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*****FOR IMMEDIATE RELEASE*****

***NYS Appeals Court Reverses City’s Motion To Dismiss
NYCHA Rent Abatement Case***

***Court Also Grants Class Certification Motion For Damages
Relief***

(NEW YORK, NY) – **The Legal Aid Society and Willkie Farr & Gallagher LLP** praised a decision issued today by the New York State Appellate Division, First Department in *Diamond v. New York City Housing Authority* (NYCHA), a class action lawsuit brought in April 2018 demanding that the agency issue rent abatements to residents who went without heat and hot water during the 2017 to 2018 “heat season” and, in particular, during the winter cold spell that lasted from December 27, 2017 – January 16, 2018.

In a unanimous decision, the Appellate justices granted class certification and reinstated plaintiffs’ claim for breach of the warranty of habitability.

The justices disagreed with trial court’s suggestion that plaintiffs and the other hundreds of thousands of NYCHA tenants harmed by NYCHA’s flouting of its legal obligations file individual cases in civil court. The Appellate justices held that a class action is the most efficient method to adjudicate the claims of individual class members who may lack the resources to bring individual actions.

“As we have maintained, NYCHA has a legal and moral obligation to ensure that heat and hot water systems are functioning properly, and when that promise is broken, there is a price that must be paid,” said **Lucy Newman, Staff Attorney of the Civil Law Reform Unit at The Legal Aid Society**. “We welcome this decision and look forward to securing these rebates for

our clients and other NYCHA tenants who suffered essential utility outages during the coldest time in recent memory. NYCHA residents are not second class citizens and they should share the same protections that other tenants in private housing enjoy.”

“Forcing hundreds of thousands of NYCHA tenants to pursue individual breach of contract claims in Civil Court is not a just or reasonable approach, and we are pleased the Appellate court agreed,” said **Mary Eaton, partner at Willkie Farr & Gallagher**. “It is time for NYCHA to pay for its failure to abide by its legal obligations to provide adequate heat and hot water to its tenants.”

At certain times during this timeframe, entire developments were without heat and/or hot water. In other cases, entire buildings within developments were without heat and/or hot water. Additionally, while outages may not have been building wide, many individual apartments were without heat and/or hot water at some point during the cold spell.

During the last heat season - which stretched from October 1, 2018 – May 31, 2019, over 131,300 of NYCHA’s approximately 175,000 housing units and 291,537 public housing residents were plagued by [unplanned heat and/or hot water outages](#).

Per New York City and State law, NYCHA is obligated as a landlord to establish and maintain certain housing standards. In particular, under the City’s Housing Maintenance Code (HMC), heat must be provided between October 1 and May 31 when temperatures fall below certain degrees. Moreover, the New York State Multiple Dwelling Law requires owners to provide both hot and cold water 24 hours a day.

After Hurricane Sandy ravaged NYCHA developments across the city destroying electrical, heat and hot water systems, The Legal Aid Society called on NYCHA to refund rent for tenants whose homes were completely uninhabitable. The City – bound by the aforementioned laws – issued abatements to impacted residents.

The plaintiffs are represented by: Judith Goldiner and Lucy Newman of the Legal Aid Society; and Mary Eaton, Wesley Powell and Shaimaa Hussein of Willkie, Farr & Gallagher LLP, New York, New York.

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The Legal Aid Society exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For over 140 years, we have protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, The Legal Aid Society changes the lives of our clients and helps improve our communities. <https://www.legalaidnyc.org>

Willkie Farr & Gallagher LLP is an international law firm of more than 700 attorneys with offices in New York, Washington, Houston, Palo Alto, San Francisco, Paris, London, Frankfurt, Brussels, Milan and Rome. The firm is headquartered in New York City at 787 Seventh Avenue.
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