

At an IAS Part ____ of the Supreme Court of the State of New York, held in and for the County of New York at the courthouse located at 60 Centre Street on the ____ day of _____, 2008.

PRESENT: HON. JACQUELINE W. SILBERMANN

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EBONY BOSTON, et al.,

Plaintiffs, **FINAL JUDGMENT**

-against-

CITY OF NEW YORK, et al.,

Index No. 402295/08

Defendants.

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IT IS HEREBY STIPULATED as follows:

1. This judgment brings to an end all aspects of the Boston litigation and there are no further claims or motions pending in the Boston litigation involving the City of New York, its agencies, officials and employees (the “City defendant”). No further motions or proceedings shall be brought in the Boston litigation as to the City defendant. The Hon. Jacqueline W. Silbermann retains no jurisdiction to enforce this judgment.

2. By stipulating to the entry of this judgment, the City defendant does not admit to wrongdoing or liability in the Boston litigation.

3. Eligible homeless families with children, defined as families with children who lack alternate housing, and families with children seeking shelter who,

pending the City's eligibility determination, qualify for shelter pursuant to applicable local and/or State law, codes, regulations, and agency guidances ("applicable law"), are entitled to emergency shelter and the City shall not deny shelter to such families.

4. The City shall provide shelter facilities for families with children that are safe, sanitary and decent as defined by applicable law. The City shall make shelter placements for families with children in a timely and appropriate manner as defined by applicable law.

5. The City shall have administrative procedures in place that provide as follows:

(a) The City shall conduct an adequate investigation to verify whether a family with children seeking shelter has other housing available to them. Such families have an obligation to cooperate in the investigation and provide evidence of homelessness by providing reasonably available information and documents regarding their need. The City shall assist such families in the investigation by providing information, guidance and support in understanding the process and by assisting them in securing necessary information and documents from government agencies and third parties to the extent reasonably available. Such families will not be found ineligible for shelter solely because of the non-cooperation of third parties or solely based on their inability to provide requested documentation where the family has otherwise cooperated with the investigation. Documents or other evidence submitted at any time during the eligibility process will be considered.

(b) The City shall consider all relevant facts throughout the eligibility process to determine whether a family with children seeking shelter is eligible to receive

shelter, including whether housing resources are unsafe or overcrowded and therefore not available to the family. The determination whether such a family is eligible to receive shelter shall be based on the totality of the circumstances, with an individual analysis of each such family's situation. In determining whether a family is eligible for shelter and in making appropriate shelter placements, and expedited placements where necessary, the City shall consider domestic violence, medical or child welfare issues in the household of the family seeking shelter. In determining whether a family is eligible for shelter, the City shall ask such family whether there are any domestic violence, medical or child welfare issues in the household of the primary tenant and shall consider such issues. The City shall promptly refer any member of a family seeking shelter who may be a domestic violence victim to a worker specifically trained to deal with these issues whose determination regarding domestic violence issues shall govern, and all shelter eligibility investigations, with the exception of the currently pending interview of such family member, shall cease pending the specially trained domestic violence worker's evaluation and determination.

(c) Families with children seeking shelter have a right to receive a written notice of eligibility or ineligibility pursuant to applicable law.

(d) Families with children found ineligible for shelter may reapply at any time and obtain shelter only in accordance with applicable law.

(e) The City shall terminate shelter for homeless families with children in accordance with applicable law.

(f) In accordance with applicable law, a permanent address is not required to establish or maintain eligibility for public benefits, including cash assistance, food stamp benefits, and medical assistance.

(g) Any legal representatives shall have access to family shelters and may visit families in their individual shelter units and have access to other areas of a facility in accordance with applicable law for the purpose of providing legal assistance to families who have retained them for legal assistance. If another family seeks out the representative for the purpose of obtaining legal assistance, the representative may speak with the family in the manner described above. Any legal representatives shall have access to PATH or other intake center for families solely for the purpose of providing legal assistance to families who have retained them to provide legal assistance. If another family at the intake center seeks out the legal representative for the purpose of obtaining legal assistance, the representative may provide legal assistance to that family in the same manner as described above.

(h) Application and eligibility data contained in the Critical Activities Report which is currently published on the New York City Department of Homeless Services' ("DHS") website shall be disaggregated for families with children and families without children. The City shall also publish on the DHS website, or disseminate through equally or more effective means, reports on a monthly basis that shall include the number of applicant families with children found ineligible for shelter who reapplied and were subsequently found eligible within 90 days and the mean number of applications filed by such families. The term "ineligible" as used in the preceding sentence will be defined in such monthly reports as having an available housing option. The City shall also publish

on the DHS website, or disseminate through equally or more effective means, a quarterly report that shall include the number of families with children who reapplied and did not receive immediate needs shelter and then were found eligible on that same application and the mean number of applications filed by such families. Publication of these data reports shall commence within 180 days of entry of judgment.

6. Any claim that the provisions contained in this judgment have been violated must be brought in a new action, where the provisions of this judgment may be enforced by any Justice of the Supreme Court who may exercise all of the authority that is conferred on the Supreme Court to enforce a judgment, including using any available remedies to achieve compliance with a judgment. In any such action, the City shall have all rights that any governmental entity may have under the New York Civil Practice Law and Rules (the “CPLR”) including without limitation any applicable provisions of CPLR §5519 and §6313(a), and the parties shall have all rights to discovery that they may have under all applicable provisions of the CPLR. Before commencing any subsequent action alleging that the provisions of this judgment have been violated and before seeking temporary relief in any such subsequent action, the party seeking relief shall provide the City with prior notice if possible. In any subsequent action, the moving party will seek an enforcement order first before seeking other coercive remedies.

7. This judgment is subject to the approval of this Court pursuant to Rule 908 of the CPLR. Before this Court can approve this judgment, it will direct that notice be provided, pursuant to Rule 908, to all class members and proposed class members and others similarly situated who would be bound by it. Before this judgment may be approved, there shall be notice of its terms to all class members and proposed

class members and others similarly situated; a comment period during which any person who wishes to present comments or objections may do so; and a hearing to consider its fairness and adequacy, at which any class member, proposed class member and similarly situated person who wishes to make an oral statement regarding its fairness and adequacy may do so. The terms and manner of the notice, receipt of comments and objections, and the fairness hearing shall be set forth in a separate order by this Court. This judgment, and all of its provisions other than this paragraph 7, will not become effective until this judgment, and each of the judgments in McCain v. Bloomberg, et al., Index No. 41023/83, Lamboy v. Doar, et al., Index No. 41108/85, Slade v. Bloomberg, et al., Index No. 45177/86, and Cosentino v. Carrión, et al., Index. No. 43236/85 (collectively, the “other cases”) have been approved and entered by the Court. In the event this judgment, or any of the judgments in the other cases, is not approved by the Court, this judgment will be of no further force or effect.

8. Paragraph 5 above shall remain in effect until December 31, 2010 and shall automatically expire at the end of said period, provided however that the sunset of any or all requirements of paragraph 5 may be extended only in a newly commenced action by an order of a Justice of the Supreme Court on a demonstration by the plaintiff or plaintiffs in that new action of systemic non-compliance that warrants continuation of any or all requirements of paragraph 5 for a specified time. In order to prove systemic non-compliance, the moving party shall bear the burden of proving that the alleged non-compliance is sufficiently significant and widespread or recurring as to be systemic. Minimal or isolated failures or omissions shall not constitute systemic non-compliance.

A proceeding seeking relief under this paragraph may not be commenced until the City has been given at least 30 days prior notice of intent to seek such relief.

9. The parties hereto shall bear their own attorney's fees and costs in this action.

Dated: September 17, 2008
New York, New York

MICHAEL A. CARDOZO
Corporation Counsel of the City
of New York
Attorney for City Defendant

STEVEN BANKS
Attorney-in-Chief
The Legal Aid Society
Attorney for Plaintiffs

ENTER.

Hon. Jacqueline W. Silbermann, J.S.C.

Judgment entered this ____ day of _____, 2008