

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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In the Matter of the Application of Index No.

MARIE VINCENT, CAROLINA TEJEDA, MARY CRONNEIT,
SUSAN ACKS,

On behalf of themselves and all others similarly situated,

Petitioners, VERIFIED PETITION

For a Judgment Pursuant to Article 78 of
The Civil Practice Law and Rules,

-against-

MAYOR ERIC ADAMS, in his official capacity as
Mayor of the City of New York, and THE CITY OF NEW YORK,

Respondents.

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Petitioners, by and through their attorneys, The Legal Aid Society, allege as follows:

PRELIMINARY STATEMENT

1. Faced with a cascade of post-Covid evictions, soaring homelessness, and rising housing unaffordability, the New York City Council held hearings and ultimately passed a package of bills in the summer of 2023 expanding the CityFHEPS rental subsidy program. CityFHEPS is designed to be similar to the federal Section 8 program where tenants pay 30% of income in rent and the City pays the balance.

2. In response to this thoughtful legislative process, the Mayor vetoed the entire package. On July 13, 2023, the Council voted 42 to 8 to override the Mayor's veto, and the laws went into effect on January 9, 2024. In December 2023, however, the City announced publicly that it would not implement the laws.

3. Petitioners, long-term tenants facing eviction from their affordable apartments, and a family languishing in shelter, bring this mandamus proceeding seeking CityFHEPS vouchers on behalf of themselves and the class of households who would be eligible for CityFHEPS vouchers under the duly passed laws. With CityFHEPS, petitioners can stay housed and exit shelter. Without the vouchers, Petitioners will be evicted or will be forced to remain in shelter.

JURISDICTION

4. The Court has jurisdiction over Petitioners' claims pursuant to C.P.L.R. § 7801.

VENUE

5. Venue is proper in the County of New York pursuant to C.P.L.R. §§ 7804(b) and 506(b) because Respondents' principal offices are in New York County and its violation of Local Law 99-102 occurred in that County.

PARTIES

6. Petitioner Marie Vincent, a cancer survivor, resides in a shelter in Harlem with her 12-year-old grandson. The family entered shelter in May 2023, when they were forced from their longtime home in the Bronx after a new landlord purchased the building and evicted all the tenants. She works nights in housekeeping at a hospital and is eligible for CityFHEPS with her current income pursuant to newly enacted Local Law 100 of 2023. Despite identifying several eligible apartments, Ms. Vincent cannot obtain a CityFHEPS shopping letter required to secure an apartment and thus cannot exit shelter with her grandson because Respondents refuse to implement the CityFHEPS Reform Laws.

7. Petitioner Carolina Tejada resides in an apartment in the Bronx with her 11-year-old daughter. She is disabled and cannot afford the low \$1254.60 monthly rent with her

fixed income of \$1213.00 per month. When Ms. Tejada was approved for Social Security Disability Insurance (“SSDI”) in 2021, she was no longer eligible for public assistance and thus lost the Family Eviction Prevention Supplement (“FHEPS”) that critically enabled her to afford the rent. Ms. Tejada is now facing eviction in housing court but cannot obtain CityFHEPS because Respondents refuse to implement the CityFHEPS Reform Laws expanding assistance to income-eligible households at risk of eviction.

8. Petitioner Mary Cronneit is an 86-year-old Brooklyn resident who has lived in her current apartment for over 20 years. After her husband died during the COVID-19 pandemic, she was unable to pay the \$1006.06 monthly rent because she had no independent source of income. Advocates recently assisted her with applying for public assistance and food benefits (Supplemental Nutrition Assistance Program or “SNAP”). Due to the rental arrears that accrued after her husband passed away, Ms. Cronneit is now facing eviction. She is eligible for CityFHEPS pursuant to Local Law 101 but cannot access this critical subsidy because Respondents refuse to implement the CityFHEPS Reform Laws.

9. Petitioner Susan Acks is a 65-year-old disabled Brooklyn resident who has lived in her current apartment for almost 40 years. While her monthly rent is \$1,062.33, she is unable to afford it with her \$948.00 monthly income. As a result, she owes significant rental arrears and is at risk of eviction. She is eligible for CityFHEPS pursuant to Local Law 101 but cannot access this critical subsidy Respondents refuse to implement the CityFHEPS Reform Laws.

10. Respondent Mayor Eric Adams, here sued in his official capacity, is the Mayor of the City of New York, and as such is the “chief executive office of the city.” City Charter § 3.

11. Respondent City of New York (“City” “the City”) is a municipal corporation organized pursuant to the laws of the State of New York and is a city social services district responsible for the assistance and care of any person in its territory “who is in

need of public assistance and care which he is unable to provide for himself.” NY Soc. Serv. Law § 62(1); see also N.Y. Soc. Serv. Law § 56.

CLASS ALLEGATIONS

I. The Class Definition

12. The named petitioners bring this proceeding on their own behalf and on behalf of a proposed class consisting of all New York City households that are eligible to receive a CityFHEPS voucher under Local Laws 99, 100, 101, and 102, but are unable to obtain a CityFHEPS voucher because the City refuses to implement the new laws.

13. The proposed class seeks class certification and mandamus relief.

II. The Class Meets the Requirements for Class Certification

14. This class is so numerous that joinder of all members is impracticable. Although the exact number and identities of the members of the Class are currently unknown to Petitioners, on information and belief, thousands of households who are in shelter and in the community are eligible to receive a CityFHEPS voucher due to the CityFHEPS expansion but cannot receive the benefit because of Respondents’ failure to implement the law.

15. Nearly all factual, legal, and statutory relief issues that are raised in this petition are common to, and will apply uniformly to, each member of the Class.

16. There are questions of fact and law common to the class, including but not limited to, whether Respondents must implement the laws duly enacted by the New York City Council.

17. The claims of the named petitioners are typical of the claims of the class in that each petitioner meets the eligibility criteria for receipt of a CityFHEPS voucher but cannot access this benefit due to Respondents’ failure to implement the law.

18. Mandamus relief is appropriate for the class because Respondents' failure to act is applicable to the class.

19. There are no material conflicts between the claims of the named Petitioners and the members of the Class that would make class certification inappropriate.

20. The named Petitioners and the proposed class are represented by The Legal Aid Society, whose attorneys are experienced in class action litigation and will adequately represent the class. Counsel for the Class will vigorously assert the claims of all members of the Class.

21. A class action is superior to other available methods for a fair and efficient adjudication of this matter in that the prosecution of separate actions by individual class members would unduly burden the Court and create the possibility of conflicting decisions.

FACTS

I The Governing Regulatory Scheme

A. Background on CityFHEPS

22. To address the enormous and dire need for expanded access to rental assistance for New Yorkers experiencing and at risk of homelessness, the New York City Human Resources Administration ("HRA") launched New York City's rental supplement program, CityFHEPS, in October 2018.¹ CityFHEPS consolidated a number of the City's pre-existing voucher programs (LINC, CITYFEPS, and SEPS), with the goal of more effectively and efficiently administering City-funded rental assistance. CityFHEPS is a subsidy that helps tenants pay the rent; tenants pay 30% of their household income in rent and the City contributes the remaining balance up to a maximum amount.

¹ City Record, Vol. 145, No. 189, at 5328 (Sept. 28, 2018). CityFHEPS stands for City Fighting Homelessness and Eviction Prevention Supplement.

23. From its inception, the CityFHEPS program has been hampered by overly strict criteria and a policy design that focused almost exclusively on assisting families only *after* they entered shelter. Additionally, the program's complicated bureaucratic processes and rigid requirements have contributed to a low utilization rate. A policy report from the Harvard Joint Center for Housing Studies estimated that households in shelter typically spend one to three years in the process of obtaining CityFHEPS before exiting shelter with a voucher.²

24. One of the major issues faced by eligible households trying to use CityFHEPS to exit the shelter system was that maximum rents for the program were set at 85% of the Section 8 levels, making it very difficult for homeless households or households at risk of eviction to utilize the vouchers. For example, a household of two was required to find an apartment in New York City with a maximum rent of \$1323. The vacancy rate for apartments with asking rents between \$1,000 and \$1,499 per month was only 2.52 percent in 2017, a rate that has continuously declined since.³

25. To address the CityFHEPS program's prohibitively low maximum rents the City Council passed Local Law 71 in 2021, setting maximum rents at the same payment standard used for federal Section 8 vouchers, and allowing households that remained otherwise eligible to continue receiving annual renewals of their vouchers after their fifth year in the CityFHEPS rental assistance program.

26. Later that same year, the City implemented Local Law 71 as required, by amending Title 68 of the Rules of the City of New York, increasing the maximum rents for CityFHEPS apartments to the Section 8 payment standard adopted by the New York City Housing Authority. The increase to maximum rents significantly widened the pool

² Catherine Darin, "Maximizing the Benefits of Housing Vouchers in New York City." April 2023. https://www.jchs.harvard.edu/sites/default/files/research/files/harvard_jchs_housing_vouchers_grantmaking_darin_2023.pdf

³ NYC Dept. of Housing Preservation and Development, Select Initial Findings of the 2023 New York City Housing and Vacancy Survey, <https://nyc.gov/assets/hpd/downloads/pdfs/about/2023-nychvs-selected-initial-findings.pdf>

of CityFHEPS eligible apartments, giving households a better chance at leaving shelter and maintaining affordable housing.

27. Despite these important improvements to the CityFHEPS program, there remained significant barriers to access, especially for households facing eviction from low-rent apartments. To use CityFHEPS to prevent eviction, tenants had to meet a series of highly restrictive, complex criteria, which included having an active case in housing court and recent shelter history or an active Adult Protective Services (“APS”) case or being a veteran at risk of homelessness or a tenant facing eviction from one of the approximately 16,000 rent-controlled apartments remaining in the city (compared to over 1,000,000 rent-stabilized apartments). These rules arbitrarily excluded tenants like Petitioners Tejeda, Cronneit and Acks whose regulated rents are far below market but are still well above their ability to afford with their limited incomes.

28. Under these rules, Petitioners Tejeda, Cronneit and Acks would be forced to relinquish longtime tenancies in rent stabilized apartments with low rents and enter the shelter system in order to access a housing subsidy meant to reduce homelessness. Significantly, Petitioners Tejeda and Acks would also lose the important benefit of the DRIE program, which freezes the rent of participating tenants.

29. Shelter residents also continued to struggle with burdensome eligibility criteria, like waiting 90 days after entering shelter to simply apply for a voucher and being required to apply for public assistance regardless of eligibility.

30. Income eligibility also persisted as a hurdle to obtaining a CityFHEPS voucher for low-income working families both at risk of and experiencing homelessness. Any household with income over 200% of the Federal Poverty Level, which was less than \$40,000 a year for a family of two in 2023, could not obtain a voucher. To contrast, 50% of Area Median Income (“AMI”) in New York City for a household of two is \$56,500. A household of two with an annual income of \$40,000 can afford to pay only \$1000 in rent a month. This punitive income limit results in working, low-income families making too

much to be eligible for CityFHEPS, yet not enough to afford virtually any apartment in New York City.

31. Obtaining an eligibility determination did not signify the end to barriers erected in the paths of households trying to secure affordable housing through the CityFHEPS program. The program's confusing utility allowance deduction scheme prohibits participants from renting units at the statutory maximum if, like most New York apartments, the tenant must pay for her own utilities. HRA's utility provisions therefore reduce the number of apartments available to voucher holders, without conferring any benefit on the tenant family.

B. 2023 CityFHEPS Expansion

32. The end of the pandemic-related eviction moratorium in January 2022 triggered a surge in nonpayment filings in New York City housing court. Evictions have been rising steadily since, nearly tripling from 2022 to 2023, with low-income communities of color in Central Brooklyn and South and Central Bronx experiencing the highest rates. Evictions are on track to surpass pre-pandemic levels; there were 119 more evictions in October and November 2023 (2,484) than in the same period in 2019 (2,365).⁴

33. The rising number of evictions post-moratorium coincided with historically high levels of homelessness, climbing rents and a steadily declining inventory of affordable apartments. By the beginning of 2023, there were over 70,000 individuals sleeping in New York City shelters each night, a majority longtime New Yorkers, compared to 45,000 at the start of 2022.⁵

34. In response to compounding and intersecting eviction and homelessness crises and broad-based calls for reform of the CityFHEPS program, the City Council held

⁴ David Brand, "NYC evictions surged in 2023, with legal lockouts nearing pre-COVID levels," Gothamist, January 4, 2024, <https://gothamist.com/news/nyc-evictions-surged-in-2023-with-legal-lockouts-nearing-pre-covid-levels>.

⁵ Patrick Spauster, Adrian Nesta & Emma Whitford, "NYC Shelter Count," <https://citylimits.org/nyc-shelter-count/>, Diana Ayala, Pierina Ana Sanchez and Tiffany Caban, "Opinion: The New York City Council must override Adams' vetoes and increase housing voucher access," City & State New York, July 12, 2023, <https://www.cityandstateny.com/opinion/2023/07/opinion-new-york-city-council-must-override-adams-vetoes-and-increase-housing-voucher-access/388396/>.

public hearings on September 13, 2022, December 15, 2022, January 18, 2023, January 19, 2023, May 24, 2023, May 25, 2023, and July 13, 2023.

35. The hearings were called to highlight deficiencies of the CityFHEPS program and the significant need for proposed reforms. Over 30 organizations and community members testified in support of expanded CityFHEPS eligibility criteria, including: VOCAL-NY, Community Service Society, Citizens' Committee for Children of New York, Women in Need (WIN), Coalition for the Homeless, New York City Comptroller Brad Lander, Make the Road New York, Neighborhood Defender Service, Safe Horizon, New York Legal Assistance Group, Her Justice and The Legal Aid Society. Additionally, the Robin Hood Foundation, in collaboration with The Century Foundation and Next 100, published a report in early 2022, recommending targeted reforms to the CityFHEPS program focusing on preventing evictions from happening in the first place, and promoting housing stability by expanding eligibility.

36. On May 25, 2023, following the hearings the City Council passed Intro 229-A (later Local Law 99), Intro 878-A (later Local Law 100), Intro 893-A (later Local Law 101), and Intro 894-A (later Local Law 102) amending CityFHEPS ("City FHEPS expansion"). Together, these laws simplify and expand CityFHEPS eligibility for households in shelter and at risk of eviction and increase the benefit's value by changing the way utility allowances are treated. *See*, Exhibit A, Local Laws 99-102.

37. Local Law 100 ended the rule that required households to live in shelter for 90-days before they could be eligible for CityFHEPS and prohibits the Department of Social Services from requiring an applicant to have resided or reside in a shelter of any kind. City Council Member Diana Ayala, who sponsored the bill that became Local Law 100, described the 90-day rule as "arduous" stating that it puts "unnecessary burdens on those seeking permanent housing" and, "exacerbated the existing strains on our shelter system by preventing individuals and families from moving out and becoming stably housed as

early as they can.”⁶ Local Law 100 also changed the maximum gross income for CityFHEPS from 200% of the Federal Poverty Level to 50 percent of Area Median Income, making a family of 2 income eligible with an income of up to \$56,500 instead of \$39,400, and expanded the definition of “at risk of eviction,” to allow households to demonstrate risk of eviction with a rent demand letter or termination notice, which are predicate notices to eviction proceedings.

38. Local Law 101 expanded eligibility for a CityFHEPS rental assistance voucher to include any income-eligible applicant household at risk of eviction or experiencing homelessness. Upon introducing Intro 893-A (later Local Law 101), bill sponsor Councilmember Pierina Sanchez stated, “In Bronx Community District 5, one in ten households faced eviction last year. This means children are forced to commute sometimes 90 minutes to two hours from a shelter in Queens to their school on Tremont Avenue in the Bronx, severing vital social bonds and support networks for them and for their families. The resulting stress at the household and community level permeates not just through mine but through all communities, manifesting in food insecurity, poor health outcomes, and even violence.” She added, “The time is now to relieve program requirements that essentially require homelessness as a precondition. You have to be evicted...We need to eliminate that requirement.”⁷

39. Local Law 102 removed the requirement that an individual or family demonstrate that they are employed to become eligible for CityFHEPS. Adrienne Adams, Speaker of the New York City Council stated this change is “better align[ed] with economic needs in the City.” In support of removing the employment eligibility requirement, Councilmember Pierina Sanchez observed the illogic of such a requirement, “Right now,

⁶ Committee on General Welfare Hearing, May 25, 2023, pg. 6, 2-7.

⁷ New York City Council Committee Meeting, May 25, 2023, pg. 41, 2-11.

if you don't have a job...it causes you to fall behind on rent and become homeless. Then when you become homeless you need to have a job to get an apartment.”⁸

40. Local Law 99 prohibits the Department of Social Services from deducting a utility allowance from the maximum monthly value of a CityFHEPS voucher, giving voucher holders more options for eligible units. Councilmember Tiffany Caban, who sponsored the legislation, remarked that the utility allowance functioned as “red tape” reducing the value of vouchers in such a way that they effectively “don’t enable our neighbors to afford an apartment.”⁹

41. On June 16, 2023, the HRA issued emergency rules at the direction of Mayor Adams, amending the CityFHEPS rules to eliminate the 90-day stay requirement for single adults and families and reduced the number of hours that families are required to work to become eligible for CityFHEPS from 14 to 10 hours per week. The emergency rule added requirements that were absent from the newly enacted Council laws, including implementing a 10-hour per week work requirement for single adults and prohibiting a household moving out of shelter from moving into a residence they resided in at any point during the prior year.

42. On June 23, 2023, the Mayor vetoed Intros 229-A, 878-A, 893-A and 894-A. (Charter Section 37(b)).

43. On July 13, 2023, the City Council overrode the Mayor’s vetoes by a margin of 42-8 and assigned them Local Law numbers 99, 100, 101 and 102, pursuant to its powers under Charter Section 37(b). The Council gave the Mayor 180 days to implement the laws, which thus went into effect on January 9, 2024. *See*, Exhibit A, Local Laws 99-102.

44. On December 15, 2023, in response to a letter from Council Member Ayala inquiring about plans for implementation of Local Laws 99, 100, 101 and 102, DSS

⁸ New York City Council Stated Meeting, May 25, 2023, pg. 18-22, Committee on General Welfare Hearing, January 18, 2023, pg. 3, 4-10.

⁹ New York City Council Stated Meeting, May 25, 2023, pg. 35, 25 & pg. 36, 2-4.

Commissioner Molly Wasow Park asserted that the “local laws cannot be implemented at this time” due to “substantial financial, operational and legal issues.” Citing an unsubstantiated cost estimate of \$17 billion over five years, and the City’s “worsening financial outlook,” Commissioner Wasow Park concluded that implementing the expansion was “infeasible.” The letter further asserted that because DSS-administered rental assistance programs are governed by the State Social Services Law (SSL) and subject to Office of Temporary and Disability Assistance’s oversight, the City Council can play no role in program administration. *See*, Exhibit B, DSS Commissioner Molly Wasow Park’s December 15, 2023, letter to Councilmember Diana Ayala.

45. Notably, for every family of two in shelter in 2022, the City estimated that it paid \$8,773 per month. This amount is approximately seven times Respondent Tejada’s entire rent of \$1254.60, and nearly ten times the share of Ms. Tejada’s rent that the City would be paying if she were enrolled in the CityFHEPS program.¹⁰

46. As a result of the City’s refusal to implement laws duly enacted under the authority of the City Charter, households eligible for the housing stability made possible by a CityFHEPS voucher are being evicted from affordable homes and/or remain languishing in shelter as the City’s homelessness crisis continues to worsen.

II. Individual Plaintiff Facts

Marie Vincent

47. Petitioner Marie Vincent, a cancer survivor, is living in a shelter with her 12-year-old grandson. The family entered shelter in May 2023, when they were forced from their longtime home in the Bronx after a new landlord purchased the building and evicted all the tenants.

¹⁰ “New York City Council, City Council Homeless Services Providers and Advocates Call on Mayor to Sign All CityFHEPS Bills, Passed by Veto-Proof Majority, into Law, June 16, 2023, <https://council.nyc.gov/press/2023/06/16/2425/>

48. Ms. Vincent works at night in housekeeping at a hospital and is eligible for CityFHEPS under Local Law 100 with her current income of approximately \$48,000 per year. Because her income is above the current City's maximum for CityFHEPS (\$39,220 for a household of two), however, she cannot obtain a CityFHEPS voucher. To contrast, 50% of Area Median Income ("AMI") in New York City for a household of two is \$56,500. If Respondent implemented Local Law 100, Ms. Vincent's income would allow her to obtain a CityFHEPS shopping letter required to secure an apartment.

49. Ms. Vincent attempted to reduce her hours to become income eligible for CityFHEPS, however she was still assessed as over income and the negative impact on her ability to meet her other financial responsibilities, especially purchasing food for herself and her grandson, is not sustainable.

50. Despite identifying multiple eligible apartments, Ms. Vincent cannot obtain a CityFHEPS shopping letter required to secure an apartment and her family is languishing in shelter because Respondents refuse to implement the CityFHEPS Reform Laws. She cannot find an apartment she can afford on her own. With her income, she can only afford an apartment with a rent of \$1200.00. The vacancy rate for units renting for \$1,100 to \$1,649 is less than one percent.¹¹

51. Even if Ms. Vincent was found eligible, until the Mayor implements Local Law 99, eliminating the utility allowance used to lower the maximum value of the voucher, the family's apartment options will be significantly limited.

Carolina Tejada

52. Carolina Tejada is a single mother living in an apartment in the Bronx with her 11-year-old daughter. The family has lived in their current rent-stabilized apartment

¹¹ NYC Dept. of Housing Preservation and Development, Select Initial Findings of the 2023 New York City Housing and Vacancy Survey, <https://nyc.gov/assets/hpd/downloads/pdfs/about/2023-nychvs-selected-initial-findings.pdf>.

since 2016. The rent is frozen at \$1254.60. Ms. Tejada's monthly rent is frozen because she participates in the Disability Rent Increase Exemption ("DRIE") program.

53. Ms. Tejada worked hard for most of her life to support herself and her family. But in 2011 she sustained devastating injuries in a car accident, including a fractured pelvis and traumatic brain injury, and became permanently disabled.

54. Despite her permanent injuries, Ms. Tejada continued working to support her household and keep a roof overhead. She worked until about 2019, when she was forced to stop due to worsening health issues.

55. Ms. Tejada's disabilities include chronic pelvic and hip issues from the accident, fatigue, headaches, osteoarthritis in both hands, diabetes and anemia requiring blood transfusions, among other issues. These conditions leave Ms. Tejada with regular headaches, pain, difficulty seeing, difficulty walking, and other symptoms.

56. Soon after she stopped working, Ms. Tejada faced eviction in housing court for falling behind in rent. She applied for public assistance and was able obtain a New York State Family Homelessness and Eviction Prevention Supplement ("FHEPS") subsidy. With FHEPS, Ms. Tejada's eviction was prevented, and she could afford the rent going forward.

57. Knowing that she could not support her family with public assistance benefits alone, Ms. Tejada applied for Social Security Disability Insurance ("SSDI"), which she was approved for based on her work history and disabilities.

58. After Ms. Tejada was approved for SSDI, she became ineligible to continue receiving public assistance. Because eligibility for cash assistance is a requirement for FHEPS, her FHEPS voucher was terminated, leaving Ms. Tejada solely responsible for paying the rent. Ms. Tejada receives about \$1,213.00 in SSDI each month, less than her low rent of \$1,254.60.

59. In October 2023, Ms. Tejada's landlord sued her for nonpayment, seeking to evict Ms. Tejada and her daughter from their home. Despite multiple attempts to obtain CityFHEPS through the assigned providers, Ms. Tejada has been told she is not eligible.

60. Without CityFHEPS, Ms. Tejada cannot preserve her low-rent apartment and she will be evicted. She and her daughter have nowhere else to go and will be forced to enter the shelter system for the first time in their lives. If the Mayor implements Local Law 101, this family will be able to maintain their low-rent, longtime home.

Marie Cronneit

61. Petitioner Mary Cronneit is 86 years old and has resided in the same apartment in Brooklyn, New York for over 22 years. Her monthly rent is \$1006.06, and her apartment is rent stabilized.

62. After Ms. Cronneit's husband died during the COVID-19 pandemic, she was unable to pay the \$1006.06 monthly rent because she had no independent source of income and began accruing arrears.

63. Ms. Cronneit's husband was responsible for all the household finances. After he passed away, she was left trying to survive with no income and some family support for bare necessities. Advocates recently assisted her with applying for public assistance and food benefits (Supplemental Nutrition Assistance Program or "SNAP").

64. Due to the rental arrears that accrued after her husband passed, she is now facing eviction. Ms. Cronneit's landlord commenced a nonpayment eviction proceeding in 2021 and is now seeking approximately \$16,000.00 in rental arrears. Without a CityFHEPS voucher, she cannot afford her rent. She will be evicted and enter the homeless system at 86 years old. Her family does not have room to house her.

Susan Acks

65. Petitioner Susan Acks is a 66-year-old disabled senior and has resided in the same apartment in Brooklyn, New York for almost 40 years. Her apartment is rent stabilized.

66. Ms. Acks used to work as a pianist and musical director, but her career ended approximately 20 years ago when she was injured in a bus accident, which rendered her permanently disabled.

67. While her monthly rent is frozen at \$1,062.33, because she participates in the Disability Rent Increase Exemption (DRIE) program, it exceeds her Supplemental Security Income (“SSI”) payment of \$1050.00 per month. After her longtime roommate moved out in early 2023, she could no longer afford the rent and began accruing arrears.

68. In 2023, Ms. Acks’ landlord commenced a nonpayment eviction proceeding. Without a CityFHEPS voucher, she cannot afford her rent and will be evicted and enter the homeless system. She has no family who can rehouse her.

CLAIMS

FIRST CAUSE OF ACTION

(For Judgment Pursuant to CPLR § 7806)

69. Petitioners repeat and realleges each and every allegation in the preceding paragraphs as if set forth herein in full.

70. Article 78 of the New York State Civil Practice and Rules (“CPLR”) provides that a mandamus proceeding may be brought when an administrative agency has failed to perform an act required of it by law. See CPLR Sections 7801 and 7801(1).

71. The New York City Charter vests the City Council with the “legislative power of the city.” N.Y. City Charter § 21. The Mayor is “the chief executive officer of the city” and as such has a duty to enforce laws duly enacted by the City’s legislature. (N.Y. City Charter § 3).

72. Section 603 of the City Charter further states that “the commissioner [of DSS] shall have the powers and perform the duties of a commissioner of social services under the social services law, provided that no form of outdoor relief shall be dispensed by the city *except under the provisions of a state or local law which shall specifically provide the method, manner and conditions of dispensing the same.*” [emphasis added].

73. The Council duly passed the CityFHEPS expansion on July 13, 2023, exercising its power under City Charter Section 37(b) to override the Mayor’s veto. These Local Laws were thereby deemed “duly adopted,” and became effective on January 9, 2024.

74. Respondents have failed to implement or enforce the City FHEPS expansion, notwithstanding their duty to do so. As a result of Respondents’ illegal conduct, Petitioners are deprived of a benefit provided for them by law.

75. Petitioners are entitled to a judgment under CPLR § 7806 ordering Respondents to take all steps necessary to implement the CityFHEPS expansion.

WHEREFORE, Petitioners request the following relief:

a) Certification of the Class proposed by Petitioners, appointment of the Petitioners as representatives of the Class, and appointment of Petitioners’ counsel as Class Counsel;

b) Injunctive relief directing Respondents and their agencies, officers and employees to immediately implement the CityFHEPS expansion by offering vouchers to Petitioners and all similarly situated applicants for CityFHEPS who are eligible under the newly enacted laws;

c) An award of Petitioners’ attorneys’ fees, costs and expenses in an amount to be determined at a hearing or trial; and

d) Such other, further or different relief as the Court deems just and proper.

/s/ Robert Desir

Robert Desir

Judith Goldiner

Edward Josephson

Alex MacDougall

LEGAL AID SOCIETY

49 Thomas Street

5th Floor

New York, NY 10013

Phone: (646) 581-7506

Email: rrdesir@legal-aid.org

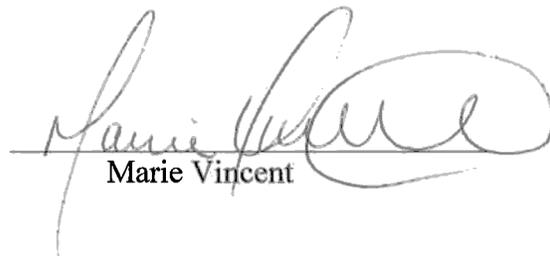
Counsel for Petitioners

VERIFICATION

STATE OF NEW YORK)
 :
COUNTY OF KINGS) SS.:

Marie Vincent, being duly sworn, deposes and says:

1. I am a petitioner in the above-entitled proceeding.
2. I have read the contents of the foregoing petition.
3. The information stated therein is true to my own knowledge except as to those matters therein stated to be alleged upon information and belief, and as to those matters, I believe the information to be true.



Marie Vincent

Sworn to before me this
7th day of February, 2024



NOTARY PUBLIC

EDWARD JOSEPHSON
Notary Public, State of New York
No. 02JO4958106
Qualified in Kings County
Commission Expires December 9, 2025

VERIFICATION

STATE OF NEW YORK)
 :
COUNTY OF NEW YORK) ss.:

ROBERT DESIR, an attorney licensed to practice law in the State of New York,
hereby affirms:

1. I am the attorney for Petitioners-plaintiffs in the above-entitled proceeding.
2. I have read the contents of the foregoing Petition.
3. I submit this verification because Petitioners-plaintiffs are not in the county in which I maintain my office. The information stated therein is true to my own knowledge, or based upon conversations with the Petitioners-plaintiffs and review of relevant documents.

Dated: February 14, 2024

New York, NY



ROBERT DESIR