about the impacts of these investments. At the same time, we will be widening our lens to present a broader picture of civil legal assistance in the City. We look forward to sharing our findings with this Committee and with the Council.

Also, we expect to present our first five-year plan for civil legal services to the Mayor and the City Council this year. We expect this to continue to guide a course for the future of civil legal services in New York City based in sensible policy, making services widely available, and ensuring a fair and level system of civil justice.

Thank you for the opportunity to testify today, and I look forward to your questions.