

City Reaches Deal on Shelter for Homeless

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New York City agreed on Wednesday to codify standards for how homeless families seeking shelter should be treated in exchange for freedom from long-running judicial oversight that has led to millions of dollars in fines and has dictated much of the daily functioning of the city's shelters.

The agreement, signed by Mayor Michael R. Bloomberg's top lawyer and the Legal Aid Society and ending a 25-year litigation marathon, would become effective upon court approval, expected in about a month.

To get the deal, the city agreed formally and permanently to a principle that has held sway for two decades: that homeless families demonstrating urgent need are entitled to immediate free shelter. The agreement also outlined clear guidelines regarding such families' treatment that will be binding until at least 2010.

In return, Legal Aid lawyers agreed to drop the more than 40 court orders that prescribed everything from where and when homeless families could sleep to whether bottle warmers and infant formula must be available at city intake offices.

In giving up court supervision, Legal Aid lets go of the extraordinary leverage it had over the city's Department of Homeless Services.

The settlement was hard-won by the mayor, who had long argued that intrusive court oversight hampered the city agency from dealing with needy families rationally. Yet the path to the accord — which follows five years of negotiations and sweeping administrative reforms of the system — was almost as tortuous as the litigation itself.

Mr. Bloomberg described the deal as nothing short of "amazing," noting that the original suit, *McCain v. Koch*, was brought in State Supreme Court in Manhattan in 1983, about the same time that the compact disc first went on sale.

"We also believe that today's historic agreement not only recognizes what we have already achieved, but it also frees us to make greater progress," he said at a City Hall news conference on Wednesday morning.

The deal came as the number of homeless families seeking shelter hovered near its high, and while the city and advocates for the homeless remained in a serious battle about who is entitled to free shelter. Those advocates have argued that the city is sending many families back to crowded or unsafe living situations.

Steven Banks, Legal Aid's attorney in chief, praised the deal for enshrining a right to shelter, which he said had been the main point of the original suit. In addition, he said that because the city had agreed to standards for reviewing the validity of homeless families' petitions for shelter at least until 2010, they were safer than before.

And he pointed out that if the city violates the standards, he retains the right to file a new suit, something that he said he would certainly not hesitate to do.

"No system is perfect, and there are certainly problems everyone is committed to address," Mr. Banks said at the news conference. "But what today's agreement does is give families a legal framework in the future if the efforts that are under way don't work."

When *McCain v. Koch* was filed a generation ago, family homelessness was just emerging as a national crisis. Unprepared to deal with the sudden onslaught, New York City at first housed families in run-down hotels then in public buildings like armories. In 1986, the court ruled that needy families had a right to shelter under the state's Constitution and in 1987 an appellate court added that it had to "be habitable."

The city began creating an extensive system of shelters — at one point, facilities from single apartments to converted hotels — but over the next two decades, a web of court orders grew as city officials and lawyers for the homeless fought fiercely over the quality and breadth of services provided.

When Mr. Bloomberg took office in 2002, family homelessness was skyrocketing and the decrepit intake office in the Bronx was so badly overtaxed that families were being housed temporarily in a converted prison nearby.

By 2003, the average daily census in shelters topped 9,000 families, a historic peak, and more than four times the nearly 2,000 families seeking shelter when the lawsuit was filed. Mr. Bloomberg made homelessness a top priority of his administration and pledged to reduce the shelter population by two-thirds. As part of his reform plan, he wanted to remake the entire shelter system and rid it of court supervision — which he felt wasted time and resources.

In 2003, he persuaded Legal Aid to suspend all litigation involving homeless families for two years while a panel of outside experts explored how to fix the system to both sides' satisfaction.

Since then, the city has undertaken substantive reforms, getting rid of the filthy intake office and developing a new application system that cut processing time from days to hours.

Soon, no families were spending the night sleeping on benches in the intake office, and the experts' panel unanimously recommended that the litigation end.

According to the city's Web site, 7,818 homeless families were in shelters on Tuesday.

But Legal Aid remained concerned that eligible families were being turned away by what they saw as a still deeply flawed application process, and the litigation resumed. Frustrated city officials asked the court to make a final ruling, saying that they had complied with every demand of the outside panel.

Then Gov. David A. Paterson changed the dynamics of the stalled negotiations by elevating Justice Helen E. Freedman, who had presided over the case since 1985, from the Supreme Court to an appellate court in July. Justice Freedman had, through the decades, been sympathetic to Legal Aid's concerns; her departure provided new motivation for it to settle, city officials said. Mr. Banks denied that.

In addition to explicitly guaranteeing the right to shelter, the city agreed to codify standards for determining eligibility, helping the homeless get the documents they needed to prove eligibility and ensuring that they had a safe and appropriate place to go if they were denied shelter. City officials said that they had been doing that already, but Mr. Banks and the Coalition for the Homeless, which was also a party to the suit, said that the city fell far short of those steps in practice.

“We are hoping that now that it is completely spelled out, the city will have to act with much more diligence,” said Mary Brosnahan, executive director of the coalition. “If not, we will be right outside, gathering evidence.”

City officials said that the biggest change might be psychological.

“The constant court monitoring, court orders, in effect caused a quasi-paralysis,” said Michael A. Cardozo, the city’s corporation counsel, who signed the agreement. “Everyone was worried about the note they would be writing, because they knew they would be cross-examined about it in a deposition.”