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Contact:

Penny Paul
Sr. Manager, Marketing Communications
Lowenstein Sandler LLP
973.597.2592
ppaul@lowenstein.com

Redmond Haskins
The Legal Aid Society
929.441.2384
rhaskins@legal-aid.org

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Newark Repeals “Needy Person Ban” in Wake of Class Action Litigation Brought By Lowenstein and The Legal Aid Society

(NEWARK, NY) - Lowenstein Sandler LLP and The Legal Aid Society announced today that the City of Newark has [repealed](#) an ordinance known as the “[Needy Persons Ban](#)”, which prohibited any person from who moved or sought to move from a New York City homeless shelter to an apartment in Newark using rent subsidies funded by New York City’s Special One-Time Assistance (SOTA) program. Today’s announcement comes in response to a [class action lawsuit](#) brought by Lowenstein and Legal Aid challenging this cruel and illegal practice.

“The City of Newark’s ordinance, which deprived New Yorkers who seek to move to Newark for the benefits of the SOTA program, was patently illegal and immoral, and it endangered the well-being of our clients who seek to secure, safe and affordable housing,” said **Josh Goldfein, Staff Attorney with the Homeless Rights Project at The Legal Aid Society**. “We welcome this repeal which will afford our clients more opportunities to secure the housing they deserve, and we’ll monitor this development in the days to follow to ensure that the City of Newark abides by the law.”

“We are gratified that the City of Newark did the right thing in repealing this unconstitutional ordinance, which came as a direct result of our litigation strategy and the Court rulings we obtained thus far in the lawsuit,” said **Matthew Oliver, a partner with Lowenstein Sandler LLP**.

Background

The repeal comes in the wake of a long-running dispute over the SOTA program, which assists individuals and families living in New York City shelters to obtain permanent housing in and outside of New York City. Prospective recipients of SOTA, [represented by Lowenstein Sandler and The Legal Aid Society](#), filed a [class action suit](#) in the U.S. District Court for the District of New Jersey claiming that the ban violated the constitutional right to travel and the New Jersey Law Against Discrimination (“NJLAD”), respectively. The SOTA program is

designed to assist individuals and families living in New York City's shelters by providing one year's rent for homes within New York City or in another state.

After the program's inception in 2017, many recipients used the assistance to relocate to Newark but subsequently encountered problems with uninspected and uninhabitable units, often without heat or working electricity or with collapsed ceilings, roach and rodent infestations, broken pipes, and floods.

In 2019, Newark attempted to remedy the SOTA program through amendments to its Municipal Code that imposed inspection and reporting requirements on any agency or person providing rental subsidies to tenants seeking housing in Newark. Unfortunately, the ordinance also prohibited any person from "knowingly bring[ing], or caus[ing] to be brought, a needy person to the City of Newark for the purpose of making him or her a public charge" (the "Needy Persons Ban"). It further restricted the ability of third parties providing rental subsidies to prepay rent on behalf of SOTA recipients (the "Prepaid Rent Ban").

In 2020, Lowenstein and The Legal Aid Society filed an Intervenor Complaint and Crossclaims against Newark on behalf of tenants currently residing in New York City shelters, eligible for SOTA, and wishing to be placed in Newark housing but prevented from doing so because of Newark's Needy Persons Ban. The complaint argued that the ordinance violates both NJLAD and the U.S. Constitution and sought declaratory and injunctive relief to enjoin Newark from enforcing the ordinance and prohibiting future tenants from traveling to and living in Newark. The complaint also alleged claims against New York City for failing to ensure the safety of apartments of SOTA households.

The two named plaintiffs endured the egregious mismanagement of the SOTA program and the unjust barrier Newark's Needy Persons Ban imposed: as a result of the ban, one plaintiff was forced to remain in a New York shelter even after identifying a Newark apartment he wanted to move to; and because of outrageous conditions in Newark SOTA apartments, another client broke her wrist after falling through a hole in her Newark kitchen floor that New York failed to identify before she moved in.

Newark filed a motion to dismiss the tenants' claims on the grounds that they failed to state a cause of action for violations of either NJLAD or the constitutional right to travel. The district court rejected both arguments, concluding that tenants' complaint adequately alleged violations of NJLAD because the Prepaid Rent Ban compelled landlords to discriminate against tenants on the basis of lawful income (i.e., receipt of rental subsidies).

In addition, the court upheld the tenants' claim that the Needy Persons Ban was unconstitutional based on an 80-year-old U.S. Supreme Court precedent, *Edwards v. California*, in which, the Supreme Court invalidated a California statute that made it a misdemeanor for any "person, firm or corporation or officer or agent thereof" to "bring or assist in bringing into the State any indigent person who is not a resident of the State, knowing him to be an indigent person." The Court concluded that the statute was unconstitutional as a barrier to interstate commerce.

In denying Newark's motion to dismiss the tenants' complaint, the judge wrote: "Newark's Ordinance is strikingly similar to the provision struck down in *Edwards* and the Court fails to recognize why it should be treated any differently."

In light of this ruling, the City of Newark has repealed the Needy Person Ban. (The Prepaid Rent Ban previously was amended effective 2020.)

In addition, after tenants intervened in the litigation, New York City overhauled the SOTA program to require inspections of apartments outside of New York City, providing an important safeguard against abhorrent apartment conditions for future SOTA beneficiaries leaving homeless shelters.

The Lowenstein team includes [Matthew M. Oliver](#), [Rebecca J. Ryan](#), Renee K. Jones, and Valerie Taboada. The Legal Aid Society team includes Joshua Goldfein and Samuel Frizell.

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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 145 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. www.legalaidnyc.org

[Lowenstein Sandler](#) is a national law firm with more than 350 lawyers based in New York, New Jersey, Palo Alto, Utah, and Washington, D.C. The firm represents leaders in virtually every sector of the global economy, with particular emphasis on investment funds, life sciences, and technology. Recognized for its entrepreneurial spirit and high standard of client service, the firm is committed to the interests of its clients, colleagues, and communities.