

**TESTIMONY BEFORE THE NEW YORK STATE SENATE STANDING  
COMMITTEE ON SOCIAL SERVICES AND STANDING COMMITTEE ON  
HOUSING, CONSTRUCTION AND COMMUNITY DEVELOPMENT: ENDING  
THE PERFECT STORM: FINDING SOLUTIONS AND IDENTIFYING  
ALTERNATIVES FOR NEW YORK'S SECTION 8 PROBLEM**

**APRIL 15, 2010**

This testimony is submitted on behalf of Legal Services NYC. Legal Services NYC is the nation's largest provider of free legal services to the poor. For nearly 40 years, Legal Services NYC has provided critical legal help to low-income residents of New York City. The nineteen neighborhood offices of Legal Services NYC operate in diverse communities throughout the city, representing thousands of low-income tenants annually in disputes involving their rights to remain in their homes, including their right to obtain, make use of and retain Section 8 vouchers. Legal Services NYC has a long history of providing high quality legal representation to victims of domestic violence. In addition to advocating for orders of protection, we represent victims in custody, visitation, child support, and divorce matters. Our neighborhood offices have established strong ties to community based domestic violence groups as well as other agencies in the community and work closely with other public interest legal agencies involved in this work.

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Legal Services NYC commends the State Senate for holding this public hearing to draw attention to a critical issue affecting thousands of low-income families throughout New York City and New York State. The crisis caused by the withdrawal of Section 8 vouchers affects at least 2,589 families.<sup>1</sup> In December 2009, the New York City Housing Authority (NYCHA) decided that it could no longer fund new vouchers and also began to summarily terminate the Section 8 vouchers of thousands of New Yorkers. This mass termination of Section 8 vouchers is unprecedented in the thirty-five year history of the Section 8 program. In addition, it was recently reported, that, "Because of a \$45 million budget gap, the New York City Housing Authority may have to revoke rental-assistance vouchers from more than 10,000 low-income tenants, a drastic move that could cause families to lose their apartments."<sup>2</sup>

Unless a solution is found and found quickly, many tenants will wind up in the shelter system, at a cost far greater than that of replacing the Section 8 vouchers.<sup>3</sup> State and city government must find a solution for every family affected as soon as possible, as all of the tenants face housing crises, and many tenants, including some of the Legal Services NYC clients whose cases are described below, actually face life-threatening situations.

The Section 8 voucher program is a lifeline for the poorest New Yorkers and the last line of defense against homelessness for many. People receiving Section 8 vouchers can rent apartments on the private market and pay 30% of their household income for rent, with the voucher from a qualified public housing authority providing a subsidy for the rest. For the working poor, the disabled, and for people on public assistance, Section 8 vouchers are often a family's only chance at staying together as a family or avoiding the shelter system.

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<sup>1</sup> Senate Standing Committee on Social Services and Senate Standing Committee on Housing, Construction and Community Development, Notice of Public Hearing, p. 1.

<sup>2</sup> Cara Buckley, "Thousands of Families May Lose Rental Vouchers," New York Times, April 6, 2010.

<sup>3</sup> The cost of shelter for a family is \$36,000 per year. Julie Bosman, "City Pays for One-Way Tickets Home," New York Times, July 28, 2009.

Some of the tenants affected by the voucher termination crisis are those whose vouchers landlords refused to accept. Tenants and their advocates in New York City have a powerful tool to use in Local Law 10 of 2008, which prohibits landlords from discriminating against tenants based on their source of income. Legal Services NYC advocates have been able to use Local Law 10 to secure permanent housing for low-income tenants who might have otherwise entered the shelter system, as well as to compel landlords to accept vouchers from existing tenants in order that their apartments can remain affordable. However, this law has been rendered, at least for the time being, meaningless for those tenants whose vouchers have been withdrawn by NYCHA, as well as for others who would have priority for Section 8 vouchers that are not available.

We also want to draw attention to the devastating effect the Section 8 freeze has on families who are involved in the child welfare system. For these families safe, permanent housing made possible by the Section 8 voucher program can be the critical factor in deciding whether children are removed from their families, or whether the trauma of placement in foster care lasts weeks, months, or even years. For all of our clients, Section 8 vouchers and meaningful rent subsidies are an invaluable opportunity to regain family stability. Before the Section 8 freeze, parents for whom homelessness or inadequate housing is the final barrier to having their children returned to their care were eligible to apply for Section 8 vouchers through the Administration for Children's Services' (ACS's) family reunification priority. Eliminating this path to reunification spells longer stays in foster care for children and deeper trauma to the entire family.

Many New Yorkers, and particularly New Yorkers who are involved in the child welfare system, continue to feel the harsh effects of the Section 8 freeze every month, as their one-to-two-year leases under the Department of Homeless Services' Advantage Program run out. Designed by DHS to transition people with barriers to employment out of shelter and into permanent housing, the Children's and Fixed-Income Advantage programs were meant to lead to Section 8 vouchers within one year of leaving shelter.

New York City's government agencies should not pass the devastating effects of its mismanagement of funds and programs on to the most vulnerable New Yorkers – homeless children and their families. Immediate action to protect the thousands of tenants in the Section 8 and Advantage programs who are in danger of homelessness due to the Section 8 crisis; as well as long-term action to rehabilitate this city's flawed administration of housing services is essential to ensuring that this city provides responsible, long-lasting support to its residents in need of shelter, including children in foster care who are waiting as we speak to reunify with their parents.

Victims of domestic violence are devastated by the loss of Section 8 vouchers. For survivors without financial resources, the Section 8 Victim of Domestic Violence Priority Program (VDV) is often the only escape route from dangerous and abusive relationships. When we represent low-income domestic violence victims to secure orders of protection, a critical part of our assistance involves helping them with emergency shelter, and ultimately permanent housing. Emergency shelter is not always available and is time limited. Without a place to live, our clients are unable to leave their abusers. We have seen women return to abusive partners repeatedly because they had no place else to go. Recently an immigrant client left her abuser and moved into an illegal basement apartment while her Section 8 application was pending. ACS threatened to remove her children if she didn't find a better, safer place to live. The Section 8 program was her only hope.

### **EXAMPLES OF PEOPLE AFFECTED**

Below are examples of Legal Services NYC clients whose lives have been affected by the current Section 8 voucher crisis.

#### **1. Beryl Isaacs (Legal Services NYC-Bronx)**

Ms. Isaacs is a sixty year-old woman living alone in a rent stabilized apartment in the Bronx. She suffers from several disabilities, including fibromyalgia and osteoarthritis. Ms. Isaacs first applied for a Section 8 voucher more than twenty years ago. She was finally issued a voucher in 2007. When she tried to get her landlord to take it, however, he refused. Instead he brought an eviction case against her, alleging that she had breached her lease as a result of being chronically late with a rent she could barely afford to pay. She sought the assistance of Legal Services, which brought a case alleging that the landlord was obligated to take her Section 8 because he was in receipt of J-51 tax benefits. She prevailed in that case but much time had passed while the case was litigated.

As per its former policy of re-issuing expired vouchers in cases where the tenant was involved in litigation against landlords who were wrongfully refusing Section 8, NYCHA re-issued Ms. Isaacs' voucher in August of 2009. Ms. Isaacs' attorney mailed the voucher package to her landlord but her landlord claimed not to have received it. Ms. Isaacs hand-delivered the package. Her landlord took several months to return her package. When he did, Ms. Isaacs brought it to her Section 8 worker who said it was incomplete. After making several efforts to get her landlord to complete the package, she arranged to meet her landlord at the Section 8 office in December. He didn't appear.

Ms. Isaacs' Section 8 caseworker did not tell her at her appointment in December that her voucher was in jeopardy. However, Ms. Isaacs got a letter at the end of December saying her voucher would not be honored though its expiration date had not yet passed.

Ms. Isaacs' landlord is suing her for unpaid rent. With an income consisting only of disability payments, and because of unreimbursed medical expenses, Ms. Isaacs will have trouble paying her full rent. Section 8 would double her income by lowering her rental obligation by \$300 a month.

## **2. Pavel Derevyanchenko (Manhattan Legal Services)**

Pavel Derevyanchenko and his wife Lyudmila Strunitskaya live at 850 West 176<sup>th</sup> Street, New York, New York 10033. They are both 71 years old and diabetic. Ms. Strunitskaya's vision is impaired

by her diabetes and Mr. Derevyanchenko had a heart attack in 2006. The only income the couple receives is a combined \$1,115 per month from Social Security. Forty-four percent of their income goes to pay their rent and, after the rent is paid, they have only \$621.25 left over for basic expenses. It is difficult for them to afford the healthy food they should eat because of their health and to afford the basic necessities of life.

Mr. Derevyanchenko received his voucher in May 2009 and he thought he would finally be able to meet basic expenses and have a better quality of life, but his landlord refused to accept the voucher. He sought the assistance of Manhattan Legal Services, which brought a lawsuit against his landlord, alleging a violation of Local Law 10. However, NYCHA's termination of the tenants' voucher undermines this enforcement of Local Law 10 and emboldens the illegal conduct of landlords. This case also calls attention to the fact that vulnerable populations such as the elderly and disabled need special attention in addressing this problem.

## **RECOMMENDATIONS**

These examples make it clear that state and city government must take responsibility for addressing the needs of these and other low-income New Yorkers. Below are our recommendations (presented along with our colleagues at the Legal Aid Society) for concerted action from various agencies to protect the affected Section 8 voucher holders.

1. The New York State Office of Temporary and Disability Assistance (OTADA) should take the following actions:
  - Cover most or all households currently using the Advantage subsidy, by extending this one-to-two year program for at least two years.
  - Cover a significant amount of households that are currently receiving the Advantage subsidy while The New York City Department of Homeless Services (DHS) uses its homelessness prevention stimulus money to cover the rest of the households until they receive Section 8 vouchers.
  - Increase the shelter allowance it pays to families living in NYCHA developments to the maximum that is appropriate for the respective family's size. This would raise almost \$15 million a year, of which only half would be the responsibility of the State.
  - Require DHS to refer the affected families for public housing.

- Use funds reserved for homeless services to prevent the homelessness of affected persons.
- If Section 8 rents are increased as a way of covering the funding shortage, OTDA should approve the use of FEPS for these families, so that they can afford to pay the increased rent.
  2. The New York State Division of Housing and Community Renewal (DHCR) should use its available Section 8 vouchers and affordable housing resources to assist these needy families.
  3. NYCHA should take the following steps to alleviate this crisis:
    - Give affected voucher holders a priority for public housing apartments immediately and inform them how to apply for this priority.
    - NYCHA should fund the Section 8 Voucher program with the funds it currently uses to provide housing for Section 8 recipients in its City and State public housing developments units, since it recently received funding for these developments under the Mixed-Finance Modernization Plan. NYCHA gets \$20 million a year from Section 8 voucher money used in public housing.
  4. The City of New York should take the following steps to alleviate the crisis:
    - New York City Department of Housing Preservation and Development (HPD) should give Section 8 vouchers it is currently holding to the affected NYCHA voucher holders; it should also give its turnover vouchers to these households and make its affordable housing programs available to these families.
    - The New York City Administration for Children Services (ACS) should cover the families they referred to NYCHA for Section 8 vouchers.
    - The City of New York should abandon its appeal of *Casado v. Markus*, 402267/08. The court in this case invalidated the “poor tax” rent increase for lower-rent rent stabilized apartments. NYCHA has had to absorb this rent increase for Section 8 voucher recipients that were subject to the Rent Guidelines Board Orders for 2008 and 2009. Dropping this appeal would raise almost \$8 million a year for NYCHA’s Section 8 program.
    - New York City should cover any increases in rent of Section 8 voucher holders with a combination of the Senior Citizen Rent Increase Exemption (SCRIE), Disability Rent Increase Exemption (DRIE) and Family Eviction Prevention Supplement (FEPS).
  5. The District Attorneys should cover the intimidated witnesses they refer.
  6. HUD should approve NYCHA’s application for \$30 million in emergency funds to prevent voucher terminations.

Finally, it is important to point out the inadequacy of current solutions proposed by DHS. The Homebase program does not by itself provide a solution to this problem. Although Homebase is an

important tool in preventing homelessness; this program by itself does not save people from homelessness. The Flex Plan, a special \$1 million fund announced by DHS Commissioner Hess, retains a requirement of future ability to pay the rent that cannot be met in the absence of Section 8 or an equivalent subsidy program, and is therefore not an answer for those affected. Only the availability of permanent affordable housing can accomplish that goal, and in New York City, Section 8 is the major option for low-income people to find decent and affordable housing.

**Conclusion**

Legal Services NYC thanks the State Senate for holding this public hearing and urges concerted action by the State and City agencies that can make a difference in solving this critical problem.

**Respectfully submitted,**

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