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

WILLIE IVY, KIRT ROSS, ELISA DECASTRO, MINERVA PACUMIO, ASHALEY CARTER, KIMBERLY MALDONADO, and CASEY HANTEN, *on behalf of themselves and all others similarly situated*,

Plaintiffs,

v.

NEW YORK STATE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE; and BARBARA C. GUINN, as Commissioner of the New York State Office of Temporary and Disability Assistance,

Defendants.

Index No. _____

SUMMONS

TO THE ABOVE-NAMED DEFENDANTS:

PLEASE TAKE NOTICE THAT YOU ARE HEREBY SUMMONED to answer the Class Action Complaint of Plaintiffs Willie Ivy, Kirt Ross, Elisa DeCastro, Minerva Pacumio, Ashaley Carter, Kimberly Maldonado, and Casey Hanten herein and to serve a copy of your answer upon the undersigned attorneys for Plaintiffs within twenty (20) days after service upon you of this Summons and Class Action Complaint, exclusive of the day of service, or within thirty (30) days, if service is made upon you in any manner other than personal delivery. In the event of your failure to answer the Class Action Complaint within the time limits described above, judgment will be taken against you by default for the relief demanded in the Class Action Complaint.

Date: June 3, 2026
New York, New York

By: */s/ Fara Tabatabai*

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

WILLIE IVY, KIRT ROSS, ELISA DECASTRO, MINERVA PACUMIO, ASHALEY CARTER, KIMBERLY MALDONADO, and CASEY HANTEN, *on behalf of themselves and all others similarly situated*, Plaintiffs, v. NEW YORK STATE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE; and BARBARA C. GUINN, as Commissioner of the New York State Office of Temporary and Disability Assistance, Defendants.	Index No. _____ **CLASS ACTION COMPLAINT**

Plaintiffs Willie Ivy, Kirt Ross, Elisa DeCastro, Minerva Pacumio, Ashaley Carter, Kimberly Maldonado, and Casey Hanten, by and through their undersigned counsel, bring this action on behalf of themselves and a class of similarly situated individuals and families against the New York State Office of Temporary and Disability Assistance ("OTDA") and the Commissioner of OTDA (together, "Defendants"), and in support thereof allege the following upon their own knowledge or otherwise upon information and belief:

PRELIMINARY STATEMENT

1. Article XVII of the New York State Constitution requires Defendants to provide "aid, care and support" for needy New Yorkers.[1] In accordance with that requirement and the laws of New York State, Plaintiffs and thousands of similarly situated single adults and families with and without minor children are entitled to a monthly public assistance shelter allowance that

[1] N.Y. Const. art. XVII, § 1.

enables them to find housing and pay rent. However, Defendants have set the shelter allowance at levels so low that it is *impossible* for needy individuals and families to find private market housing *anywhere* in New York State that they can rent using that allowance. As a result, thousands of single adults and families who receive public assistance are relegated to homelessness in shelters, on the streets, and in other public spaces, or are at imminent risk of becoming homeless. Defendants' failure to set shelter allowances at levels that actually permit needy individuals and families to rent housing is, in effect, a complete denial of aid, care, and support, in violation of their obligation under the New York State Constitution.

2. Moreover, under the Court of Appeals' ruling in *Jiggetts v. Grinker*, 75 N.Y.2d 411 (1990), for households with children who receive Family Assistance public benefits, Defendants must provide shelter allowances that are "adequate" to allow the family to raise children within a home, not a shelter. Defendants are in violation of that mandate for many Family Assistance households in New York City and for *all* Family Assistance households in the remaining 57 counties of New York State.

3. Defendants set monthly public assistance shelter allowances based on household size, geographic location, and whether there are minor children in the household. Despite dramatic increases in housing costs, Defendants have not increased shelter allowances for individuals in *nearly four decades* and have not increased allowances for families with children in *more than two decades*. Meanwhile, from 2005 to 2023, median rents in New York State increased 85.6%—even higher than the rate of inflation, which rose 51.1% in that period. And in New York City, median rents increased 101.6%, while the rate of inflation increased 51.4%.

4. While Defendants have frozen shelter allowances for nearly four decades, the United States Department of Housing and Urban Development ("HUD") annually updates the

fair market rent levels ("FMR") needed to rent housing throughout New York State. The HUD FMR in New York State reflects rent levels that the federal government has determined "must be paid in the market area to rent privately owned, existing, decent, safe and sanitary rental housing of a modest (non-luxury) nature with suitable amenities."[2] Unlike Defendants' shelter allowances, the HUD FMR is adjusted ever year to reflect market conditions, including rent increases.[3]

5. In all 62 counties of New York State, Defendants' shelter allowances are a fraction of the HUD FMR. In New York City, the 2025 HUD FMR was $2,406 per month for studio apartments and $2,780 per month for two-bedroom apartments.[4] By contrast, Defendants have set the shelter allowance for New York City at only $215 for a single adult and $400 for a family of three.[5] In Erie County, the 2025 HUD FMR was $968 for a studio apartment and $1,176 for a two-bedroom apartment, while Defendants' shelter allowance was only $169 for a single adult and $301 for a family of three.[6]

6. In certain limited circumstances, Defendants have established a monthly public assistance shelter supplement in addition to the shelter allowance. However, those shelter

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2 24 C.F.R. §§ 888.111(b), 888.113; *see generally Fair Market Rents (40th Percentile Rents)*, U.S. Dep't of Hous. and Urban Dev. Office of Pol'y Dev. and Rsch., https://www.huduser.gov/portal/datasets/fmr.html.

3 *Fair Market Rents (40th Percentile Rents)*, U.S. Dep't of Hous. and Urban Dev. Office of Pol'y Dev. and Rsch., https://www.huduser.gov/portal/datasets/fmr.html.

4 *FY 2025 HUD Fair Market Rent Documentation System*, U.S. Dep't of Hous. and Urban Dev. Office of Pol'y Dev. and Rsch., https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2025_code/select_Geography.odn (select New York, NY HUD Metro FMR Area).

5 N.Y. Comp. Codes R. & Regs. Tit. 18, § 352.3(a)(1).

6 *FY 2025 HUD Fair Market Rent Documentation System*, U.S. Dep't of Hous. and Urban Dev. Office of Pol'y Dev. and Rsch., https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2025_code/select_Geography.odn (select New York, then Erie County); N.Y. Comp. Codes R. & Regs. Tit. 18, § 352.3(a)(1).

supplements are not available in most counties in the State. And even in the relatively few counties in which shelter supplements are available, they are not accessible to all needy individuals and families. In 42 of the 57 non-New York City counties, Defendants do not provide shelter supplements to *any* families with minor children who are receiving public assistance; in the remaining 15 counties, Defendants provide a limited number of shelter supplements to such families, but not as an entitlement (*i.e.*, the shelter supplements in those counties are discretionary and not a guaranteed benefit). In 30 of the 57 non-New York City counties, Defendants do not provide shelter supplements to *any* single adults who are receiving public assistance; in the remaining 27 counties, Defendants provide a limited number of shelter supplements to single adults, but not as an entitlement. Even where shelter supplements are available, Defendants have set them at a fraction of the HUD FMR.

7. Only in New York City have Defendants set their shelter supplement for rent to align with the HUD FMR. However, shelter supplements in New York City are available *only* to families with minor children receiving public assistance who are subject to a Housing Court eviction proceeding or who have been evicted through such a proceeding within the prior 12 months and have entered a shelter.[7] New York City data shows that most families with minor children are relegated to shelters *without* eviction proceedings, typically after they are priced out by rising rents before eviction proceedings have begun or when they cannot find an apartment to rent with the shelter allowance in the first place.[8] Defendants' narrow criteria for eligibility for

[7] *Family Homelessness and Eviction Prevention Supplement (FHEPS)*, ACCESS NYC (Aug. 20, 2024), https://access.nyc.gov/?p=17904; *see also Family Homelessness & Eviction Prevention Supplement (FHEPS) Fact Sheet*, N.Y.C. Dep't of Soc. Servs. (Aug. 20, 2025), https://www.nyc.gov/assets/hra/downloads/pdf/FHEPS/HRA-146r-E.pdf.

[8] *State of the Homeless 2025*, Coalition For The Homeless, https://www.coalitionforthehomeless.org/state-of-the-homeless-2025/#drivers-of-homelessness.

the shelter supplement means that most families do not qualify.

8. Thus, Defendants have excluded *all* single adults (except for a narrow category of single pregnant women), *all* families without minor children, and *most* families with minor children who receive public assistance from entitlement to a shelter supplement in New York City.[9] Those exclusions include senior citizens facing eviction from their homes, single adults discharged from State prisons to City shelters, young adults aging out of foster care, survivors of domestic violence with minor children, and families with school-age children doubled up in someone else's apartment.[10] The shelter supplement program as structured does not remedy the unconstitutional nature of Defendants' ineffective shelter allowances.

9. Although Article XVII of the State Constitution allows the State discretion to determine the amount of aid and means of providing such aid, it unequivocally prohibits the State from effecting a complete denial of aid to the needy, as Defendants have done here.[11] In addition, Defendants' method of distribution of aid must be "reasonably expected to be in furtherance of the optimum utilization of public assistance funds."[12] It is not.

10. The current shelter allowances drive New Yorkers who are eligible for and receive public assistance into homelessness, which is not the optimum use of public assistance funds. To the contrary, the monthly cost of providing beds in homeless shelters or hotels across the State is often *double or even triple* what it would cost Defendants to provide a shelter

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[9] *Family Homelessness & Eviction Prevention Supplement (FHEPS) Fact Sheet*, N.Y.C. Dep't of Soc. Servs. (Aug. 20, 2025), https://www.nyc.gov/assets/hra/downloads/pdf/FHEPS/HRA-146r-E.pdf.

[10] *See id.*

[11] *Tucker v. Toia*, 43 N.Y.2d 1, 7-8 (1977).

[12] *Matter of Bernstein v. Toia*, 43 N.Y.2d 437, 449 (1977); *see also Brownley v. Doar*, 12 N.Y.3d 33, 43 (2009).

allowance or supplement aligned with the HUD FMR, meaning that Defendants' impossibly low shelter allowances and supplements are actually *increasing* Defendants' costs and redirecting public funds towards homeless shelters and hotels rather than keeping needy New Yorkers in stable, permanent housing.

11. Accordingly, on behalf of themselves and a class of similarly situated individuals across New York State, Plaintiffs Willie Ivy, Kirt Ross, Elisa DeCastro, Minerva Pacumio, Ashaley Carter, Kimberly Maldonado, and Casey Hanten seek (1) a declaratory judgment pursuant to CPLR § 3001 that Defendants have violated Article XVII of the New York State Constitution by denying "aid, care and support" to individuals and families who are entitled to public assistance; (2) a declaratory judgment pursuant to CPLR § 3001 that Defendants have violated Sections 350(1)(a), 350–j(3), and 344(2) of the New York Social Services Law by excluding from eligibility for shelter supplements aligned with the HUD FMR all Family Assistance households in New York City that are not facing eviction or have not been evicted in the previous 12 months and all Family Assistance households outside of New York City; and (3) injunctive relief pursuant to CPLR § 6301, requiring Defendants to provide shelter allowances and/or shelter supplements set in accordance with the HUD FMR.

PARTIES

12. Plaintiff Willie Ivy is currently placed in shelter at a motel in Erie County. Mr. Ivy qualifies for public assistance, including a shelter allowance. Defendants do not provide and have not authorized shelter supplements in Erie County.

13. Plaintiff Kirt Ross is a resident of New York City who is facing eviction from his one-bedroom, rent-stabilized apartment in Brooklyn. Mr. Ross qualifies for public assistance, including a shelter allowance, but under Defendants' rules is excluded from eligibility for a shelter supplement.

14. Plaintiff Elisa DeCastro is a Monroe County resident who is currently facing eviction from her apartment. Ms. DeCastro qualifies for public assistance, including a shelter allowance, but still cannot afford to stay in her apartment. Defendants do not provide and have not authorized shelter supplements for single adults in Monroe County.

15. Plaintiff Minerva Pacumio is a resident of New York City who is facing eviction from the one-bedroom apartment she shares with her two adult children. Ms. Pacumio qualifies for public assistance, including a shelter allowance, but is not qualified under Defendants' rules to receive a shelter supplement aligned with the HUD FMR.

16. Plaintiff Ashaley Carter currently resides in a homeless shelter in Erie County. Ms. Carter is pregnant and qualifies for public assistance, including a shelter allowance. Defendants do not provide and have not authorized shelter supplements in Erie County.

17. Plaintiff Kimberly Maldonado is a resident of New York City who is facing eviction from her one-bedroom, rent-stabilized apartment. Ms. Maldonado qualifies for public assistance, including a shelter allowance, but is not qualified under Defendants' rules to receive a shelter supplement aligned with the HUD FMR.

18. Plaintiff Casey Hanten is at risk of homelessness because she cannot afford to stay in her two-bedroom apartment in Broome County, where she lives with her two young children. Ms. Hanten qualifies for public assistance, including a shelter allowance. Defendants do not provide and have not authorized shelter supplements in Broome County.

19. Defendant OTDA is the New York State agency responsible for supervising programs that provide assistance and support to individuals and families in New York State, including New Yorkers who are entitled to public assistance.

20. Defendant Barbara C. Guinn is the Commissioner of OTDA, the New York State

agency responsible for supervising programs that provide assistance and support to individuals and families in New York State, including New Yorkers who are entitled to public assistance.

21. OTDA and the Commissioner maintain an office at 317 Malcolm X Blvd, No. 8, New York, New York 10027.

JURISDICTION AND VENUE

22. As a court of general jurisdiction, this Court has jurisdiction over this action because it is brought pursuant to Article VI, Section 7(a) of the New York State Constitution. Additionally, this Court is empowered to issue a declaratory judgment pursuant to CPLR § 3001 and preliminary and permanent injunctive relief pursuant to CPLR § 6301.

23. Venue properly lies in New York County pursuant to CPLR § 503, as the county where one or more of the Plaintiffs reside and where Defendants maintain a principal office or have facilities involved in the action.

FACTUAL BACKGROUND

I. PLAINTIFFS ARE EXPERIENCING HOMELESSNESS OR ARE AT RISK OF HOMELESSNESS BECAUSE THERE IS NO AVAILABLE HOUSING THEY CAN OBTAIN USING DEFENDANTS' SHELTER ALLOWANCES.

24. Plaintiff Willie Ivy is 59 years old and currently resides in a motel in Erie County. After losing his job following a personal tragedy, Mr. Ivy was evicted from his apartment in September 2024 and has been experiencing homelessness ever since. For over a year, Mr. Ivy lived out of his van, until it was eventually confiscated in October 2025. In November 2025, Mr. Ivy applied for public assistance in Erie County. Since then, he has been placed in multiple motels—one without electricity or heat, another in a different county with no transportation, and another in a Buffalo suburb, 15 miles from the local social services district office. Despite his best efforts, including working with a temp agency, Mr. Ivy has been unable to secure employment. If Mr. Ivy were not in shelter, he would be eligible for a State-set monthly shelter

allowance of only $169. There is no private market housing that Mr. Ivy can rent for that amount. Even though Defendants have found Mr. Ivy to be needy and therefore entitled to public assistance, Defendants have denied him "aid, care and support" by excluding him from entitlement to a shelter supplement aligned with the HUD FMR. Defendants have not authorized such shelter supplements in Erie County.

25. Plaintiff Kirt Ross lives in a one-bedroom, rent-stabilized apartment in Brooklyn, New York. When Mr. Ross moved into that apartment with his mother in 2018, they were able to pay the full rent with his mother's disability insurance. In June 2024, Mr. Ross's mother passed, making him now solely responsible for paying the rent, which is currently $1,430.72 per month. Since 2020, Mr. Ross has suffered from a heart condition with daily symptoms that make it impossible for him to find and maintain employment. As a result, he has not been employed since 2020. As a public assistance recipient, Mr. Ross is only entitled to a State-set shelter allowance of $215 per month, which is not nearly enough pay the rent for his current apartment or any other apartment in New York City. Because Mr. Ross does not have any minor children, he is ineligible for the State-set shelter supplement aligned with the FMR, and because he has never previously been homeless or served in the military, he is ineligible for New York City's municipal rental subsidy aligned with the FMR (described in further detail at paragraph 37 below). Mr. Ross has been accruing rent arrears since shortly after his mother passed away; he is currently being sued in Housing Court for nonpayment of rent and is at imminent risk of eviction and homelessness. Even though Defendants have found him to be needy and therefore entitled to public assistance, Defendants have denied him "aid, care and support" by excluding him from entitlement to a shelter supplement for rent aligned with the HUD FMR.

26. Plaintiff Elisa DeCastro lives in an apartment in Monroe County. Her current

monthly rent is $1,100. After being forced to leave her job in I.T. due to health issues, Ms. DeCastro could not continue to pay her rent, and her landlord now alleges she is $6,600 in arrears. In March 2026, Ms. DeCastro began receiving public assistance, including a shelter allowance of $257 per month. Because the shelter allowance covers only a fraction of her rent, Ms. DeCastro is currently in eviction proceedings, with a court date on June 17, 2026. If evicted, she will have no other option but to enter the shelter system because there is no private market housing available in Monroe County that she can rent for only $257 per month. Even though Defendants have found Ms. DeCastro to be needy and therefore entitled to public assistance, Defendants have denied her "aid, care and support" by excluding her from entitlement to a shelter supplement aligned with the HUD FMR.

27. For the past 13 years, Plaintiff Minerva Pacumio and her two adult children, aged 20 and 28, have lived in a one-bedroom apartment in Queens that currently rents at $1,901 per month. Ms. Pacumio is the primary caregiver for her youngest daughter, who has Down Syndrome. Despite consistently looking for work, neither Ms. Pacumio nor her eldest daughter—who has a variety of mental health needs herself—have been able to find employment. Ms. Pacumio receives a shelter allowance of only $250 per month. Prior to Ms. Pacumio's youngest daughter turning 18 years old in December 2024, Ms. Pacumio also received a shelter supplement aligned with the HUD FMR, which—together with her shelter allowance—covered $1,142.77 of her monthly rent, which was then around $1,810.50 per month. Because Ms. Pacumio's daughters are no longer minors, she is no longer entitled to the shelter supplement. As a result, Ms. Pacumio has been unable to pay the rent on her apartment and has accrued nearly $20,000 in arrears. She is currently being sued in Housing Court for nonpayment of rent and is at risk of eviction. Because there is no private market housing in New

York City that Ms. Pacumio can rent for $250 per month, she and her family face imminent homelessness. Even though Defendants have found her family to be needy and therefore entitled to public assistance, Defendants have denied her family "aid, care, and support" by excluding them from entitlement to a shelter supplement aligned with the HUD FMR.

28. Plaintiff Ashaley Carter is a domestic violence survivor and expecting mother who is now living in shelter in Erie County. In May 2026, after leaving her abuser, Ms. Carter was sent to the hospital and given a safety plan that urged her to seek shelter at her local social services district. Since losing her job in remote customer service, Ms. Carter has no income beyond Family Assistance benefits. Due to health complications with her pregnancy, she is currently unable to work. If Ms. Carter were not in shelter, she would be eligible for a State-set monthly shelter allowance of only $209, which would increase to only $214 after her child is born. There is no private market housing that Ms. Carter can rent for that amount. Even though Defendants have found Ms. Carter to be needy and therefore entitled to public assistance, Defendants have denied her "aid, care and support" by excluding her from entitlement to a shelter supplement aligned with the HUD FMR. Defendants do not provide and have not authorized such shelter supplements in Erie County.

29. In 1993, Plaintiff Kimberly Maldonado moved into a one-bedroom, rent-stabilized apartment in Brooklyn with her husband. Since her husband passed away in 2012, she has lived there alone. The rent is currently $1,114.41 per month. Ms. Maldonado is 55 years old and suffers from health problems that have prevented her from working since June 2025. She currently receives public assistance, which includes a shelter allowance of $215 per month—a fraction of the rent on her apartment. Ms. Maldonado does not qualify for a State-set shelter supplement because she does not have minor children. Because Ms. Maldonado cannot pay the

rent on her apartment with the shelter allowance she receives, Ms. Maldonado has been accumulating arrears for several months and is now at risk of eviction and homelessness. Even though Defendants have found Ms. Maldonado to be needy and therefore entitled to public assistance, Defendants have denied her "aid, care, and support" by excluding her from entitlement to a shelter supplement set in accordance with the HUD FMR.

30. Plaintiff Casey Hanten is a mother to two young children and is pregnant with her third child. Ms. Hanten and her children are Broome County residents who are entitled to a shelter allowance of $290 per month. Ms. Hanten began receiving Family Assistance benefits in 2023, after the birth of her eldest child, as his medical needs prevented her from returning to work. Ms. Hanten now takes care of her children full-time and is also attending college remotely at SUNY Broome, majoring in Health Sciences and Dental Hygiene. Ms. Hanten and her children are facing imminent homelessness. The $650 monthly rent on their current dilapidated apartment is more than Ms. Hanten's entire shelter allowance and requires Ms. Hanten to use both her shelter allowance *and* most of the rest of her public assistance funds just to make rent. After rent, she is left with only $50 to support her family and pay for utilities, transportation, diapers, and other necessities. Ms. Hanten cannot afford to continue to rent her apartment; as a result, she and her children face imminent homelessness. Because there is no private market housing in Broome County that Ms. Hanten can rent for the $290 monthly shelter allowance, and she cannot provide for her family with the $50 that is left over after using all of the rest of her public assistance funds to make rent, she fears she and her children will soon have to enter shelter. Even though Defendants have found her family to be needy and therefore entitled to public assistance, Defendants have denied her family "aid, care and support" by excluding them from entitlement to a shelter supplement set in accordance with the HUD FMR. Defendants do

not provide and have not authorized such shelter supplements in Broome County.

II. DEFENDANTS' SHELTER ALLOWANCES ARE NOT ALIGNED WITH THE COST OF RENT IN NEW YORK STATE.

31. Pursuant to Defendants' own regulations, "[e]ach social services district must provide a monthly allowance for rent in the amount actually paid, for cases with a verified rental obligation."[13] Defendants have promulgated a schedule that caps the amount of the shelter allowances; those capped amounts vary by household size and county (except that all five counties of New York City have the same capped amounts based on household size). For New York City, Defendants have set the maximum monthly shelter allowance for a single adult at $215, for a family of three with minor children at $400, and similarly low levels for families of different household sizes. For the rest of the New York State, the average State-set monthly shelter allowances are $199.73 for a single adult, $307.47 for a family of three with minor children, and similarly low levels for families of different household sizes.

32. Defendants' shelter allowances for single adults and other households that do not include minor children have remained essentially flat *since 1988*, except for a 2003 adjustment of a few dollars for households whose expenses for heat were not included in their monthly rent.[14] The HUD FMR has *tripled* since 1988. Defendants' shelter allowances for families with minor children have remained frozen since 2003.[15] The HUD FMR has nearly *doubled* since

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[13] *See* N.Y. Comp. Codes R. & Regs. Tit. 18, § 352.3(a)(1).

[14] In New York City, the adjustment amounted to an additional $8 for single adults and $10-$12 per month for other households without minor children; there were similar minor upward adjustments for the non-New York City counties. *Compare* New York State Register, Notice of Adoption, Shelter Allowance, SCS-37-87-00005-P, at 24-26 (Sept. 16, 1987) *with* New York State Register, Notice of Adoption, Shelter Allowance, TDA-32-02-00004-A, at 36-40 (Aug. 6, 2003).

[15] *Compare* N.Y. Comp. Codes R. & Regs. Tit. 18, § 352.3(a)(1) *with Attachment A to 2003 ADM-07 Temporary Assistance: New Shelter Allowances and Related Changes*, New York

2003.

33. Defendants' absurdly low shelter allowances were low even at the time Defendants set them, decades ago. In 2003—the last time Defendants updated the shelter allowance amounts for families—Defendants stated that they were setting the allowances at the "minimal amount" necessary to obtain an apartment based on expert reports about the cost of rent for housing that "just meets" basic quality standards in the "least desirable units" located in the lowest-rent neighborhoods.[16] In other words, Defendants' basis for the amount of the shelter allowances was the rock bottom amount it would take *in 2003* to rent the poorest quality housing, assuming—incorrectly—that units that rented at that amount would be vacant and available. Defendants further stated that the low amount of the shelter allowance would serve as an incentive to public assistance recipients to find work so they could afford better quality housing.[17] Defendants did not explain how the estimated 40.6% of public assistance recipients exempt from work requirements due to medical issues, safety concerns related to domestic violence, transportation, or other impediments, were supposed to work to achieve higher quality housing.

34. Whatever the justification at the time, shelter allowance amounts that Defendants acknowledged were the absolute bare minimum needed to rent the poorest quality housing in 2003 are now—more than two decades later—significantly below the amount necessary to obtain

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State Office of Temporary and Disability Assistance (Aug. 4, 2003), https://otda.ny.gov/policy/directives/2003/ADM/03_ADM-07-attachA.pdf.

[16] New York State Register, Notice of Adoption, Shelter Allowance, TDA-32-02-00004-A, at 36-40 (Aug. 6, 2003).

[17] *Id.*; *2003 ADM-07 Temporary Assistance: New Shelter Allowances and Related Changes* at 2, New York State Office of Temporary and Disability Assistance (Aug. 4, 2003), https://otda.ny.gov/policy/directives/2003/ADM/03_ADM-07.pdf.

any housing anywhere in the State. Defendants' shelter allowances are woefully misaligned with the actual cost of housing across the State, falling short of the HUD FMR for each household size and county by hundreds or even thousands of dollars. Thus, Defendants' decades-old shelter allowances effectively foreclose needy individuals and families from accessing housing across New York State.

35. Defendants have established an opt-in, discretionary patchwork process by which districts may choose to provide supplements to the shelter allowance, but those supplements are only available in certain districts, are limited in number, and are significantly below the HUD FMR.

36. In New York City, while Defendants have set the shelter supplement at the HUD FMR, Defendants have only authorized such supplements for New York City families with minor children receiving public assistance who are subject to a Housing Court eviction proceeding or have been evicted through such a proceeding within the prior 12 months and have entered a shelter.[18] New York City data shows that most families with minor children are relegated to shelters without eviction proceedings.[19] Defendants have thus denied "aid, care and support" to thousands of New Yorkers in need by excluding from eligibility for the shelter supplement all single adults, all households without minor children, and most families with

[18] *See Family Homelessness and Eviction Prevention Supplement (FHEPS)*, ACCESS NYC (Aug. 20, 2024), https://access.nyc.gov/?p=17904; *see also Family Homelessness & Eviction Prevention Supplement (FHEPS) Fact Sheet*, N.Y.C. Dep't of Soc. Servs. (Aug. 20, 2025), https://www.nyc.gov/assets/hra/downloads/pdf/FHEPS/HRA-146r-E.pdf.

[19] Coalition For The Homeless, *State of the Homeless 2025: Nowhere to Go*, at 33 (June 2025), https://www.coalitionforthehomeless.org/state-of-the-homeless-2025/.

minor children.[20]

37. The large number of needy families excluded from those shelter supplements has compelled New York City to implement its own municipally financed shelter supplement, known as CityFHEPS. The cost of the CityFHEPS program is currently approximately $2 billion and is expected to balloon to $8 billion or higher—an amount that New York City cannot afford.[21] When even well-resourced municipalities like New York City risk bankrupting themselves to shoulder Defendants' obligation to provide aid, care, and support for the needy, it is clear that Defendants have failed to meet their constitutional obligations.

38. In the 57 counties outside of New York City, Defendants make a shelter supplement available to families with children in only 15 counties and to single individuals in only 27 counties. Thus, in approximately 83% of counties outside of New York City, Defendants have not authorized *any* shelter supplement for families with minor children, and in about 60% of those counties Defendants have not authorized *any* shelter supplement for single adults. Even in the few non-New York City counties in which Defendants provide shelter supplements, access is limited or non-existent. Nine shelter supplement plans distributed *zero* supplements in December 2025. The other plans served anywhere from .003% to a maximum of only 24% of public assistance recipients in their district. There is no entitlement to shelter supplements for all public assistance recipients who need them to avert or abbreviate homelessness. And even if public assistance recipients receive a supplement in addition to the

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[20] *Family Homelessness & Eviction Prevention Supplement (FHEPS) Fact Sheet*, N.Y.C. Dep't of Soc. Servs. (Aug. 20, 2025), https://www.nyc.gov/assets/hra/downloads/pdf/FHEPS/HRA-146r-E.pdf.

[21] Patrick Spauster, *Can Mamdani Afford to Expand the CityFHEPS Voucher Program?*, CityLimits (Jan. 22, 2026), https://citylimits.org/can-mamdani-afford-to-expand-the-cityfheps-voucher-program/.

allowance, those supplements are a fraction of the HUD FMR. For example, in Rockland County, the shelter allowance and supplement *combined* are only 21% of the HUD FMR. As a result, even in the small minority of cases where a shelter supplement is available, needy individuals and families are still unable to meet the cost of housing in the State.

III. IT IS IMPOSSIBLE TO RENT ANY HOUSING IN NEW YORK CITY WITH DEFENDANTS' SHELTER ALLOWANCES.

39. New York City housing market data demonstrates that it is impossible to obtain permanent, habitable housing in New York City using Defendants' shelter allowances.

A. New York City Housing and Vacancy Data Shows No Private Market Housing Available for Rent at Shelter Allowance Levels.

40. Since 1965, the United States Census Bureau has conducted the New York City Housing and Vacancy Survey ("NYCHVS") every three years. The primary focus of the survey is the City's rental vacancy rate. The NYCHVS is based on a statistical sample of housing units, drawn by the U.S. Census Bureau, to represent New York City's housing stock and resident population. The NYCHVS calculates the net vacancy rate for the city, which is the percentage of rental units that are vacant.[22]

41. The most recent NYCHVS was conducted in 2023 for the survey period of January through mid-June 2023.[23] The survey found a net rental vacancy rate of just 1.41%.[24] However, among units with monthly rents of less than $1,100 (the bottom quartile of rents in

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[22] N.Y.C. Hous. Pres. and Dev., *2023 NYCHVS Core Questionnaire,* Survey Cycle 19, at 2 (June 2024) https://www.nyc.gov/assets/hpd/downloads/pdfs/about/2023-nychvs-core-questionnaire.pdf.

[23] Elizabeth Gaumer, *The 2023 New York City Housing and Vacancy Survey: Selected Initial Findings*, N.Y.C Dep't of Hous. Pres. and Dev. (2024), https://www.nyc.gov/assets/hpd/downloads/pdfs/about/2023-nychvs-selected-initial-findings.pdf.

[24] *Id.* at 21.

2023), the net rental vacancy rate was only 0.3%.[25] For units with monthly rents of $1,100 to $1,649 (the second quartile), the net vacancy rate was 0.91%.[26] The 2023 NYCHVS does not specify median asking rent, but it is certainly no less than the median asking rent identified in the 2021 NYCHVS, which was $2,750 for all units that were vacant and available for rent.[27]

42. In addition to providing its overall findings as part of the NYCHVS, the Census Bureau provides a Public Use File that contains the study's microdata. The 2023 NYCHVS microdata shows that there were 118,888 rental units renting for $400 or less.[28] Of those 118,888 units, 85.8% were public housing or regulated in some other way.[29] Even if those units were truly vacant, they were not readily available on the market for those seeking to rent low-cost housing. To the contrary, there were 274,745 families on the New York City Housing Authority waitlist for public housing units during the period covered by the 2023 NYCHVS.[30] After subtracting public housing and otherwise regulated units, there were only 16,871 units renting for less than $400 a month, but only *152* of those units were actually vacant and available

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[25] *Id.*

[26] *Id.*

[27] Elizabeth Gaumer, *The 2021 New York City Housing and Vacancy Survey: Selected Initial Findings*, N.Y.C Dep't of Hous. Pres. and Dev., at 29 (May 16, 2022), https://www.nyc.gov/assets/hpd/downloads/pdfs/services/2021-nychvs-selected-initial-findings.pdf.

[28] *Compare* N.Y.C. Hous. Pres. and Dev., *New York City Housing and Vacancy Survey (NYCHVS), 2023: All Units Public Use Microdata File (CSV)*, https://www.nyc.gov/assets/hpd/data/allunits_puf_23.csv *with* N.Y.C. Hous. Pres. and Dev., *New York City Housing and Vacancy Survey (NYCHVS), 2021: All Units Public Use Microdata File (CSV)*, https://www.nyc.gov/assets/hpd/data/allunits_puf_21.csv.

[29] N.Y.C. Hous. Pres. and Dev., *New York City Housing and Vacancy Survey (NYCHVS), 2023: All Units Public Use Microdata File (CSV)*, https://www.nyc.gov/assets/hpd/data/allunits_puf_23.csv.

[30] N.Y.C. Hous. Pres. and Dev., *HOME-ARP Allocation Plan (Revised-12/13/23)* (Dec. 13, 2023), at 28, https://www.nyc.gov/assets/consolidatedplan/downloads/pdf/NYC-HOME-ARP_Allocation-Plan-Revised.pdf.

to rent on the market.[31] And those 152 units rented for $400 or less *prior to vacancy*, meaning that, by the time they were actually vacant and available to rent, the rental price may have increased above $400.[32]

B. The Cost of Maintaining and Operating Housing Units is Greater Than Shelter Allowance Levels.

43. The cost of maintaining and operating housing units in New York City is greater than the amount of Defendants' shelter allowances. In other words, it is not feasible to maintain or operate housing units at the State-set shelter allowance levels, which annualize at only $2,580 for a single adult, $4,800 for families of three with minor children, and similarly low levels for other household sizes.

44. Without taking into account debt service and taxes—which are factored into private market housing measures like the HUD FMR—costs for affordable housing preservation projects in New York City that rely in whole or in part on City funding are within the same range as similar costs for private market rent-stabilized properties.[33] Based on the 2021 Maintenance & Operating Expense Standards of the New York City Housing Development Corporation ("NYCHDC"), not including property taxes or debt service, typical City preservation projects with unionized building staff had annual operating expenses of about $9,058 per unit, and for

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[31] N.Y.C. Hous. Pres. and Dev., *2023 NYCHVS Public Use File (PUF) User Guide & Codebook,* Survey Cycle 19, at 304 (June 2023), https://www.nyc.gov/assets/hpd/downloads/pdfs/about/2023-nychvs-puf-user-guide-codebook.pdf.

[32] *Id*.

[33] N.Y.U Furman Ctr., *NYCHA's Road Ahead: Capital and Operating Budget Needs, Shortfalls, and Plans*, at 12 (Aug. 2019), https://furmancenter.org/files/NYCHAs_Road_Ahead_Final.pdf.

projects with non-unionized building staff, the operating expense was $8,295 per unit.[34] For newly constructed units in City affordable housing projects, not including property taxes or debt service, the expected annual cost projected in the 2021 Guidelines was $8,104 per unit for buildings with unionized staff and about $7,341 per unit for buildings without unionized staff.[35] Taking into account taxes and debt services, those costs are even higher.

45. Even the low estimated costs for heavily subsidized units far exceed Defendants' shelter allowances.

46. By 2023, not including property taxes or debt service, the projected annual operating expenses for typical City housing preservation projects with a unionized building staff had increased to about $10,851 per unit.[36] Unlike the 2021 Guidelines, the NYCHDC 2023 Maintenance & Operating Expense Guidelines no longer include operating costs for projects without unionized staff. For newly constructed units in City affordable housing projects, not including property taxes or debt service, the projected annual operating expenses in 2023 had increased to $9,963 per unit for buildings with unionized staff.[37]

47. By 2024, not including property taxes or debt service, the projected annual operating expenses for typical City preservation projects with unionized building staff had

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[34] *New Construction – Maintenance and Operating Expense Standards*, N.Y.C. Hous. Dev. Corp. (2021), https://www.nychdc.com/sites/default/files/2021-02/HDC%20New%20Construction%20Expense%20Standards.pdf.

[35] *Id.*

[36] *New Construction – Maintenance and Operating Expenses Guidelines*, N.Y.C. Hous. Dev. Corp. (2023), https://www.nychdc.com/sites/default/files/2023-05/2023%20M%26O%20Standards-Combined-FINAL.pdf.

[37] *Id.*

increased to about $11,759 per unit per year.[38] For newly constructed units in City affordable housing projects, not including property taxes or debt service, the projected annual operating expenses in 2024 had also continued to increase to between $10,782 and $11,142 per unit for buildings with unionized staff.[39]

48. Regardless of building size and whether a unit's rent is regulated, the monthly property taxes in New York City, in combination with other operating costs, far exceed Defendants' shelter allowances. In 2022, the annual cost of operating an average private market rent-stabilized unit in buildings with 100 or more units in New York City was $16,524, or roughly $1,377 per month.[40] That operating cost is significantly higher than the shelter allowance.

49. Taxes are a significant part of operating expenses, which are a major driver of rent growth for all types of properties. The most recent New York City Rent Guidelines Board ("RGB") Income and Expense Study shows that, in 2022, the average monthly property tax expense per housing unit was $324 for all rent-stabilized buildings, meaning that *property taxes alone* are higher than the shelter allowance.[41]

50. Defendants' shelter allowances are not enough to meet any of these operating expense points for existing, preservation, or new development housing units in New York City—particularly as operating expenses continue to increase on an annual basis, while the State-set

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[38] *Maintenance and Operating Expenses Guidelines*, N.Y.C. Hous. Dev. Corp. (2024), https://www.nyc.gov/assets/hpd/downloads/pdfs/services/2024-maintenance-operating-expense-standards.pdf.

[39] *Id.*

[40] *Id*. at 2.

[41] *See* N.Y.C. Rent Guidelines Bd., *2024 Income and Expense Study*, 8 (Mar. 28, 2024), https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2024/03/2024-IE-Study.pdf.

shelter allowances have been frozen for more than two decades. As a result, neither for-profit nor non-profit New York City landlords can responsibly operate standard quality housing with a rental income stream consisting solely of Defendants' shelter allowances.[42]

C. The HUD FMR Shows that the Shelter Allowance Is Significantly Below Market Rent Levels in New York City.

51. The HUD FMR provides further evidence of the misalignment of the State's shelter allowances and the realities of the New York City housing market. The table below illustrates the misalignment between the State-set shelter allowances and private market rents in all counties in New York City, as well as the significant shortfall between the HUD FMR and Defendants' shelter allowances.

	Shelter Allowance for a 3 Person Household, with Children, Compared to HUD 2025 Fair Market Rent for a 2-Bedroom Rental Unit					Shelter Allowance for 1 Person, Compared to HUD 2025 Fair Market Rent for an Efficiency Rental Unit			
County	**Allowance**	**2-BR FMR**	**Short-fall**	**% of FMR**		**Allowance**	**Efficiency FMR**	**Short-fall**	**% of FMR**
Bronx	$400	$2,780	$2,380	14%		$215	$2,406	$2,191	9%
Kings	$400	$2,780	$2,380	14%		$215	$2,406	$2,191	9%
New York	$400	$2,780	$2,380	14%		$215	$2,406	$2,191	9%
Queens	$400	$2,780	$2,380	14%		$215	$2,406	$2,191	9%
Richmond	$400	$2,780	$2,380	14%		$215	$2,406	$2,191	9%

52. In contrast to the New York City monthly shelter allowances of $215 for a single adult, $400 for a family of three with minor children, and similarly low levels for other household sizes, the HUD FMR in New York City is $2,646 for a studio apartment, $2,762 for a

[42] If Defendants' shelter allowances and shelter supplements were tied to HUD FMR levels, more affordable housing could be developed and preserved for single adults and families entitled to public assistance. Non-profit housing providers as well as private landlords would be able to collect rents more in line with their actual operating costs.

one-bedroom apartment, and $3,058 for a two-bedroom apartment.[43]

53. Defendants' approval of limited shelter supplements in New York City at the HUD FMR level tacitly acknowledges the lack of available housing at lower rents. Yet Defendants arbitrarily exclude thousands of New York City public assistance households from eligibility for those supplements, despite the glaring disparity between the shelter allowance and actual rents in New York City.

D. The State Shelter Allowance is Far Below Rents Charged in Affordable Housing Developments for Low-Income Households in New York City.

54. Buildings constructed or renovated with Low Income Housing Tax Credits or with State or City mortgage subsidies typically set their lowest tier of rents at 30% of federally calculated "low income" levels, which are between 51% and 81% of the area median income for the City, equating to an annual income between $56,700 and $90,720 for a single adult, $64,800 and $103,680 for a family of two, and $72,900 and $116,680 for a family of three.[44] Applying the current area median income, the "maximum affordable rent" for low-income households—whose income is substantially higher than households who qualify for public assistance—is between $1,417 and $2,268 for a studio apartment, between $1,518 and $2,430 for a one-bedroom apartment, and between $1,822 and $2,916 for a two-bedroom apartment. Thus, even

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[43] *See Voucher Payment Standards and Utility Standards, N.Y.C. Hous. Auth.,* https://www.nyc.gov/site/nycha/section-8/voucher-payment-standards-vps-utility-allowance-schedule.page (effective Jan. 1, 2026); *CityFHEPS Frequently Asked Questions For Clients in the Community*, N.Y.C. Dep't of Soc. Servs. (Apr. 20, 2025), https://www.nyc.gov/assets/hra/downloads/pdf/cityfheps-documents/dss-7r-e.pdf.

[44] *See Area Median Income*, N.Y.C. Hous. Pres. And Dev., https://www.nyc.gov/site/hpd/services-and-information/area-median-income.page. These income levels are completely out of reach for City residents receiving public assistance, for whom the total public assistance grant levels for basic living expenses like food, clothing, other necessities, and rent are $398 per month for a single adult and $789 per month for a family of three with two minor children. N.Y. Comp. Codes R. & Regs. Tit. 18 §§ 352.2, 352.3.

rents charged in new buildings specifically developed for low-income families are many multiples of the State-set shelter allowances.

E. Data on Market Prices for Rental Units Shows that Individuals and Families Cannot Rent Housing in New York City Using the Shelter Allowance.

55. The misalignment of Defendants' shelter allowances with market realities is also demonstrated by established market rent prices, available on public listings. In New York City, those market prices are well above Defendants' shelter allowances.

56. According to Zillow's listing of over 15,400 rentals for all property types in New York City, the average rent is $3,629.[45] As of May 27, 2026, Zillow's listings include only *two* apartments available for rent in New York City at or below $1,000 per month: one in Queens and one on Staten Island. Similarly, StreetEasy's Data Dashboard reflects that there were more than 28,700 units for rent in New York City in January 2025—at which time, according to downloadable rental datasets, the average rent in New York City was $3,777.[46] As of May 27, 2026, StreetEasy shows *zero* apartments available for rent in New York City at or below $1,000 per month.

57. Citysnap, a website based on Real Estate Board of New York data, shows that, as of May 27, 2026, there were zero apartments in New York City available to rent at or below $1,000 per month.[47] Even NYC Housing Connect, through which New York City residents can apply for affordable housing lotteries for apartments preserved or newly constructed with New

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[45] S*ee Average Rental Price in New York, NY & Market Trends*, Zillow, https://www.zillow.com/rental-manager/market-trends/new-york-ny/.

[46] *See StreetEasy Data Dashboard | StreetEasy*, StreetEasy, https://streeteasy.com/blog/data-dashboard/.

[47] *See Citysnap | Find Your Next Home or Apartment in New York City*, Citysnap, https://www.citysnap.com.

York City capital funding, reflects that, as of February 23, 2025, there are only six buildings—four in the Bronx and two in Brooklyn—where unit rents are at or below $1,000 per month.[48]

IV. IT IS IMPOSSIBLE TO RENT ANY HOUSING IN THE 57 COUNTIES OUTSIDE OF NEW YORK CITY WITH DEFENDANTS' SHELTER ALLOWANCES.

58. The misalignment between Defendants' shelter allowances and the cost of housing is just as stark outside of New York City.

A. The Shelter Allowance is Significantly Below Market Rent Levels in all Non-New York City Counties.

59. Of the 57 counties in New York State outside of New York City, there is *no county* in which Defendants' shelter allowances are aligned with that county's HUD FMR. The table below illustrates the misalignment between the State-set shelter allowances and private market rents in those 57 counties. It also shows, by county, the shortfall between the HUD FMR and Defendants' shelter allowances.

	Shelter Allowance for a 3 Person Household, with Children, Compared to HUD 2025 Fair Market Rent for a 2-Bedroom Rental Unit					Shelter Allowance for 1 Person, Compared to HUD 2025 Fair Market Rent for an Efficiency Rental Unit			
County	**Allowance**	**2-BR FMR**	**Shortfall**	**% of FMR**		**Allowance**	**Efficiency FMR**	**Shortfall**	**% of FMR**
Albany	$309	$1,487	$1,178	21%		$184	$1,074	$890	17%
Allegany	$273	$933	$660	29%		$190	$700	$510	27%
Broome	$290	$1,188	$898	24%		$218	$869	$651	25%
Cattaraugus	$269	$953	$684	28%		$179	$733	$554	24%
Cayuga	$290	$1,066	$776	27%		$179	$820	$641	22%
Chautauqua	$285	$933	$648	31%		$167	$687	$520	24%
Chemung	$283	$1,283	$1,000	22%		$197	$960	$763	21%
Chenango	$264	$938	$674	28%		$189	$754	$565	25%
Clinton	$275	$1,200	$925	23%		$156	$945	$789	17%

[48] *See NYC Housing Connect 2 | Public Portal*, https://housingconnect.nyc.gov/.

Columbia	$290	$1,347	$1,057	22%		$191	$1,171	$980	16%
Cortland	$281	$1,118	$837	25%		$199	$896	$697	22%
Delaware	$274	$935	$661	29%		$200	$808	$608	25%
Dutchess	$412	$1,907	$1,495	22%		$216	$1,308	$1,092	17%
Erie	$301	$1,176	$875	26%		$169	$968	$799	17%
Essex	$268	$1,085	$817	25%		$199	$828	$629	24%
Franklin	$259	$983	$724	26%		$161	$674	$513	24%
Fulton	$272	$1,050	$778	26%		$159	$795	$636	20%
Genesee	$294	$1,087	$793	27%		$202	$745	$543	27%
Greene	$281	$1,254	$973	22%		$197	$1,013	$816	19%
Hamilton	$267	$1,329	$1,062	20%		$159	$1,006	$847	16%
Herkimer	$275	$1,159	$884	24%		$173	$922	$749	19%
Jefferson	$276	$1,282	$1,006	22%		$200	$889	$689	22%
Lewis	$279	$959	$680	29%		$152	$732	$580	21%
Livingston	$307	$1,427	$1,120	22%		$187	$1,022	$835	18%
Madison	$304	$1,321	$1,017	23%		$199	$963	$764	21%
Monroe	$343	$1,427	$1,084	24%		$257	$1,022	$765	25%
Montgomery	$283	$1,026	$743	28%		$158	$765	$607	21%
Nassau	$445	$2,586	$2,141	17%		$288	$1,848	$1,560	16%
Niagara	$294	$1,190	$896	25%		$174	$973	$799	18%
Oneida	$287	$1,159	$872	25%		$179	$922	$743	19%
Onondaga	$303	$1,321	$1,018	23%		$203	$963	$760	21%
Ontario	$308	$1,427	$1,119	22%		$207	$1,149	$942	18%
Orange	$421	$1,907	$1,486	22%		$229	$1,308	$1,079	18%
Orleans	$302	$1,427	$1,125	21%		$202	$1,022	$820	20%
Oswego	$300	$1,321	$1,021	23%		$183	$963	$780	19%
Otsego	$280	$1,184	$904	24%		$200	$812	$612	25%
Putnam	$441	$2,780	$2,339	16%		$237	$2,406	$2,169	10%
Rensselaer	$296	$1,487	$1,191	20%		$153	$1,074	$921	14%
Rockland	$434	$2,780	$2,346	16%		$302	$2,406	$2,104	13%
Saratoga	$316	$1,487	$1,171	21%		$185	$1,074	$889	17%
Schenectady	$311	$1,487	$1,176	21%		$195	$1,074	$879	18%
Schoharie	$286	$1,487	$1,201	19%		$199	$1,074	$875	19%
Schuyler	$275	$1,057	$782	26%		$194	$725	$531	27%
Seneca	$288	$1,075	$787	27%		$204	$820	$616	25%
St. Lawrence	$281	$1,036	$755	27%		$182	$724	$542	25%
Steuben	$271	$1,013	$742	27%		$159	$829	$670	19%

Suffolk	$447	$2,586	$2,139	17%		$309	$1,848	$1,539	17%
Sullivan	$297	$1,223	$926	24%		$211	$945	$734	22%
Tioga	$285	$1,188	$903	24%		$201	$869	$668	23%
Tompkins	$317	$1,702	$1,385	19%		$217	$1,320	$1,103	16%
Ulster	$350	$1,799	$1,449	19%		$263	$1,370	$1,107	19%
Warren	$299	$1,352	$1,053	22%		$215	$1,040	$825	21%
Washington	$295	$1,352	$1,057	22%		$199	$1,040	$841	19%
Wayne	$302	$1,427	$1,125	21%		$207	$1,022	$815	20%
Westchester	$426	$2,780	$2,354	15%		$271	$2,406	$2,135	11%
Wyoming	$279	$933	$654	30%		$199	$712	$513	28%
Yates	$286	$1,110	$824	26%		$181	$761	$580	24%

60. For example, in Columbia County, the shelter allowance for an individual is only $191, which is only 16% of the $1,171 2025 HUD FMR for a studio in that county. In Albany County, the shelter allowance for a family of three is only $309, which is only 21% of the $1,347 2025 HUD FMR for a two-bedroom apartment. In every district, the shelter allowance for a family of three is less than 31% of the FMR for a two-bedroom apartment in that district.

B. HUD FMR Data Shows *No* Private Market Housing Available for Rent at Shelter Allowance Levels.

61. Not only is the shelter allowance set at a fraction of the cost of renting a modest apartment, federal data shows that, below a certain price point, *no* private, habitable units exist.

62. The HUD FMR represents the cost of a moderately priced, privately owned, safe rental unit with appropriate amenities (*i.e.*, cooking and bathing facilities) that meets basic housing quality standards. To determine local FMRs, HUD pulls U.S. Census Bureau American Community Survey data of actual rents paid by households and then excludes subsidized units and substandard units (*e.g.*, those without heat or plumbing) from their calculation.[49]

[49] 24 CFR § 888.113[a].

63. Below a certain rent threshold, habitable private rental units simply do not exist. HUD's modeling excludes rental units listed below $509 per month from the distribution of standard quality gross rents in every county in New York State because HUD's analysis found that units priced at or below $509 were either subsidized housing or substandard housing.[50] In Long Island and other high rent areas, the minimum threshold number increases to $758.[51] In other words, HUD has determined that there are no private market units in those areas that meet basic housing quality standards and rent for less than $758 per month. Defendants' shelter allowances are woefully below HUD's minimum thresholds.

64. Local social services districts have consistently stated that the shelter allowance is too low to afford private rentals. In its 2020-2022 Homeless Services Plan, the Greene County Department of Social Services stated that "[t]he [public assistance] rental grant is insufficient to pay for permanent housing." In its 2024-2026 Homeless Services Plan, the Ulster County Department of Social Services stated that "the Shelter Allowance for an individual is $464 a month [which] is not sufficient to allow those in shelter to compete for limited units."

65. Even in public housing, there are very few, if any, available units at those price points. Waitlists for public housing across the State are long. For example, Tompkins County

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[50] *See, e.g.,* U.S. Dep't of Hous. & Urban Dev., ACS 2022 5-Year Adjusted Standard Quality Gross Rent Calculation for Albany-Schenectady-Troy, NY MSA, https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2025_code/2025acs_dist_calc_sq5.odn?cbsasub=METRO10580M10580&percentile=0.4&year=2025&fmrtype=Final&areaname=Albany-Schenectady-Troy,%20NY%20MSA&tabletype=cbsasub&act_rent=1179.0&br_size=2.

[51] *See, e.g.,* U.S. Dep't of Hous. & Urban Dev., ACS 2022 5-Year Adjusted Standard Quality Gross Rent Calculation for Nassau-Suffolk, NY HUD Metro FMR Area, https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2025_code/2025acs_dist_calc_sq5.odn?cbsasub=METRO35620MM5380&percentile=0.4&year=2025&fmrtype=Final&areaname=Nassau-Suffolk,%20NY%20HUD%20Metro%20FMR%20Area&tabletype=cbsasub&act_rent=2003.0&br_size=2.

estimates that waitlists for public housing are years long, Monroe County reports their lottery opens up only once every three or four years, and Westchester County advises that waitlists are thousands of households long and often closed. In Orange and Sullivan Counties, advocates estimate that waiting lists are approximately 6-8 years long.

C. The Shelter Allowance Does Not Cover the Cost of Ownership of Private Market Housing.

66. Just like in New York City, in the remainder of the State, shelter allowances are misaligned with property tax levels. In the 21 non-New York City counties for which there is complete, publicly available property tax data, that data shows that property taxes consume an unsustainable percentage of the shelter allowance, leaving insufficient funds available to cover other costs of ownership, such as water and sewer charges, insurance, maintenance, management, and reserves.

67. The shelter allowance's misalignment with monthly property taxes across the State means that a property owner with tenants who have only the shelter allowance to cover rent will be unable to cover even the costs of ownership.

68. These market realities and data show that it is *not possible* for public assistance recipients to secure private market housing in *any* of the 57 non-New York City counties in New York State using Defendants' shelter allowances.

D. Shelter Supplements Do Not Remedy the Impossibly Low Shelter Allowance.

69. In 42 of the 57 non-New York City counties, Defendants do not provide shelter supplements to *any* families with minor children who receive public assistance.

70. In the remaining 15 counties, Defendants provide a limited number of shelter supplements to such families, but they are discretionary and not guaranteed. For example, four counties—Monroe County, Putnam County, Schenectady County, and Schoharie County—did

not distribute *any* supplements in December 2025. The remaining plans served anywhere from .003% to a maximum of only 20% of public assistance recipients in their county.

71. In 30 of the 57 non-New York City counties, Defendants do not provide shelter supplements to *any* single adults who receive public assistance. In the remaining 27 counties, Defendants provide a limited number of shelter supplements to single adults, but not as an entitlement. For example, out of the 27 local social services districts outside of New York City that have supplements for single individuals and childless couples, five counties—Chemung County, Greene County, Schenectady County, Ulster County, and Warren County—did not administer *any* shelter supplements in December 2025. The remaining plans served anywhere from 1% to a maximum of only 24% of public assistance recipients in their county.

72. Even in the few non-New York City counties where Defendants have authorized shelter supplements for some—but not all—New Yorkers receiving public assistance, Defendants have set the supplement levels at a fraction of the HUD FMR, thereby effecting a complete denial of aid, care, and support. For a single adult in Nassau County, the State-set shelter allowance is $288 and the shelter supplement is $275 for a total of $563, but the HUD FMR for a studio apartment in that county is $1,848. In Rockland County, the State-set shelter allowance for a single adult is $302 and the shelter supplement is $198 for a total of $500, but the HUD FMR for a studio apartment is $2,406. In Monroe County, the State-set shelter allowance for a family of three with children is $343 and the shelter supplement is $182 for a total of $525, but the HUD FMR for a two-bedroom apartment is $1,427. And in Orange County, the State-set shelter allowance for a family of three with children is $421 and the shelter supplement is $421 for a total of $842, but the HUD FMR for a two-bedroom apartment is $1,907.

V. DEFENDANTS' DENIAL OF "AID, CARE AND SUPPORT" TO NEEDY NEW YORKERS HAS LED TO HIGH LEVELS OF HOMELESSNESS.

73. Defendants' failure to align shelter allowances with the actual cost of housing is a major driver of homelessness across New York State, with serious, deleterious effects on needy New Yorkers, particularly vulnerable populations such as domestic violence survivors and children.

A. Public Assistance Recipients Who Cannot Rent Housing with Defendants' Shelter Allowances Are Often Relegated to Homelessness.

74. Setting shelter allowances and supplements that are so misaligned with the cost of rent and implementing such broad exclusionary criteria for shelter supplements set at the HUD FMR has resulted in tens of thousands of single adults and families with and without minor children experiencing homelessness in shelters, on the streets, and in other public spaces. By 2022, this denial of aid, care, and support had led to at least 74,178 New Yorkers experiencing homelessness in shelters, on the streets, and in other public spaces, including 61,840 in New York City (32,308 single adults and 29,532 adults and children in families) and 12,338 across the rest of the State (7,065 single adults and 5,273 adults and children in families). Two years later, in 2024, at least 158,019 New Yorkers experienced homelessness in shelters, on the streets, and in other public spaces, including 140,134 in New York City and 17,885 across the rest of the State.[52]

[52] *2007-2023 Point-in-Time Estimates by CoC (XLSB) Annual Homelessness Assessment Report*, U.S. Dep't of Hous. and Urban Dev. Office of Policy Dev. and Res., https://www.huduser.gov/portal/datasets/ahar/2023-ahar-part-1-pit-estimates-of-homelessness-in-the-us.html; *The 2024 Annual Homelessness Assessment Report (AHAR) to Congress* at 8, U.S. Dep't of Hous. and Urban Dev. Office of Comm. Planning and Dev., https://www.huduser.gov/portal/sites/default/files/pdf/2024-AHAR-Part-1.pdf; *New Yorkers in Need: Homeless in New York State* at 4, New York State Comptroller (Jan. 2025), https://www.osc.ny.gov/files/reports/pdf/new-yorkers-in-need-homelessness-nys.pdf.

75. As of March 20, 2026, New York City Department of Homeless Services ("DHS") data shows that there were 84,498 adults and children consigned to DHS shelters who could not find housing with rents set at Defendants' shelter allowance levels, including 25,251 single adults; 2,249 families without minor children, consisting of 4,892 people; and 16,900 families with minor children, consisting of 29,249 children and 25,106 adults.[53] Many of these New Yorkers are entitled to public assistance.

76. New York State data reported to HUD shows that, on one night in January 2024, 158,019 New Yorkers experienced homelessness in shelters, on the streets, and in other public spaces, including 140,134 in New York City (32,308 single adults and 29,532 adults and children in families) and 12,338 in the rest of the State (7,065 single adults and 5,273 adults and children in families).[54]

77. Similarly, on a nightly basis in 2025, there was an average of 766 families, consisting of 1,902 individuals, sheltered in the New York City Human Resources Administration's ("HRA") special emergency shelters for survivors of domestic violence, in addition to 581 families and 1,577 individuals sheltered on average per day in HRA's transitional

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[53] NYC Open Data, *DHS Daily Report*, https://data.cityofnewyork.us/Social-Services/DHS-Daily-Report/k46n-sa2m.

[54] This data comes from the *2007-2023 PIT Estimates by CoC (XLSB)* available at *PIT and HIC Data Since 2007*, United States Department of Housing and Urban Development, https://www.hudexchange.info/resource/3031/pit-and-hic-data-since-2007/. As explained by HUD, "these raw data sets contain Point-in-Time (PIT) estimates of homelessness by Continuum of Care (CoC) geographic service area and by state as well as estimates of chronic homelessness since 2007." *Id.* The PIT count "is a count of sheltered and unsheltered people experiencing homelessness on a single night in January. HUD requires that CoCs conduct an annual count of people experiencing homelessness who are sheltered in emergency shelter, transitional housing, and Safe Havens on a single night." *Point-in-Time Count and Housing Inventory Count*, United States Department of Housing and Urban Development, https://www.hudexchange.info/programs/hdx/pit-hic/#pit-count-and-hic-data-and-reports.

shelters for families with a history of domestic violence.[55] Many of these New Yorkers are eligible for public assistance.

78. Many New Yorkers on public assistance are unable to work, making public assistance their only income. About 40.6% of individuals on public assistance are exempt from work requirements, and 84.8% of families on public assistance have no other income.[56]

B. Inability to Access Stable Housing Has Significant Negative Effects, Particularly on Vulnerable Populations.

79. In addition to New Yorkers who are in homeless shelters, on the streets, and in other public spaces, there are many New Yorkers entitled to public assistance and at imminent risk of entering shelter or ending up on the streets after they are discharged from other government and social services systems. For example, in New York State, stays in domestic violence shelters are time-limited, and many survivors end up homeless upon their discharge because they are unable to find housing they can rent with Defendants' shelter allowances. People released from State prisons, State-supervised hospitals, and State-supervised foster care also end up homeless upon their discharge because they cannot afford any apartment using the shelter allowance, and Defendants exclude them from eligibility for a shelter supplement.

80. New York State Department of Corrections and Community Supervision data shows that, from 2018 through July 2024, the State released more than 14,326 people from State

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[55] Mayor Eric L. Adams, *Mayor's Mgmt. Rep.*, 236 (2025), https://www.nyc.gov/assets/operations/downloads/pdf/mmr2025/2025_mmr.pdf (for the fiscal year ending June 30, 2025).

[56] *2025 Statistical Report on the Operations of New York State Public Assistance Programs* at Table 14, N.Y. Office of Temp. and Disability Assistance, Bureau of Data Management and Analysis (2025), avaihttps://otda.ny.gov/resources/ legislative-report/2025-Legislative-Report.pdf; Office of Family Assistance, *Characteristics and Financial Circumstances of TANF Recipients Fiscal Year (FY) 2023*, at Tables 40 (2023), U.S Dep't of Health and Human Servs., https://acf.gov/sites/default/files/documents/ofa/fy2023_ characteristics.pdf.

prisons to New York City shelters, including 4,992 people from January 2021 through July 2024 alone[57]—a prison-to-shelter "pipeline" caused by the misalignment between Defendants' $215 monthly shelter allowance for single adults and the New York City housing market. In fact, each year from 2015 through July 2023, more than 40% of people discharged from State prisons to New York City were released directly to New York City shelters. Defendants' failure to provide these New Yorkers with shelter allowances or supplements that reflect actual rents in the New York City housing market leads to a lack of stable housing and impacts their ability to successfully reenter the community after being incarcerated.[58]

81. New York City Department of Education data shows that approximately 135,344 students who attended non-charter public schools were determined to be "students in temporary housing" at some point during the 2024-2025 school year, meaning that they were either in New York City shelters or at risk of entering shelter due to their lack of permanent housing.[59] Of these 135,344 students in temporary housing, 59,618 resided in New York City shelters at some point during the school year,[60] and another 70,000 students were consigned to overcrowded, doubled-up housing arrangements where many were at imminent risk of losing that housing and entering shelters.

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[57] Coalition for the Homeless, *State of the Homeless 2025: Nowhere to Go*, https://www.coalitionforthehomeless.org/state-of-the-homeless-2025/#drivers-of-homelessness.

[58] *See, e.g.*, CSH, *Advancing Supportive Housing Solutions to Reduce Homelessness for People Impacted by the Criminal Legal System: A Report for New York City Leaders* (2022), https://www.csh.org/wp-content/uploads/2018/06/Cost-Effectiveness-FAQ.pdf; The City of N.Y. Mayor Eric L. Adams, *Preliminary Mayor's Mgmt Rep.*, 225 (Feb. 2025), https://www1.nyc.gov/assets/operations/downloads/pdf/pmmr2025/2025_pmmr.pdf.

[59] N.Y.C. Dep't of Education, *Students in Temporary Housing Reports*, Reporting Data for School Year 2024-2025, https://infohub.nyced.org/reports/government-reports/students-in-temporary-housing-reports.

[60] *Id*.

82. When students attending public charter schools are added to the data, the 2024-2025 school year also marked the tenth consecutive year in which more than 100,000 New York City public school students experienced homelessness at some point during the school year.[61] Outside of New York City, New York State data shows that 39,046 children in public and charter schools experienced homelessness at some point during the 2024-2025 school year. [62]

83. Children lacking stable housing, regardless of whether they are in shelter or doubled up and at risk of entering shelter, are more likely to be absent from school and to have fallen behind their grade level in reading and math.[63] In 2022-2023, there was an average 13.8% dropout rate for New York City Department of Education public school students in temporary housing—which includes schoolchildren in shelter and those doubled up in overcrowded housing.[64]

84. Young people aging out of foster care also often end up in shelter or on the streets. A 2017 New York City Mayor's Office report shows that young adults leaving foster care with a subsidized exit (*i.e.*, assistance to enable them to rent an apartment) "substantially reduced the likelihood of both future system use" (defined as being in a homeless shelter or

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61 *Id.*

62 The New York State Technical and Educational Assistance Center for Homeless Students, *Data on Student Homelessness,* 2024-2025 (XLSX), https://www.nysteachs.org/data-on-student-homelessness.

63 *See, e.g.*, Advocates for Children of N.Y., Still Disconnected: Persistently Low Attendance Rates for Students in Shelter (May 2022), https://advocatesforchildren.org/policy-resource/still-disconnected/; Liza Pappas, N.Y.C. Indep. Budget Office, *Not Reaching the Door: Homeless Students Face Many Hurdles on the Way to School* (2016), https://ibo.nyc.ny.us/iboreports/not-reaching-the-door-homeless-students-face-many-hurdles-on-the-way-to-school.pdf.

64 N.Y.C. Dep't of Educ., *Students in Temporary Housing Reports*, Reporting Data for School Year 2024-2025, https://infohub.nyced.org/reports/government-reports/students-in-temporary-housing-reports (data for prior year).

incarcerated) "and being a high service user—by about two-thirds and 85%, respectively."[65]

85. Moreover, in New York City, domestic violence is a leading cause of family homelessness. An October 2019 report from the New York City Comptroller noted that, in the prior fiscal year, survivors of domestic violence accounted for 41% of families entering the shelter system (not including those in dedicated domestic violence shelters)—a sobering 44% increase over five years.[66]

86. Those who make the decision to leave abusers often find themselves in precarious financial positions. In many cases, even abuse survivors who previously had relative economic security are rendered homeless and destitute after fleeing abuse—especially if their abuser was the primary or sole wage earner. The choice between enduring violence versus escaping to a deeply uncertain economic future can be wrenching, particularly when the welfare of dependent children is at stake. Abuse survivors face barriers to independence, including lingering trauma, childcare responsibilities, limited educational opportunities, homelessness, and skills gaps. Compounding these challenges, the cycle of abuse can interfere with their ability to obtain or retain employment, even for those who may have significant education or work experience.

87. Low shelter allowances and limited availability of other rental assistance make it virtually impossible for most survivors to secure affordable housing and escape abuse. Because State regulations only permit shelter for domestic violence survivors for 90 days (with two 45-day extensions), many survivors are released from domestic violence shelters into homelessness,

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[65] Center for Innovation through Data Intelligence, N.Y.C. Office of the Mayor, *Housing Trajectories of Transition-Age Youth*, at 6 (Mar. 2017), https://www.nyc.gov/assets/cidi/downloads/pdfs/housing-trajectories-of-transitionage-youth.pdf.

[66] *See generally Housing Survivors: How New York City Can Increase Housing Stability for Survivors of Domestic Violence*, Office of N.Y.C. Comptroller Bureau of Pol'y and Rsch (Oct. 21, 2019), https://comptroller.nyc.gov/reports/housing-survivors/.

either in general shelters or doubled-up with friends and family because they are unable to find housing they can afford.

88. The precarious financial positions of domestic abuse survivors are exacerbated by rising rents, coupled with the severely limited availability of assistance aligned with those rents. After fleeing abuse, many survivors are entitled to public assistance and a shelter allowance—but they cannot use that assistance to rent housing because Defendants' shelter allowances cannot cover private market housing rents. Despite these circumstances, Defendants have not authorized shelter supplements aligned with the HUD FMR as an entitlement for survivors of domestic abuse in any part of New York State.

VI. DRIVING NEEDY NEW YORKERS INTO HOMELESSNESS IS NOT AN OPTIMUM USE OF PUBLIC ASSISTANCE FUNDS.

89. Under Article XVII of the State Constitution, while the State has discretion to determine the amount of aid and the means of providing it, distribution of aid must be "reasonably expected to be in furtherance of the optimum utilization of public assistance funds."[67] Defendants' decision to provide a shelter allowance at levels so low that it drives needy New Yorkers into homelessness is a poor and inefficient use of public assistance funds, in violation of Defendants' constitutional obligations.

90. It is significantly more expensive to provide shelter for New Yorkers experiencing homelessness than it would be to provide shelter allowances aligned with the HUD FMR that allow individuals and families to secure stable housing. In New York City, the monthly cost of providing a bed in a homeless shelter for a single adult is nearly *1.5 times* the

[67] *Bernstein*, 43 N.Y.2d at 449; *see also Brownley*, 12 N.Y.3d at 43.

cost of providing a shelter allowance aligned with the HUD FMR.[68] The monthly cost for sheltering a family of three in New York City is nearly *twice the cost* of a shelter allowance aligned with the HUD FMR.[69]

91. The situation is the same outside of New York City. For example, in 2023, Chautauqua County spent $125,922.93 per month to shelter 253 homeless individuals in hotels, or $2,518.45 per month per family, while the 2023 HUD FMR for a two-bedroom apartment was only $826 per month.[70] In Orleans County, the cheapest hotel in 2023 used to house single adults experiencing homelessness cost $59.95 per night for a single room, and for families of three with minor children cost $79.95 per night. At those rates, the monthly cost to shelter a single adult in Orleans County is $1,799, more than *double* the 2023 HUD FMR of $839 for a studio apartment; and the monthly cost to shelter a family of three with minor children in Orleans County is $2,398.50, more than *double* the 2023 HUD FMR of $1,186 for a two-bedroom apartment.[71] In Erie County, the motel where the local social services district has placed Plaintiff Willie Ivy has a room rate of $110 per night, or $3,300 per month. At those rates, the monthly cost to shelter a single adult in Erie County is *triple* the 2025 HUD FMR of $968 per

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[68] Mayor Eric L. Adams, *Mayor's Mgmt. Rep.*, 259 (2025), https://www.nyc.gov/assets/operations/downloads/pdf/mmr2025/2025_mmr.pdf (for the fiscal year ending June 30, 2025); Mayor Eric L. Adams, *Mayor's Mgmt. Rep.*, 237 (2022), https://www.nyc.gov/assets/operations/downloads/pdf/mmr2022/2022_mmr.pdf (for the fiscal year ending June 30, 2022).

[69] *Id.*

[70] *FY 2023 HUD Fair Market Rent Documentation System*, U.S. Dep't of Hous. and Urban Dev. Office of Pol'y Dev. and Rsch., https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2023_code/select_Geography.odn.

[71] *Id.*; N.Y. Comp. Codes R. & Regs. Tit. 18, § 352.3.

month.[72]

92. Providing public assistance-eligible New Yorkers with shelter allowances or supplements aligned with the actual cost of housing would avert shelter entries and enable thousands of individuals and families to move out of shelter, thereby maximizing the optimal use of public assistance funds.

CLASS ACTION ALLEGATIONS

93. Plaintiffs bring this action pursuant to Article 9 of the CPLR on behalf of themselves and all other similarly situated single adults and families with and without minor children (i) who are entitled to public assistance, including a shelter allowance; (ii) who are experiencing homelessness in shelters, on the streets, or in other public spaces in New York State or are at imminent risk of being relegated to such homelessness; and (iii) whom Defendants have excluded from entitlement to public assistance shelter supplements set in accordance with the HUD FMR (the "Class").

94. Plaintiffs also seek certification of a subclass consisting of households with children and pregnant individuals receiving Family Assistance benefits (i) who are experiencing homelessness in shelters, on the streets, or in other public spaces in New York State or are at imminent risk of being relegated to such homelessness; and (ii) whom Defendants have excluded from entitlement to public assistance shelter supplements set in accordance with the HUD FMR (the "Family Assistance Subclass").

95. Class certification is appropriate because:

a. joinder of all members of the proposed class is impracticable because

[72] *FY 2025 HUD Fair Market Rent Documentation System*, U.S. Dep. of Hous. and Urban Dev. Office of Pol'y Dev. and Rsch., https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2025_code/select_Geography.odn; N.Y. Comp. Codes R. & Regs. Tit. 18, § 352.3.

there are thousands of similarly situated individuals and families who would be members of the Class and Family Assistance Subclass;

b. questions of law or fact common to the class predominate over questions affecting only individual members of the Class and Family Assistance Subclass;

c. the claims of the named Plaintiffs are typical of the claims of the Class and Family Assistance Subclass;

d. the named Plaintiffs are committed to this litigation and will fairly and adequately protect the interests of the Class and Family Assistance Subclass;

e. counsel for Plaintiffs are experienced in representing clients in complex class action litigation, including litigation on behalf of individuals and families experiencing homelessness or at imminent risk of experiencing homelessness, and will provide fair and adequate representation to the Class and Family Assistance Subclass in this litigation; and

f. class action adjudication is superior to all other available methods of adjudication of this dispute.

FIRST CAUSE OF ACTION
Violation of Article XVII of the New York State Constitution
Asserted by All Plaintiffs on Behalf of Themselves and All Others Similarly Situated

96. Plaintiffs repeat and reallege the preceding paragraphs as though fully set forth herein.

97. Article XVII, section 1 of the New York State Constitution provides: "The aid, care and support of the needy are public concerns and shall be provided by the state and by such

of its subdivisions, and in such manner and by such means, as the legislature may from time to time determine."[73] Thus, Defendants are specifically mandated in the New York State Constitution to provide "aid, care and support" to needy individuals and families in New York.

98. Although the Constitution allows the State discretion to determine the amount of aid and the means of providing such aid, it unequivocally prohibits the State from effecting a complete denial of aid to the needy.[74]

99. Likewise, although the Constitutional mandate speaks to "questions of impermissible exclusion of the needy from eligibility for benefits, not to the absolute sufficiency of the benefits distributed to each eligible recipient," the overall method of distribution of aid must be "reasonably expected to be in furtherance of the optimum utilization of public assistance funds."[75]

100. Defendants' shelter allowances across New York State have not increased in decades, bear no relation to the actual cost of private market housing in New York, and do not enable an individual or a family receiving public assistance to afford habitable housing anywhere in the State. By setting the shelter allowances at levels so misaligned with private market rents that there are no apartments that can be rented at those levels, and then excluding from entitlement to shelter supplements set in accordance with HUD FMR *all* single adults, *all* families without minor children, and *most* families with minor children in New York City, as well as *all* single adults and *all* families in the rest of New York State, Defendants have effected a complete denial "aid, care and support" to needy New Yorkers, in contravention of Article

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[73] N.Y. Const. art. XVII, § 1.

[74] *Tucker*, 43 N.Y.2d at 7-8.

[75] *Bernstein*, 43 N.Y.2d at 449; *see also Brownley*, 12 N.Y.3d at 43.

XVII, Section 1 of the New York State Constitution. The Article XVII mandate applies to all single adults and all families with and without minor children in the Class.

101. Defendants' exclusion of all but a limited number of New Yorkers from entitlement to shelter supplements set in accordance with the HUD FMR amounts to a denial of "aid, care and support" by an "impermissible exclusion of the needy from eligibility for benefits" and drives thousands of New Yorkers into homelessness and much more expensive shelters. That result is neither rational nor "the optimum utilization of public assistance funds."[76]

102. In New York City, providing shelter for a single adult costs the State nearly *twice as much* per month as it would cost to provide a shelter supplement aligned with the HUD FMR.[77] Similarly, for families of three, the monthly cost for shelter in New York City was *nearly twice* the cost of Defendants' shelter supplements aligned with the HUD FMR. The costs for sheltering New Yorkers experiencing homelessness are also exceptionally high in the 57 non-New York City in comparison to shelter supplements aligned with the HUD FMR. Providing shelter for homeless New Yorkers at great public expense—rather than providing a vastly more cost-effective shelter supplement that allows individuals and families to rent their own private housing—is not "in furtherance of the optimum utilization of public assistance funds."

103. Accordingly, Defendants have violated Article XVII, Section 1 of the New York State Constitution by failing to provide "aid, care and support" to prevent or abbreviate homelessness for single adults and families in the Class and Family Assistance Subclass.

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[76] *See Bernstein*, 43 N.Y.2d at 449.

[77] Mayor Eric L. Adams, *Mayor's Mgmt. Rep.*, 259 (2025), https://www.nyc.gov/assets/operations/downloads/pdf/mmr2025/2025_mmr.pdf (for the fiscal year ending June 30, 2025).

SECOND CAUSE OF ACTION
Violation of New York Social Services Law
Asserted by Plaintiffs Ashaley Carter and Casey Hanten
On Behalf of Themselves and All Others Similarly Situated

104. Plaintiffs repeat and reallege the preceding paragraphs as though fully set forth herein.

105. Section 350(1)(a) of the Social Services Law provides: "Allowances shall be adequate to enable the father, mother or other relative to bring up the child properly, having regard for the physical, mental and moral well-being of such child, in accordance with the provisions of section one hundred thirty-one-a of this chapter and other applicable provisions of law." Section 350(1)(a) further provides: "Allowances shall provide for the support, maintenance and needs of one or both parents if in need, and in the home."

106. Section 344(2) of the Social Services Law states that, under the Family Assistance program, "[a]id shall be construed to include services, particularly those services which may be necessary for each child in the light of the particular home conditions and his other needs."

107. Section 350–j(3) of the Social Services Law requires that "[e]mergency assistance to needy families with children shall be provided . . . when such assistance is necessary to avoid destitution or to provide them with living arrangements in a home."

108. In *Jiggetts v. Grinker*, 75 N.Y.2d 411 (1990), the New York Court of Appeals held that the above provisions of the Social Services Law "manifest[ed] the Legislature's determination that family units should be kept together in a home-type setting and impos[ed] a duty on the Department of Social Services to establish shelter allowances adequate for that purpose."[78] Under the Court's ruling in *Jiggetts*, "[a] schedule establishing assistance levels so

[78] *Id.* at 417.

low that it forces large numbers of families with dependent children into homelessness does not meet the statutory standard."[79]

109. To effectuate the ruling in *Jiggetts*, Defendants promulgated Section 352.3(a)(3) of the Social Services Law regulations, establishing a procedure for creating shelter supplements on a county-by-county basis.

110. In New York City, those supplements covered all Family Assistance households facing eviction from their homes. In December 2021, the amount of the New York City supplement was raised to the HUD FMR.[80] However, Defendants continued to exclude from eligibility for those supplements Family Assistance households that were not facing eviction proceedings or that had not been evicted within the previous 12 months.

111. In the remaining 57 counties of New York State, no supplement remotely approaches the HUD FMR, and 42 counties entirely exclude Family Assistance households from eligibility for shelter supplements.

112. Defendants' failure to provide shelter supplements adequate to allow Family Assistance households to maintain children in a home violates Sections 350(1)(a), 350–j(3), and 344(2) of the New York Social Services Law.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court issue:

a. A declaratory judgment pursuant to CPLR § 3001 that Defendants have violated Article XVII of the New York State Constitution because they have denied "aid, care and support" to the named Plaintiffs and all individuals and families in the Class by:

[79] *Id.*
[80] N.Y. Soc. Serv. Law § 131-bb.

(i) setting the public assistance shelter allowances at rent levels that the New York housing market does not produce, preserve, or operate; and

(ii) excluding *all* single adults, *all* families without minor children, and *most* families with minor children in New York City, and *all* single adults and *all* families in the rest of New York State, from entitlement to public assistance shelter supplements set in accordance with the HUD FMR;

b. A declaratory judgment pursuant to CPLR § 3001 that Defendants have violated Sections 350(1)(a), 350–j(3), and 344(2) of the New York Social Services Law by (i) failing to provide shelter allowances or supplements that are adequate to allow Family Assistance Households to maintain children in a home; and (ii) excluding from eligibility for shelter supplements aligned with the HUD FMR all Family Assistance households in New York City that are not facing eviction or have not been evicted in the previous 12 months, and all Family Assistance households outside of New York City;

c. An order certifying the Class, consisting of all single adults and families with and without minor children (i) who are entitled to public assistance, including a shelter allowance; (ii) who are experiencing homelessness in shelters, on the streets, or in other public spaces in New York State or are at imminent risk of being relegated to such homelessness; and (iii) whom Defendants have excluded from entitlement to public assistance shelter supplements set in accordance with the HUD FMR;

d. An order certifying the Family Assistance Subclass, consisting of households with children or pregnant individuals receiving Family Assistance benefits (i) who are experiencing homelessness in shelters, on the streets, or in other public spaces in New York State or are at imminent risk of being relegated to such homelessness; and (ii) whom Defendants have excluded

from entitlement to public assistance shelter supplements set in accordance with the HUD FMR;

e. An order pursuant to CPLR § 6301 requiring Defendants to provide public assistance shelter allowances or supplements aligned with the HUD FMR to the Class and Family Assistance Subclass; and

f. A judgment awarding Plaintiffs such other and further relief as is just, proper, and equitable, including but not limited to reasonable attorneys' fees and costs.

Date: June 3, 2026
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By: */s/ Fara Tabatabai*

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