

**THE COUNCIL OF
THE CITY OF NEW YORK**

**Hon. Gifford Miller
Speaker**



JUNE 2004

**Transitional and Emergency
AIDS Housing:
In Urgent Need of Repair.**

A STAFF REPORT TO

**THE COMMITTEE ON
OVERSIGHT AND
INVESTIGATIONS**

**Hon. Eric Gioia
Chair**

**THE COMMITTEE
ON HEALTH**

**Hon. Christine Quinn
Chair**

**THE COMMITTEE
ON GENERAL WELFARE**

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SPEAKER

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EXECUTIVE SUMMARY

People residing in City-subsidized housing have the right to expect certain minimum standards for suitable living conditions. Yet for some with HIV and/or AIDS—who in many cases have nowhere else to go—substandard housing, riddled with housing, building and fire code violations, is a part of life. An investigation by the New York City Council Investigation Division found some recipients of housing assistance from the New York City HIV and AIDS Services Administration (HASA) living in emergency or transitional facilities without door locks, with leaks, or lacking heat, hot water and electricity. Residents also charged that units were infested with roaches or rodents.ⁱ The City is paying for some HASA residents to live in emergency and transitional housing facilities that do not meet standards required by lawⁱⁱ—sometimes at very high rates; investigators spoke with a tenant whose rent supplement from HASA was over \$2,100 a month for the room he occupied at a Single Room Occupancy hotel (SRO).ⁱⁱⁱ

Key Findings

- At least 73% of the facilities had open violations issued by the Department of Housing Preservation and Development (HPD) within the past year.
 - 33% of the facilities had open Class C (“immediately hazardous”) violations.^{iv}
- 50% of the facilities did not provide all of the basic, court-mandated amenities (mattresses, linens, toilet paper).

ⁱ This report uses the term “infested” as defined in *Webster’s II New Riverside Dictionary* meaning “in numbers large enough to be harmful or offensive.”

ⁱⁱ See Hanna v. Turner, Decision dated July 12, 1999 (N.Y. Cty S. Ct.); Hanna v. Turner, Order and Judgment dated November 15, 1999 and See Winds v. Turner, N.Y.L.J., September 18, 2002, p. 19, col. 2.

ⁱⁱⁱ See Appendix F for documentation of this individual’s HASA rent supplement.

- 63% of HASA clients claimed that since they had been placed into emergency or transitional housing facilities, HASA had never assisted them in finding permanent housing.
- 57% of the rooming house facilities had more than one HASA client sharing a bedroom (excluding couples), a violation of existing law.^v
- 58% HASA clients interviewed claimed they had resided in the emergency and transitional facility for more than three months.

Studies have shown that unstable housing is a major barrier to obtaining and maintaining medical care for HIV and AIDS patients over time.^{iv} People with HIV and/or AIDS who have stable housing are close to four times more likely to receive medical care than those who do not receive housing assistance, and are twice as likely to enter into and continue in care that meets current clinical standards for treatment of HIV and/or AIDS.^{vii} One of the reasons Local Law 49 of 1997 was enacted was to ensure that each HASA client resides in housing that is “medically appropriate” for people with compromised immune systems. To that end, HASA provides permanent housing assistance and rental assistance to clients who are able to live independently, and emergency or transitional housing for residents who are homeless.^{viii}

^{iv} See Appendix E for a listing of open HPD violations found at the sites visited.

^v Implicit in the concept of medically appropriate housing for HASA clients— persons with severely compromised immune systems—is that they should not share bedrooms. [Gostin, Lawrence O. “The Resurgent Tuberculosis Epidemic In The Era of AIDS: Reflections on Public Health, Law and Society.” 54 Md. L. Rev. 1 (1995); Merjian, Armen. “The Court at the Epicenter of a New Civil Rights Struggle: HIV AND AIDS in the New York Court of Appeals.” 76 St. John’s L. Rev. 115 (2002)].

^{vi} Aidala, A., Davis, N., Abramson, D., Gunjeong, L., *Housing Status and Health Outcomes among Persons with HIV AND AIDS in New York City Update Report #41*. Community Health Advisory & Information Network (CHAIN), Columbia University School of Public Health, 2001.

^{vii} Aidala, A., Davis, N., *Housing Status and Health Outcomes among Persons with HIV and AIDS in New York City Briefing Report*. Community Health Advisory & Information Network (CHAIN), Columbia University School of Public Health, 6 Nov 2002.

While HASA is required to assist clients in finding permanent housing, it has been reported that residents are often shifted from one emergency facility to the next every 28 days.^{ix} This practice means residents' stays at each facility are too short to entitle them to rights as tenants.^x The City underspends on permanent housing for HASA clients while exceeding its budget allocation for emergency and transitional housing,^{xi} suggesting that HASA relies heavily on this short-term solution.

Additionally, HASA does not enter into formal contracts with all landlords, so housing conditions are not regulated and owners are not held accountable for them. This investigation and previous reports suggest HASA is exercising little, if any, oversight to ensure that its housing meets basic standards of living for people with HIV and/or AIDS.

The New York City Council's Investigation Division sought to evaluate both SROs and "safe houses" or "rooming houses" for adherence to the "medically appropriate" criteria stipulated in Local Law 49, as well as in subsequent court orders.^{xii} Whenever possible, investigators photographed apparent violations.^{xiii}

^{viii} Human Resource Administration: "AIDS Services Description" available at http://www.nyc.gov/html/hra/html/serv_aids.html (Last accessed 27 Apr 2004)

^{ix} Gray, Geoffrey. "Maladies at the Malibu." *The Village Voice*. 3 Dec 2002, p22; Bernstein, Andrea. "Handshake Hotels: Part 1," WNYC Radio. Available at <http://www.wnyc.org/news/articles/17488> (Last accessed 27 Apr 2004); Ryan, Benjamin. "Homeless with AIDS: A System Built on No Permanent Solution." *Gay City News*. 1 Sept 2003. Vol. 1, Issue 14.

^x City law states that it is unlawful to evict and occupant of a dwelling unit who has resided there for 30 consecutive days, or if the occupant has obtained a lease (Administrative Code of the City of New York §26-521).

^{xi} As of April 2004, HASA had already exceeded its Fiscal Year 2004 (FY '04) allocation on emergency and transitional or emergency housing by spending \$33.6 million from an adopted budget of \$19 million. HASA shifted \$10.5 million from its budget allocation for permanent housing and put it towards to emergency and transitional housing (NYC Financial Management System).

^{xii} See Appendix I for survey form.

^{xiii} See Appendix D.

Investigators visited a total of 25 emergency and transitional housing facilities for HASA clients, randomly selected from a list of 114 facilities. Investigators interviewed 19 HASA clients at these facilities about their experiences with HASA, and checked the records of the buildings visited for violations listed within the past year.

Recommendations

- **Create a central housing referral system to track HASA clients.**

- **Strengthen Local Law 49.**

The Council should strengthen Local Law 49 by setting a time frame for HASA to act on permanent housing applications and requiring HASA to submit expanded performance reports.

- **HASA must follow Local Law 49.**

HASA must give every client who is sent to emergency/transitional housing facilities a permanent housing application. In addition, HASA should not refer or place clients into buildings where there are recent outstanding violations.

- **Find or build additional, dignified housing for HASA clients.**

Responsible landlords whose facilities are deemed medically appropriate should be aggressively recruited. In addition, as the City builds more affordable housing, it should ensure that the housing meets the criteria stipulated in Local Law 49.

- **HASA must enter into contracts with all housing providers to ensure accountability and compliance with Local Law 49.**

BACKGROUND

HIV, Health and Permanent Housing

The provision of stable, long-term housing is linked directly to the continuing health of persons living with HIV and/or AIDS.¹ Studies have shown that unstable housing is a major barrier to obtaining and maintaining medical care for HIV and/or AIDS patients over time.² While the homeless population with HIV and/or AIDS has the highest rates of non-adherence to medical regimens, HIV-positive individuals with permanent housing have access to basic needs, such as a regular food supply and a refrigerator to store medication, and are therefore better able to sustain such regimens.³ In fact, persons with HIV and/or AIDS who have stable housing are close to four times more likely to receive medical care than those who do not receive housing assistance, and are twice as likely to enter into and continue in care that meets current clinical standards for treatment of HIV and/or AIDS.⁴ Stable, long-term housing provides the conditions for people with HIV and/or AIDS to sustain their health and wellness and ultimately, to prolong their lives.

HIV-positive individuals who are homeless are more likely to experience poor health.⁵ In a recent study, 48% of individuals who were homeless reported missing pills or failing to maintain a schedule for medication

¹ As used in this report, “HIV and/or AIDS” refers to the condition of symptomatic HIV or AIDS that would qualify individuals for HASA's services. For HASA's eligibility criteria, see N.Y. City Admin. Code, §§ 21-128(5).

² Aidala, A., Davis, N., Abramson, D., Gunjeong, L., *Housing Status and Health Outcomes among Persons with HIV and AIDS in New York City Update Report #41*. Community Health Advisory & Information Network (CHAIN), Columbia University School of Public Health, 2001.

³ *Id.*

⁴ Aidala, A., Davis, N., *Housing Status and Health Outcomes among Persons with HIV and AIDS in New York City Briefing Report*. Community Health Advisory & Information Network (CHAIN), Columbia University School of Public Health, November 6, 2002.

⁵ *Id.*

use.⁶ The study also noted that over 40% of the HIV-positive homeless population described their current health as only “fair” or “poor,” compared to 29% of the those HIV-positive individuals in stable housing.⁷

HASA and its services

In 1985, Mayor Edward Koch established the Division of AIDS Services (DAS)⁸ within the Department of Social Services/Human Resources Administration (HRA). DAS, now called the HIV and AIDS Services Administration (HASA), was created to help New Yorkers with AIDS and symptomatic HIV to access essential benefits and services, including housing. The establishment of HASA was based on the recognition that people suffering from HIV and/or AIDS experience symptoms that create serious obstacles to accessing government benefits and services.

HASA provides a variety of services to medically eligible persons living with advanced HIV and/or AIDS. Some of HASA’s services include home and hospital visits, financial counseling, grocery delivery and meal preparation, counseling for clients and intensive case management.⁹ HASA also provides permanent (or supportive) housing assistance and rental assistance to clients who are able to live independently, and emergency and transitional housing for clients who are homeless.¹⁰ As of March 2004, HASA’s caseload over 30,800 clients.¹¹

⁶ *Id.*

⁷ *Id.*

⁸ This subdivision has also been known as the Division of AIDS Services and Income Support (DASIS) and the HIV and AIDS Services Administration (HASA), which has recently been incorporated into the Medical Insurance and Community Services Administration (MICSA). This report refers to the entity as HASA.

⁹ Human Resources Administration: “AIDS Services Description” *available at* http://www.nyc.gov/html/hra/html/serv_aids.html (Last accessed April 27, 2004).

¹⁰ *Id.*

¹¹ HIV and AIDS Services Administration (HASA) Cases: Trend, % Change From Previous Month; % Change From Previous Year. Source: Office of Program Reporting,

With respect to housing services, HASA places homeless clients with HIV and/or AIDS directly into emergency and transitional housing, including short-term stays at either commercial Single Room Occupancy (SRO) facilities or independent apartments.¹² HASA also provides such clients with assistance in order to move to permanent housing.¹³ However, it has been reported that, at times, residents are shifted from one emergency facility to the next every 28 days, without receiving a lease.¹⁴ Consequently, residents' stays at each facility are too short to entitle them to rights as tenants.¹⁵

HASA makes eligibility determinations for the provision of its housing assistance services. During his tenure, Mayor Rudolph Giuliani's Administration required persons with HIV and/or AIDS to go undergo Eligibility Verification Review (EVR) in order to receive HASA services, even after HASA had determined their eligibility.¹⁶ AIDS housing advocates sued, claiming that the Administration was trying to eliminate AIDS services and ultimately HASA.¹⁷ Local Law 49 of 1997 (Local Law 49) was born out of an effort by the City Council to prevent this from occurring.

Analysis & Accountability, HRA, April 2004 *available at* http://www.nyc.gov/html/hra/pdf/aids_new1101.pdf (Last accessed May 18, 2004).

¹² *Id.*

¹³ *Id.*

¹⁴ Gray, Geoffrey. "Maladies at the Malibu." *The Village Voice*. 3 December 2002, pg. 22; Bernstein, Andrea. "Handshake Hotels: Part 1," WNYC Radio. *Available at* <http://www.wnyc.org/news/articles/17488> (Last Accessed April 27, 2004); Ryan, Benjamin. "Homeless with AIDS: A System Built on No Permanent Solution." *Gay City News*. 1 September 2003. Vol. 1, Issue 14.

¹⁵ City law states that it is unlawful to evict and occupant of a dwelling unit who has resided there for 30 consecutive days, or if the occupant has obtained a lease (Administrative Code of the City of New York §26-521).

¹⁶ Spencer, Gary. *New York Law Journal*, October 20, 1999.

¹⁷ Osborne, Duncan. "Bloomberg AIDS Budget Draws Fire." *Gay City News*. April 18, - 24, 2003.

Legal Background

Local Law 49 codified HASA's existence and sought to ensure access to appropriate benefits and services for New Yorkers with symptomatic HIV and/or AIDS.¹⁸ The law requires that HASA staff assist clients in establishing and maintaining eligibility and provide intensive case management services.¹⁹ Local Law 49 also mandates access to a number of essential benefits and services, including "medically appropriate" emergency, transitional and permanent housing, which it defines as:

housing which is suitable for persons with severely compromised immune systems, and if necessary, accessible to persons with disabilities as defined in section 8-102 of this code. Such housing shall include, but not be limited to, individual refrigerated food and medicine storage and adequate bathroom facilities which shall, at a minimum, provide an effective locking mechanism and any other such measures as are necessary to ensure privacy.²⁰

The legislation further requires HASA to submit quarterly, written reports to the City Council and the Mayor concerning benefits and services provided by the agency.²¹

After Mayor Giuliani's attempts to dismantle the Division of AIDS Services in 1994,²² the New York courts had numerous opportunities to interpret Local Law 49. For example, in 1999, the New York State Court of Appeals held that the practice of subjecting HASA's applicants for public benefits and services to Eligibility Verification Review²³ violated

¹⁸ See N.Y. City Admin. Code, §§ 21-126-21-128.

¹⁹ To ensure availability of intensive case management services, Local Law 49 mandates specific caseworker to client ratios. See N.Y. City Admin. Code §21-127.

²⁰ N.Y. City Admin. Code, §21-128 article 4.

²¹ See N.Y. City Admin. Code §21-128(j).

²² Willen, Liz. "An Activist Again." *Newsday*. December 28, 1997. p. A08

²³ The court described EVR as a program that "investigates and verifies all applications of persons seeking subsidized public benefits in New York City. According to HRA's Policies and Procedures Manual, DASIS clients are interviewed by EVR staff to 'ensure that all DASIS clients are deemed eligible prior to case acceptance.'" Hernandez v. Barrios-Paoli, 93 N.Y.2d 781, 786 (1999).

Local Law 49.²⁴ Furthermore, in Hanna v. Turner, the court ruled that HASA's failure to provide same-day emergency housing placements contravened Local Law 49.²⁵

The court, in Winds v. Turner, addressed the issue of "medically appropriate" housing pursuant to Local Law 49. In that case, Justice Bransten of the New York State Supreme Court held that HASA failed to provide statutorily mandated "medically appropriate" housing based on conditions at emergency and transitional housing facilities to which clients were referred.²⁶ The court focused on a number of specific problems with conditions at the facilities, including: lack of working refrigerators in many rooms; bathroom facilities that were consistently unclean and lacked toilet paper; placement of clients too weak to climb stairs in rooms on high floors in buildings without elevators; inadequate security; rodent/vermin infestations²⁷; and lack of appropriate furnishings and bedding. The court explicitly ordered the agency to ensure clients access to emergency housing that:

contains suitable and appropriate furnishings and amenities, including but not limited to a bed, a clean mattress, clean and sufficient linens (including sheets, blankets and pillow cases), basic furniture essential for daily living, an individual supply of

²⁴ See Hernandez v. Barrios-Paoli, 93 N.Y.2d 781 (1999) "We conclude that the EVR Procedure, when applied to DASIS clients, violates the language of Local Law No. 49 and contravenes the purpose of the statute. The statutory language makes clear that DASIS staff, rather than EVR investigators, must provide and ensure access to benefits and services, which includes 'establish[ing] any and all elements of eligibility including . . . those elements required to be established for financial benefits, and to maintain such eligibility.' Hernandez, 93 N.Y.2d at 786.)

²⁵ See Hanna v. Turner, Decision dated July 12, 1999 (N.Y. Cty S. Ct.); Hanna v. Turner, Order and Judgment dated November 15, 1999 ("Ordered and adjudged that Respondents . . . immediately provide Petitioners . . . and all eligible persons with clinical/symptomatic HIV illness or AIDS who requested transitional housing from DASIS with same-day placement (i.e., placement on the calendar day of the request) in medically appropriate transitional housing, in compliance with Section 21-128(b) of the New York City Administrative Code."); see also Hanna v. Turner, 2001 N.Y. Misc. LEXIS 842 (Sup. Ct. 2001), aff'd Hanna v. Turner, 289 A.D.2d 182 (1st Dep't 2001).

²⁶ See Winds v. Turner, N.Y.L.J., September 18, 2002, p. 19, col. 2.

²⁷ This report uses the term "infestation" as defined in *Webster's II New Riverside Dictionary* meaning "in numbers large enough to be harmful or offensive."

toilet paper, an operational individual refrigerator; is accessible to the petitioners and in non-elevator buildings is not on a floor higher than one level above the ground level; includes a usable bathroom, with a working lock, that is consistently maintained and cleaned; includes a working lock on the door to each housing unit; includes operational utility services (including electricity, water and/or gas); and is free of vermin.²⁸

HASA Audits

The Office of the New York City Comptroller has conducted audits to assess HASA housing and services. In 1998, the Comptroller's Office issued an audit report regarding emergency and transitional housing for clients with HIV and/or AIDS, which highlighted a number of serious shortcomings in programs and services provided by HASA.²⁹ Specifically, the report chronicled dangerous and unsanitary living conditions at numerous facilities and identified shortcomings with respect to internal controls on payments to SRO hotels used as emergency and transitional shelter. The report recommended that HASA enhance internal controls by, among other things "select[ing] contractors, enter[ing] into written contracts with hotels that provide housing for its clients and register[ing] these contracts with the Comptroller's Office, in accordance with the Procurement Policy Board Rules."³⁰

Furthermore, in June 2003, the Office of the City Comptroller issued an audit report regarding processing of clients' permanent housing applications. This report concluded that "HASA is not efficient in

²⁸ Order p. 11. Other courts have considered benefits and services provided to New Yorkers with symptomatic HIV and AIDS in the context of requirements of Local Law 49. For instance, Judge Sterling Johnson discussed requirements of Local Law 49 in his decision granting judgment in favor of the plaintiffs in *Henrietta D. v. Giuliani*, class action litigation commenced prior to passage of Local Law 49, which challenged services provided to DASIS-eligible clients on the basis of federal and state law.

²⁹ *Human Resources Administration's Division of AIDS Services and Income Support's Payments to Privately Owned Hotels for DASIS Clients*, The City of New York Office of the Comptroller Bureau of Audit (October 16, 1998).

³⁰ *Id.* at *ES-6.

processing clients' applications for permanent housing, nor does it comply with its own time frame for processing requests for financial assistance for clients who have secured a valid lease or letter of intent to rent."³¹

AIDS housing advocates, such as Housing Works and the New York City AIDS Housing Network (NYCAHN), have also found that many temporary AIDS housing facilities provide substandard living conditions for HASA clients.³² According to these advocates, SROs often house HASA clients for too long in temporary facilities that lack refrigerators to store medication, working toilets, fans, air conditioners, new mattresses and kitchen facilities.³³ Such facilities also may be unsafe, contain vermin and receive sporadic heat or hot water.

Recently, a WNYC National Public Radio (NPR) report has also revealed substandard living conditions for HASA clients at "safe houses" or "rooming houses"—privately-owned emergency and transitional housing facilities, many of which are utilized by parolees with HIV and/or AIDS. The report, which interviewed parolees, found that a number of HASA clients were residing together in a single bedroom and living in poor conditions that violated Local Law 49.³⁴

³¹ *Audit Report on the Processing of Clients' Permanent Housing Applications by the HIV AND AIDS Services Administration of the Human Resources Administration*, City of New York Office of the Comptroller Bureau of Management Audit (June 30, 2003).

³² NYC AIDS Housing Network and West Side SRO Law Project. "Too Much for Too Little for Too Long: Emergency Housing for Homeless New Yorkers Living with AIDS: Who's Paying the Price?" February 2003.

³³ *Supra* note 6.

³⁴ Bernstein, Andrea. "Private Rooming House Offers Address to Parolees," WNYC Radio (16 October 2003).

The Cost of Housing

In the current fiscal year, emergency and transitional housing cost more than the City budgeted for such housing. As of April 2004, HASA had already exceeded its Fiscal Year 2004 (FY '04) allocation on emergency and transitional or emergency housing by spending \$33.6 million. The FY '04 budget allotted \$19 million.³⁵ At the same time, HASA has not spent its full allocation for long-term housing placements. In fact, HASA reduced the budget allocation for permanent housing by \$10.5 million, from \$95.5 million in the adopted Fiscal Year 2004 budget to \$85 million, shifting the \$10.5 million in funds to emergency and transitional housing.³⁶

³⁵ City's Financial Management Systems (FMS) as of April 2004.

³⁶ *Id.*

METHODOLOGY

The New York City Council’s Investigation Division sought to evaluate both SRO hotels and “safe houses” or “rooming houses” for their adherence to “medically appropriate” criteria with respect to their housing services, as stipulated in Section 4 of Local Law 49 and subsequent court orders.³⁷ When possible, investigators documented apparent violations with photographs.³⁸

HASA has indicated to the City Council that there are 72 SROs for emergency housing.³⁹ HASA has never indicated to the City Council that there are rooming houses. However, AIDS housing advocates have received lists from HASA staff indicating there are 80 SROs, as well as 34 rooming houses.⁴⁰ From October 21, 2003 to May 24, 2004, investigators visited a total of 25 emergency and transitional housing facilities for HASA clients. The facilities were randomly selected from the lists given to advocates by HASA.⁴¹ Fourteen of the facilities were listed as rooming houses, although two facilities were actually Department of Homeless Services (DHS) homeless shelters. Eleven of the facilities were listed as SROs.

Investigators went to these facilities to observe conditions such as:

- the number of occupants in one room;
- if residents had individual refrigerators;

³⁷ See Appendix I for survey form used.

³⁸ See Appendix D.

³⁹ Letter to Council Member Bill deBlasio from HRA Commissioner Verna Eggleston. March 22, 2004.

⁴⁰ The Council Investigation Division obtained these lists in October 2003, and received an updated version of the list of rooming houses in June 2004.

⁴¹ The Council has asked for, but never received, a full list of housing facilities from HASA.

- if residents had their own bathroom, and if that bathroom had a lock;
- if residents received a mattress, linens and toilet paper; and
- if there were additional problems with the facilities' conditions such as no heat or hot water, leaks or roach or rodent infestation.

Investigators could not observe bedrooms or bathrooms at five sites.

During the visits, investigators interviewed 19 HASA clients living in the facilities about their experiences with HRA, including the number of visits HASA staff made to the facility, and whether or not HASA was working with clients to find permanent housing.⁴² At six sites, investigators could not get direct access to clients. Instead, they interviewed landlords, or “house managers”—residents designated by the facilities' management to oversee services and operations.

Investigators also checked Housing Preservation and Development (HPD), Department of Buildings (DOB) and Environmental Control Board (ECB) records for violations listed within the past year for facilities visited during the investigation, including violations that were listed as active and currently open.

⁴² See Appendix I for survey form used.

FINDINGS

The following results are based on the 25 emergency and transitional housing facilities for HASA clients that were visited by investigators.⁴³

Housing Conditions

The following findings do not meet the criteria stipulated in Local Law 49. This total excludes the two DHS shelters on the referral list provided by HASA staff:

- **Thirteen of the 23 emergency and transitional facilities (57%) had more than one HASA client sharing a bedroom (excluding couples).**⁴⁴

Investigators could directly observe refrigerators at 21 locations.

- **Nine out of 21 facilities (43%) had a communal refrigerator for tenants instead of individual refrigerators.**
 - At one residence, tenants told investigators AIDS medication is often stolen from the common refrigerator.

Investigators could directly observe bathroom locks at 20 facilities.

- **Four of 20 facilities (20%) had broken bathroom door locks.**⁴⁵

⁴³ For a list of facilities and findings data, see Appendix E. To preserve HASA clients' confidentiality, no addresses are listed.

⁴⁴ All 13 facilities were rooming houses or safe houses. Local Law 49 mandates that housing must be appropriate for persons with severely compromised immune systems. Implicit in this is that HASA clients should not share bedrooms. Shared housing is not medically appropriate for persons with severely compromised immune systems like those with HIV and AIDS. Gostin, Lawrence O. "The Resurgent Tuberculosis Epidemic In The Era of AIDS: Reflections on Public Health, Law and Society." 54 Md. L. Rev. 1 (1995).

⁴⁴ Merjian, Armen. "The Court at the Epicenter of a New Civil Rights Struggle: HIV AND AIDS in the New York Court of Appeals." 76 St. John's L. Rev. 115 (2002).

⁴⁵ See photos in Appendix D for example.

The following findings do not meet the criteria stipulated in the 2002 court ruling in Winds v. Turner:⁴⁶

Investigators evaluated the amenities provided at 20 facilities.⁴⁷

- **Ten of 20 facilities (50%) did not provide all of the court-mandated amenities (mattress, linens and toilet paper).**
 - One of 10 (10%) did not provide a mattress, forcing the resident to purchase his own.
 - Four of 10 (40%) did not provide linens, forcing the residents to purchase their own.
 - None of the 10 facilities (0%) provided toilet paper, forcing the residents to purchase their own.⁴⁸

Investigators evaluated the heat provided at 20 facilities.⁴⁹

- **Three of 20 facilities (15%) did not have heat during “Heat Season.”**⁵⁰

Of those three facilities:

- One was without heat for the months of October, November and December.
- One was without heat for the month of October.

⁴⁶ Matter of Winds v. Turner, Supreme Court, IA Part 6, Justice Bransten. *New York Law Journal*, 18 September 2002.

⁴⁷ Investigators asked clients if they were provided with beds, mattress, linens and toilet paper upon arrival. In addition, investigators observed if toilet paper was present in bathrooms.

⁴⁸ One client indicated that a single roll of toilet paper was given to them only upon arrival to the facility, and never since.

⁴⁹ Investigators asked clients if they were receiving heat in their building. For all three instances in which clients told investigators they did not receive heat, investigators also observed that there was no heat in the building.

⁵⁰ Between October 1st and May 31st, a period designated as "Heat Season," HPD requires that building owners must provide tenants with heat under the following conditions: between the hours of 6am and 10pm, if the outside temperature falls below 55 degrees, the inside temperature is required to be at least 68 degrees Fahrenheit; and between the hours of 10pm and 6am, if the temperature outside falls below 40 degrees, the inside temperature is required to be at least 55 degrees Fahrenheit. Available at <http://www.nyc.gov/html/hpd/html/for-tenants/heat-and-hot-water.html>

- One was without heat for 2.5 weeks in the month of January.

Investigators evaluated leaks for 20 facilities.⁵¹

- **Three of 20 facilities (15%) had leaks.**

Of the three facilities:

- One facility had a leak in the kitchen ceiling.
- One facility had a leak in the bedroom ceiling.
- One facility had a leak in the living room ceiling.

Investigators evaluated roach or rodent infestation in 20 facilities.

- **According to tenants interviewed, two of 20 facilities (10%) had roaches or rodents present.**⁵²

The following additional conditions were observed at the facilities:

Investigators directly observed bathrooms at 23 facilities:

- **Nine of 23 facilities (39%) had communal bathrooms instead of individual bathrooms for tenants.**⁵³

- At one facility, seven tenants with compromised immune systems resulting from HIV and/or AIDS were found to be sharing one bathroom.⁵⁴
- At another facility, nine tenants with HIV and/or AIDS were found to be sharing one bathroom.

⁵¹ At all three facilities, investigators observed either water leaking from the ceiling or observed holes in ceilings as a result water damage. See Appendix D for photographed examples.

⁵² Finding based solely on interviews.

⁵³ It is questionable whether shared bathrooms are medically appropriate living conditions for people with compromised immune systems living with HIV and/or AIDS.

⁵⁴ HASA policy states that no more than five clients should share one bathroom. The City of New York Office of the Comptroller Audit Bureau Report, “*Human Resources Administration’s Division of AIDS Services and Income Support’s Controls Over Payments to Privately Owned Hotels for DASIS Clients*”. ME97-181A. 16 October 1998. pg. 3 of Addendum.

- **At three facilities, investigators observed holes in ceilings.**
 - At one facility, a hole was in the kitchen ceiling.
 - At two facilities, there were holes in the bedroom ceilings.

- **At three facilities, investigators observed bedroom or front doors that were either padlocked or had no locking mechanism.**
 - At one facility, the front door was padlocked.
 - At one facility, a tenant locked the bedroom door with a chain and his own lock because the door had no locking mechanism.
 - The bedroom door at one facility had no lock or handle.

- **At three facilities, investigators observed broken and boarded-up windows.**
 - At one facility, the kitchen window was boarded up with wood.
 - At one facility, the bedroom window was broken and boarded up with wood.
 - At one facility, the bathroom window was sealed with a sheet of plastic.

- **At one facility, investigators observed an unfinished wall with exposed electrical wiring.**
- **At one facility, investigators observed a kitchen sink with no faucet or running water.**
- **At one facility, investigators observed that the roof door was disconnected, creating easy access directly into the tenant's unit and exposing the unit to the elements.**

- In a recent follow-up visit to an SRO, investigators could not gain access into the hotel. Investigators spoke with five HASA tenants outside the facility. HASA tenants reported they lived in an area of

the hotel segregated from non-HASA residents, and were instructed to use separate entrances from non-HASA residents.⁵⁵

- At this SRO, investigators spoke with a tenant whose rent supplement from HASA was over \$2100 a month.⁵⁶

Housing and Building Violations

- Fifteen of the 25 emergency and transitional facilities had registration information obtainable from HPD. Of the 15 facilities:
 - **Five of 15 facilities (33%) had open Class C violations issued by HPD within the past year.**⁵⁷
 - **Eleven of 15 facilities (73%) had open Class B violations issued by HPD within the past year.**⁵⁸
 - **Five of 15 facilities (33%) had open Class A violations issued by HPD within the past year.**⁵⁹

⁵⁵ See Appendix G for HRA’s “Your Right to Fair Treatment” document indicating that there can be no special rules that apply only to HRA clients, no special limits for HRA clients on entrances, elevators or stairways, and no other unequal treatment of HRA clients.

⁵⁶ See Appendix F for documentation of this individual’s rent supplement.

⁵⁷ Class C violations are immediately hazardous. Examples of Class C violations include inadequate fire exits, rodents, lead-based paint, lack of heat, hot water, electricity or gas. An owner has 24 hours to correct a “C” violation and five days to certify the correction to remove the violation. See Appendix F for a listing of open HPD violations found at the sites visited.

⁵⁸ Class B violations are hazardous. Examples of Class B violations include adequate lighting in posted areas, or removal of vermin. An owner has 30 days to correct a ‘B’ violation and two weeks to certify the correction to remove the violation.

⁵⁹ Class A violations are non-hazardous. Examples of Class A violations include minor leaks, chipping or peeling paint. An owner has 90 days to correct an ‘A’ violation and two weeks to certify repair to remove the violation.

- Seventeen of the 25 emergency and transitional facilities (68%) had violations issued by DOB.⁶⁰
 - **All (100%) of the facilities with DOB violations had active, or open, violations.**
- Twelve of the 25 emergency and transitional facilities (48%) had violations issued by the ECB.⁶¹
 - **Nine of the 25 facilities (36%) with ECB violations had active, or open, violations.**

Client Services

Of the 19 HASA clients interviewed, all had been living in an emergency or transitional facility for at least two months:

- **According to interviews, 12 of 19 HASA clients (63%) claimed that since they had been placed into emergency and transitional housing facilities, HASA had never assisted them in finding permanent housing.**
- **According to interviews, eight of 19 HASA clients (42%) claimed they had not been visited by HASA.**
- **Eleven of 19 HASA clients interviewed (58%) claimed they had resided in an emergency and transitional facility for more than three months.**
 - Two HASA clients have been residing in rooming houses for four years, awaiting placement into permanent housing.

⁶⁰ DOB violations consist of elevator safety violations, boiler violations, and electrical violations.

⁶¹ ECB violations consist of elevator safety violations, boiler violations, construction violations, site safety violations and Local Law violations.

- One HASA client had been living in an SRO for seven years, awaiting placement into permanent housing.

Of the 19 clients interviewed, 10 were on parole.

- **Six of the 10 HASA clients interviewed who were on parole (60%) reported that Department of Corrections (DOC) parole officers had referred them to the rooming houses.**
 - All six parolees (100%) lived in facilities where conditions, such as shared bedrooms, did not appear to meet the criteria stipulated in Local Law 49.
- **Two of 10 HASA clients interviewed (20%) reported that friends had referred them to the rooming houses.**
 - Both parolees (100%) lived in facilities where conditions, such as shared bedrooms, did not appear to meet the criteria stipulated in Local Law 49.
- **Two of 10 HASA clients interviewed (20%) reported that discharge planners in community-based organizations had referred them to the rooming houses.**
 - Both parolees (100%) lived in facilities where conditions, such as shared bedrooms, did not appear to meet the criteria stipulated in Local Law 49.

CONCLUSION

- **Some HASA clients are residing in emergency and transitional facilities that do not meet the criteria stipulated in Local Law 49 and subsequent court rulings.** Investigators found facilities that did not provide mattresses, clean linens or toilet paper. Some facilities lacked working locks on bathroom doors, had leaks, and according to tenants, were infested by roaches or rodents. Many had housing, building or fire code violations within the past year. Additionally, HASA clients sometimes shared a common refrigerator, without having a secure and private storage space for their medication.
- **A clear relationship needs to be established between HASA, New York State and City Departments of Corrections and discharge planners to ensure that parolees who become HASA clients are placed into medically appropriate housing.** According to interviews, parole officers, discharge planners and—in some cases—friends, are referring parolees to rooming houses. Under these different referral scenarios, it is unclear which entity or agency is ultimately responsible for the oversight of HASA-eligible parolees' housing referrals to ensure that they are indeed medically appropriate.
- **HASA needs to perform more oversight to ensure medically appropriate housing for its clients.** As the 1998 City Comptroller audit notes, the lack of formalized contracts between HASA and all of the emergency and/or transitional facility owners who house HASA clients undermines the City's ability to regulate conditions. Without contracts, the facilities receive little or no oversight and regulation from City government agencies and are not held accountable for living

conditions. Formal contracts would help HASA to create and enforce a clear statement of landlords' obligations to provide suitable living standards.

- **Some HASA clients are residing in shared bedrooms.** The investigation found that almost all of the rooming houses visited had more than one person sharing a bedroom. Additionally, while investigators were unable to verify that HASA clients were residing in DHS shelters, it is distressing that two shelters appeared on an unofficial referral list received by advocates from HASA. As petitioners in Mixon v. Grinker demonstrated,⁶² studies show that HIV-infected individuals who live in shared or congregate settings are more likely to have been exposed to tuberculosis and are therefore also at greater risk of contracting the disease.⁶³
- **More than half of HASA clients interviewed had not yet received assistance from HASA in finding permanent housing.** By law, HASA must ensure that clients are receiving assistance in placement into permanent housing. It is distressing that HASA has reallocated money away from permanent housing assistance to provide additional funding for emergency and transitional housing. More than half of the HASA clients interviewed had resided in the emergency and transitional housing for three months or more, and in one instance, for seven years. The City is paying far too much for HASA clients to be living in substandard housing conditions.

⁶² Matter of Mixon v Grinker. 627 N.Y.S.2d 668, 675 (1st Dep't 1995)

⁶³ Gostin, Lawrence O. "The Resurgent Tuberculosis Epidemic In The Era of AIDS: Reflections on Public Health, Law and Society." 54 Md. L. Rev. 1 (1995).

RECOMMENDATIONS

- **Pass legislation that would create a central housing referral system to track HASA clients.**
- **Recruit responsible landlords whose facilities are deemed medically appropriate.**
- **Pass legislation that would include a time frame for HASA to act on a permanent housing application, while also continuing emergency and transitional placements until permanent housing is secured.**

As mandated by Local Law 49, HASA caseworkers must assist *every* client to obtain permanent housing.

- **Amend Local Law 49 to require HASA to submit expanded performance reports.**

Local Law 49 also requires HASA to produce quarterly performance reports to the Council. However, the Council feels these performance reports do not provide sufficient information to assess compliance with the law. The ruling of a 2000 class action suit requires HASA to produce more extensive monthly performance reports from DASIS to monitor HASA compliance with City and State laws.⁶⁴ Since the reports have a three-year provision and expire December 2004, they should be required by law.

⁶⁴ Matter of Henrietta D. v Giuliani, 119 F. Supp. 2d 181(U.S. Dist. 71 Soc. Sec. Rep. Service 458; 11 Am. Disabilities Cas. (BNA) 1423. 2000).

- **Follow the law. HASA must give every single client who is sent to emergency and transitional housing facilities a permanent housing application.**

Under Local Law 49, HASA is required to provide access and services to every eligible person, including permanent housing. HASA should distribute written information to clients about permanent housing options, program descriptions, application process and requirements. For example, all HASA clients should be informed that they must renew a NYCHA permanent housing application every three months.

- **Build additional, dignified housing for HASA clients.**
 - The City should commit to building more, sufficient permanent housing in accordance with the standards set forth in Local Law 49 and subsequent court cases.
 - The City should commit to building more, sufficient supportive emergency and transitional housing in accordance with the standards set forth in Local Law 49 and subsequent court cases.
- **HASA should not place clients into buildings where there are outstanding “hazardous” and “extremely hazardous” violations issued by HPD, DOB or ECB.**
- **HASA must enter into contracts with all housing providers to ensure accountability and compliance with Local Law 49.**
- **Emergency and transitional housing facilities should not place more than one person in a room (excluding couples), unless requested.**

- **HASA should change its current policy that allows up to a one-to-five bathroom-to-client ratio.**

HASA should confer with both clients and medical experts to determine whether it is medically appropriate for five people with compromised immune systems to share one bathroom.

- **New York State and City Departments of Corrections should provide medically appropriate and adequate pre-release housing placement in coordination with HASA and HIV/AIDS housing providers.**

APPENDIX A:
NYC Administrative Code §21-126
(2001)
The Creation of a Division of AIDS
Services

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CURRENT THROUGH FIRST QUARTER 2001

ADMINISTRATIVE CODE OF THE CITY OF NEW YORK
TITLE 21: DEPARTMENT OF SOCIAL SERVICES
CHAPTER 1: DEPARTMENT OF SOCIAL SERVICES

NYC Administrative Code § 21-126 (2001)

§ 21-126 Division of AIDS services.

There shall be a division of AIDS services within the New York city department of social services. Such division shall provide access to benefits and services as defined in section 21-128(a)(1) of this chapter to every person with clinical/symptomatic HIV illness, as determined by the New York state department of health AIDS institute, or with AIDS, as defined by the federal centers for disease control and prevention, who requests assistance, and shall ensure the provision of benefits and services to eligible persons as defined in section 21-128(a)(3) of this chapter with clinical/symptomatic HIV illness or with AIDS.

HISTORICAL NOTES:

21-126 add by LL 1997 No 49, § 1, eff immediately, approved by Mayor Jul 11, 1997.

ANNOTATIONS:

AIDS Services

EVR NOT A REQUIREMENT FOR ELIGIBILITY

Petitioner, a homeless man who is HIV positive and suffers from AIDS, applied to respondent Division of AIDS Service Income Support (DASIS) of the New York City Human Resources Administration (HRA) for benefits and services. After he submitted an application and all necessary documents and was interviewed, he was placed by DASIS in temporary housing. Subsequently, he was informed by HRA that he was also scheduled for an Eligibility Verification Review (EVR). He was informed that compliance with the EVR was an eligibility requirement, and AIDS Services

EVR NOT A REQUIREMENT FOR ELIGIBILITY--(cont'd)

that his failure to report would result in the rejection of his application. The purpose of DASIS, established by Administrative Code sec. 21-126 et seq., is to assure that persons with HIV/AIDS be provided access to all available benefits and services. EVR is an investigation of clients to confirm identity, living situation, income and resources prior to the completion of a regular eligibility determination. The effect of adding the EVR process to clients of DASIS clearly adds an additional eligibility requirement for benefits. The intent of the DASIS law is to facilitate access to services by persons living with HIV/AIDS. Respondents were directed to eliminate satisfaction of an EVR as a

NYC Administrative Code § 21-126 (2001)

requirement for establishing or maintaining benefits and services provided by or through *DASIS*. *Hernandez v Barrios-Paoli*, 175 Misc 2d 550, 669 NYS2d 195 (1998).

APPENDIX B:
NYC Administrative Code §21-128
(2001)
Local Law 49

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CURRENT THROUGH FIRST QUARTER 2001

ADMINISTRATIVE CODE OF THE CITY OF NEW YORK
TITLE 21: DEPARTMENT OF SOCIAL SERVICES
CHAPTER 1: DEPARTMENT OF SOCIAL SERVICES

NYC Administrative Code § 21-128 (2001)

§ 21-128 Benefits and services to be provided to persons with clinical/symptomatic HIV illness or with AIDS.

a. Whenever used in this section, the following terms shall be defined as follows:

1. "Access to benefits and services" shall mean the provision of assistance by staff of the division to a person with clinical/symptomatic HIV illness or with AIDS at a single location in order to apply for publicly subsidized benefits and services, to establish any and all elements of eligibility including, but not limited to, those elements required to be established for financial benefits, and to maintain such eligibility and shall include, but not be limited to, assistance provided at a field office of the department, at the home of the applicant or recipient, at a hospital where such applicant or recipient is a patient or at another location, in assembling such documentation as may be necessary to establish any and all elements of eligibility and to maintain such eligibility;

2. "Division" shall mean the division of AIDS services as established pursuant to § 21-126 of this chapter;

3. "Eligible person" shall mean a person who satisfies the eligibility requirements established pursuant to applicable local, state or federal statute, law, regulation or rule for the benefits and services set forth in subdivision b of this section or for any other benefits and services deemed appropriate by the commissioner;

4. "Medically appropriate transitional and permanent housing" shall mean housing which is suitable for persons with severely compromised immune systems, and if necessary, accessible to persons with disabilities as defined in section 8-102 of this code. Such housing shall include, but not be limited to, individual refrigerated food and medicine storage and adequate bathroom facilities which shall, at a minimum, provide an effective locking mechanism and any other such measures as are necessary to ensure privacy; and

5. "Person with clinical/symptomatic HIV illness or with AIDS" shall mean a person who has at any time been diagnosed with clinical/symptomatic HIV illness, as determined by the New York state department of health AIDS institute, or a person with AIDS, as defined by the federal centers for disease control and prevention.

b. The commissioner shall direct staff of the division of AIDS services to provide access to benefits and services to every eligible person with clinical/symptomatic HIV illness or with AIDS who requests assistance, and shall ensure the provision of benefits and services to eligible persons with clinical/symptomatic HIV illness and with AIDS. Any eligible person shall receive only those benefits and services for which such person qualifies in accordance with the applicable eligibility standards established pursuant to local, state or federal statute, law, regulation or rule. Such benefits and services shall include, but not be limited to: medically appropriate transitional and permanent housing; medicaid, as set forth in section 1396 et. seq. of title 42 of the United States code and other health-related services; home care and home health services as set forth in sections 505.21 and 505.23 of title 18 of the official compilation of the codes, rules and regulations of the state of New York; personal care services as set forth in section 505.14 of title 18 of the official compilation of the codes, rules and regulations of the state of New York; homemaker service as set forth in part 460 of title 18 of the official compilation of the codes, rules and regulations of the state of New York; food

stamps, as set forth in section 2011 et. seq. of title 7 of the United States code; transportation and nutrition allowances as required by section 21-127 of this chapter; housing subsidies, including, but not limited to, enhanced rental assistance as set forth in section 397.11 of title 18 of the official compilation of the codes, rules and regulations of the state of New York; financial benefits; and intensive case management as required by section 21-127 of this chapter. The commissioner shall have the authority to provide access to additional benefits and services and ensure the provision of such additional benefits and services whenever deemed appropriate. The requirements with respect to such access to and eligibility for benefits and services shall not be more restrictive than those requirements mandated by state or federal statute, law, regulation or rule. Within thirty days of the effective date of the local law that added this section, the commissioner shall establish criteria pursuant to which an applicant shall be entitled to a home or hospital visit for the purpose of establishing eligibility and applying for benefits and services.

c.

1. Upon written or oral application to the division for benefits and services or submission of documents required to establish eligibility for benefits and services by a person with clinical/symptomatic HIV illness or with AIDS, such person shall immediately be provided with a receipt which shall include, but not be limited to, the date, a description of the information received, and a statement as to whether any application for such benefits and services is complete or incomplete, and if incomplete, such receipt shall identify any information or documents needed in order for the application to be deemed complete.

2. Where no statute, law, regulation or rule provides a time period within which a benefit or service shall be provided to an eligible person who requests such a benefit or service, such benefit or service shall be provided no later than twenty business days following submission of all information or documentation required to determine eligibility.

d. Where a person with clinical/symptomatic HIV illness or with AIDS who applies for benefits and services, or access to benefits and services, indicates that one or more minor children reside with him or her or are in his or her care or custody, such person shall be given information and program referrals on child care options and custody planning, including the availability of standby guardianship pursuant to section 1726 of the surrogate's court procedure act of the state of New York and referral to legal assistance programs.

e. Recertification of eligibility, as required by any state or federal law, statute, regulation or rule shall be conducted no more frequently than mandated by such statute, law, regulation or rule.

f. Eligibility for benefits and services for persons with clinical/symptomatic HIV illness or with AIDS may not be terminated except where the recipient is determined to no longer satisfy eligibility requirements, is deceased, or upon certification by the commissioner that the recipient cannot be located to verify his or her continued eligibility for benefits and services. In the latter circumstance, the division shall conduct a reasonable good faith search for at least a ninety-day period to locate the recipient, including sending written notice by certified mail, return receipt requested, to the last known address of such recipient, requiring the recipient to contact the division within ten days.

g. Not later than sixty days from the effective date of the local law that added this section, the commissioner shall prepare a draft policy and procedures manual for division staff. Such policy and procedures manual shall include, but not be limited to, strict guidelines on maintaining the confidentiality of the identity of and information relating to all applicants and recipients, instructional materials relating to the medical and psychological needs of persons with clinical/symptomatic HIV illness or with AIDS, application procedures, eligibility standards, mandated time periods for the provision of each benefit and service available to applicants and recipients and advocacy resources available to persons with clinical/symptomatic HIV illness or with AIDS. Such list of advocacy resources shall be updated semi-annually. Within thirty days following the preparation of such draft policy and procedures manual and prior to the preparation of a final policy and procedures manual, the commissioner shall distribute such draft policy and procedure manual to all social service agencies and organizations that contract with the department to provide HIV-related services and to all others whom the commissioner deems appropriate, and hold no fewer than one noticed public hearing at a site accessible to the disabled, at which advocates, service providers, persons who have tested positive for HIV, and any other member of the public shall be given an opportunity to comment on such draft policy and procedures manual. The commissioner shall prepare a final policy and procedures manual within thirty days after the conclusion of such hearing and shall thereafter review and where appropriate, revise such policy and procedures manual on an annual basis. The commissioner shall provide for semi-annual training, using such policy and procedures manual, for all division staff.

NYC Administrative Code § 21-128 (2001)

h. Not later than sixty days from the effective date of the local law that added this section, the commissioner shall publish a proposed rule establishing a bill of rights for persons with clinical/symptomatic HIV illness or with AIDS. Such draft bill of rights shall include, but not be limited to, an explanation of the benefits and services for which persons with clinical/symptomatic HIV illness or with AIDS may be eligible; timetables within which such benefits and services shall be provided to eligible persons; an explanation of an applicant's and recipient's right to examine his or her file and the procedure for disputing any information contained therein; an explanation of an applicant's and recipient's right to a home or hospital visit for the purpose of applying for or maintaining benefits or services; an explanation of the process for requesting a division conference or New York state fair hearing; and a summary of the rights and remedies for the redress of discrimination as provided for in title eight of this code. Within sixty days following the publication of such proposed rule, and prior to the publication of a final rule, the commissioner shall hold no fewer than one noticed public hearing at a site accessible to the disabled at which advocates, service providers, persons who have tested positive for HIV, and any other member of the public shall be given an opportunity to comment on such draft bill of rights. The commissioner shall publish a final rule within thirty days after the conclusion of such hearing and shall thereafter review, and where appropriate, revise such bill of rights on an annual basis. Such bill of rights shall be conspicuously posted in all division offices that are open to the public and shall be available for distribution to the public in English, Spanish and any other languages that the commissioner deems appropriate.

i. Not later than ninety days from the effective date of the local law that added this section, the commissioner shall establish a policy or procedure for overseeing and monitoring the delivery of services required pursuant to this section to persons with clinical/symptomatic HIV illness or with AIDS which shall include, but not be limited to, quality assurance measurements. The commissioner shall submit such policy or procedure to the mayor and the council in writing within ten days from the date such policy or procedure is established.

j. Beginning on September 1, 1997, and on the first day of each calendar quarter thereafter, the commissioner shall submit a written report to the mayor and the council providing the following information disaggregated on both a quarterly and annualized basis: the number of persons with clinical/symptomatic HIV illness or with AIDS who requested the benefits and services set forth in subdivision b of this section and any other benefits provided by the commissioner, disaggregated by the field office and by the type of benefit or service requested, and the average length of time required to process such requests, disaggregated by the field office and by the type of benefit or service requested; the number of persons with clinical/symptomatic HIV illness or with AIDS who requested benefits and services and were determined to be ineligible for such benefits and services, disaggregated by the field office, by the type of benefit or service requested, and by the reason for such determinations; the number of department staff, by job title, whose duties include providing benefits and services or access to benefits and services pursuant to this section, the number of recipients, the number of cases and the number of requests for assistance, disaggregated by the field office; the average length of time from the initial request for benefits and services to submission of a complete application for such benefits and services, the average length of time from submission of such complete application to grant or denial of the benefits and services requested, and the average length of time from the grant of such benefits and services to the provision of such benefits and services, disaggregated by the field office and by the type of benefit or service requested; the average length of time from the initial request for an exception to policy to approve enhanced rental assistance to the approval or disapproval of such exception and the average length of time from the approval of such exception to the issuance of such enhanced rental assistance, disaggregated by the field office; the number of requests for emergency housing assistance, the number of persons referred to the emergency assistance unit of the department of homeless services, the number of persons referred to commercial single room occupancy hotels and the average length of stay, and the number of persons referred to permanent housing; the number of persons requesting supportive housing placements, the number of persons referred to such supportive housing and the average length of time from request to placement; the number of cases closed, disaggregated by field office and by the reasons for such closure, the number of such closed cases that were re-opened and the average length of time required to re-open such closed cases; the number of administrative fair hearings requested, the number of fair hearing decisions in favor of applicants and recipients and the average length of time for compliance with such a fair hearing decision; and the number of proceedings initiated pursuant to article 78 of the civil practice law and rules challenging fair hearing decisions, and the number of article 78 decisions rendered in favor of applicants or recipients. For the purposes of this subdivision, "field office" shall mean any office of the department at which persons with clinical/symptomatic HIV illness or with AIDS may access benefits and services.

k. There shall be an advisory board to advise the commissioner on the provision of benefits and services and access to benefits and services to persons with clinical/symptomatic HIV illness or with AIDS as required by this section. This advisory board shall consist of eleven members to be appointed for two-year terms as follows: five members, at least

NYC Administrative Code § 21-128 (2001)

three of whom shall be eligible for benefits and services pursuant to this section, who shall be appointed by the speaker of the council and six members, including the chairperson of the advisory board, at least three of whom shall be eligible for benefits and services pursuant to this section, who shall be appointed by the mayor. The advisory board shall meet at least quarterly and members shall serve without compensation. Such advisory board may formulate and recommend to the commissioner a policy or procedure for overseeing and monitoring the delivery of services to persons with clinical/symptomatic HIV illness or with AIDS which may include quality assurance measurements. Such advisory board shall submit such recommended policy or procedure to the mayor and the council upon submission to the commissioner.

HISTORICAL NOTES:

21-128 add by LL 1997 No 49, § 1, eff immediately, approved by Mayor Jul 11, 1997.

APPENDIX C:

**Matter of WINDS v TURNER,
Supreme Court, IA Part 6, Justice
Bransten.**

**From the New York Law Journal, 18
September 2002.**

FOCUS - 1 of 3 DOCUMENTS

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New York Law Journal

September 18, 2002, Wednesday

SECTION: NEWS; Vol. 228; Pg. p. 1, col. 1

LENGTH: 360 words

HEADLINE: DECISIONS OF INTEREST

BODY:

CIVIL PRACTICE: Once order of interpleader is entered in plaintiff's favor, distribution proceedings become equitable. *Agricultural Insurance Co. v. Matthews*, App. Div. (p.18, col.1).

SOCIAL SERVICES LAW: 'Medically appropriate' housing is ordered for AIDS homeless. Matter of **Winds v. Turner**, Supreme Court, New York (p.19, col.2).

REAL PROPERTY: Use and occupancy is set at units' maintenance in reforeclosure action by building owner. *Davis v. Cole*, Supreme Court, New York (p.19, col.6).

LANDLORD/TENANT LAW: 'Extreme hardship' finding leads court to restore evicted tenant to apartment's possession. *Pomeroy Co. v. Thompson*, Civil Court, New York (p.20, col.6).

REAL PROPERTY: Adverse possession claim fails because 'inclosure' was located on city property. *Port McDonald Inc. v. Pedulla*, Supreme Court, Kings (p.21, col.5).

REAL PROPERTY: Descendent of 1873 deed holder is burial plot's rightful owner; court orders disinterment. *Corporation of the Roslyn Presbyterian Church and Congregation v. Perlman*, Supreme Court, Nassau (p.23, col.1).

REAL PROPERTY: Local law permitting notice by publication is deemed unconstitutional. *Kahem-Kashi v. Risman*, Supreme Court, Nassau (p.23, col.3).

CONTRACTS: Defendant that approved agreement cannot avoid contract by claiming ignorance of its provisions. *Hangzhou Silk Import and Export Corp. v. P.C.B. International Industries Inc.*, SDNY (p.24, col.1).

INTELLECTUAL PROPERTY: Defendants fail to justify dismissal of copyright infringement complaint. *Cramer Krasselt v. Joseph E. Seagram & Sons Inc.*, SDNY (p.24, col.6).

BUSINESS LAW: There is a basis to find that brokerage firm CEO could be held liable for failure to supervise. In the Matter of the Arbitration between Hardy and Walsh Manning Securities LLC, SDNY (p.25, col.2).

CIVIL PRACTICE: Plaintiffs' federal takings claim is not blocked by previous unsuccessful state court decisions. *W.J.F. Realty Corp. v. The Town of Southampton*, EDNY (p.26, col.2).

CONSTITUTIONAL LAW: Public housing development may allow plaintiff to conduct 'bible studies' to comfort residents. *Daily v. New York City Housing Authority*, SDNY (p.27, col.1).

LOAD-DATE: September 24, 2002

FOCUS - 2 of 3 DOCUMENTS

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New York Law Journal

September 18, 2002, Wednesday

SECTION: DOI SUMMARIES; Vol. 228; Pg. p. 17, col. 1

LENGTH: 157 words

HEADLINE: 'Medically Appropriate' Housing Is Ordered for AIDS Homeless
Social Services Law

CASE-INFO: Matter of **Winds v. Turner**, Supreme Court, IA Part 6, Justice Bransten.
Law Journal News in Brief, Sept. 13.

BODY:

THE PETITIONERS, homeless persons suffering with AIDS, clients of the respondent social services agencies, brought an Article 78 mandamus proceeding alleging the agencies' violations of New York City Administrative Code § 21-128. They claimed that they were placed in emergency housing that was infested with vermin; lacked clean mattresses and proper bedding materials; lacked working refrigerators; and had unusable bathrooms. The court found the petitioners' housing to be unsuitable and ordered the agencies to provide "medically appropriate" housing that was free of vermin and included, among other things: beds, mattresses and clean and sufficient linens; usable bathrooms; and operating individual refrigerators. The respondents were ordered to report to the court within 15 days and to affirm their compliance with NYCAC § 21-128 every six months for the next five years, unless the petitioners move from emergency housing.

LOAD-DATE: September 24, 2002

FOCUS - 3 of 3 DOCUMENTS

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New York Law Journal

September 18, 2002, Wednesday

SECTION: DECISION OF INTEREST; Vol. 228; Pg. p. 19, col. 2

LENGTH: 4581 words

HEADLINE: MATTER OF WINDS v. TURNER
Justice Bransten

BODY:

In this Article 78 mandamus proceeding, petitioners Theresa Winds, Yolanda Jones, Jack Molton, Jerome Lassiter, Omar Gary, Israel La Torres and Denise Alexander seek a judgment compelling respondents Jason Turner, as Commissioner of the Human Resources Administration of the City of New York, and Gregory Caldwell, as Deputy Commissioner for the Division of AIDS Services and Income Support of the City of New York (DASIS) to comply with the City Administrative Code and their own policies and procedures relating to DASIS benefits. [n1]

DASIS is a City agency that was created in 1985 to assist New York City residents suffering with AIDS or clinical/symptomatic HIV in securing vital public benefits and services. See, *Matter of Hernandez v. Barrios-Paoli*, 93 N.Y.2d 781, 784 (1999).

Petitioners have several unfortunate characteristics in common: all of them are homeless, all suffer either from AIDS or clinical/symptomatic HIV illness as well as related ailments and all are DASIS clients who allege that their emergency housing is not "medically appropriate."

Petitioners allege that their housing has been deficient in several respects. First, many rooms do not contain working refrigerators, which causes essential-indeed, life sustaining- medication, food, and nutritional supplements to spoil. Second, bathroom services- including provision of clean, usable facilities and toilet paper-have not been supplied as required, causing clients (many of whom have diarrhea and experience severe nausea) to suffer. Third, individuals who due to weakness cannot climb steps have been placed in rooms on high floors, notwithstanding the fact that there are no elevators in the buildings. Petitioners, additionally, complain that their housing is not secure from intruders, filthy, infested with rodents and vermin, and that they often are not provided with appropriate security, furnishings or bedding.

Thirty-three year-old Theresa Winds is homeless and is a DASIS client. In addition to struggling with AIDS, she has cervical cancer and asthma and must take many medications, some of which require refrigeration.

In August 2001, DASIS placed Winds in a Manhattan hotel known as Roy's Plaza. Winds believed the placement was inappropriate for several reasons. First, she was placed on the fourth floor of the hotel, which had no elevator. She explained to a hotel employee that because of her medical condition she needed a lower-floor room. The employee told her (using rude language and curses) that if she was unhappy with her placement, she could leave. Affidavit of Theresa Winds, at 13. Second, there was no refrigerator in her room. Winds' medicine and food accordingly spoiled. Third, her room was filthy and "infested with rodents." Id., at 15. In fact, when Winds arrived she found a syringe in a dresser drawer. Id., at 16. Fourth, the bed in her room was comprised of two box springs, there was no mattress. Id., 16. Fifth, the bathroom was "filthy," "the shower and toilet were constantly stopped up with debris and were unusable" and there was no toilet paper (even on request). Id., at 17.

Fearing for her health and well-being, Winds left Roy's Plaza. Id., at 12. Her case manager, in late October, sent her to a house on Herkimer Street in Brooklyn. Id., at 6,12.

Winds maintains that she specifically requested that her DASIS case manager place her on the first floor of emergency housing or in a building that contained an elevator. [n2] Nevertheless, she was assigned to a third-floor room and the Herkimer house did not have an elevator. As a result of going up and down the stairs, which triggered her asthma, Winds suffered pain in her legs and back, fatigue and shortness of breath. Id., at 6. Winds further maintains that she was "constantly worried" and stressed because the house did not have a lock on the front door and anyone could gain access. Id., at 8. Her room was "infested with roaches" and she was required to wash her own linens. Id., at 9. The bathroom was "filthy and unsanitary" with "feces and urine on the toilet seat and on the bathroom floor." It "was not at all cleaned or maintained." Id., at 10.

Next, on November 14, 2001-less than a week before this petition was filed-DASIS placed Winds at the Lexington Inn. According to Winds, her room "is infested with rodents and cockroaches." Winds asked the hotel manager to inspect the room or to provide her with glue traps so that she could rectify the problem, but he refused. Winds further complains that the "hotel does not wash linens," there "are no blankets in the room, and in the bathroom there is no soap or toilet paper." Id., at 4-5.

Winds alleges that the "places DASIS has sent [her] have been disgusting, stressful, and inappropriate." Id., at 18. She fears that she "may catch an infection from the bathrooms, or the rodents, or something else." Id.

Petitioner Yolanda Jones is a 36-year-old homeless DASIS client who suffers from AIDS. At the time the petition was filed, she resided at the Tremont Hotel-DASIS emergency housing located on West 177th Street in the Bronx-and had been there since May 2001. Like Winds, Jones alleges that her housing is not medically appropriate for several reasons. First, though she has trouble climbing stairs-experiencing pain in her legs and shortness of breath-she was placed on the third floor of an elevator-less building. Affidavit of Yolanda Jones, at 4. Second, her room is "infested with rodents" and cockroaches. Id., at 5. Though Jones complained to her community-based case manager about the conditions, the rodent and insect problems had not been rectified. Id., at 6. Third, the refrigerator in Jones' room broke in October 2001 and despite her complaints and the complaints

of her community-based case manager, as of the petition date, the refrigerator problem was not addressed. Thus, Jones was unable to take proper care of her HIV medication, nutritional supplements (which she needed to enhance her appetite) and food. *Id.*, at 7-8. Fourth, there was no electricity on one side of the room for months. Fifth, her mattress is dirty, stained and allegedly bug infested. *Id.*, at 10. Sixth, the bathroom is "filthy and unsanitary" urine remains on the toilet and filth can be found in the shower as well as the sink. *Id.*, at 11. Seventh, "there is never any toilet paper in the bathroom." *Id.*, at 12.

Jones maintains that the "conditions to which DASIS has subjected me have caused me tremendous stress and have made me miserable. They are a threat to my health and to my life." *Id.*, at 16.

Jack Molton is a 51-year-old homeless man who suffers with AIDS and is a DASIS client. In approximately June 2001, DASIS placed Molton in emergency housing at the Anthony Hotel, which is located in the Bronx, and, at the filing of the petition, Molton still resided there. Affidavit of Jack Molton, at 2. Because of renovations to the hotel, Molton was moved from the first to the second floor. After the renovations were completed, he inexplicably, was not returned to his first-floor room and has to walk up a flight of stairs, causing him physical pain. *Id.*, at 18. Molton further complains that on several occasions there was no heat at the hotel and that the hotel did not give him blankets. *Id.*, at 20. Additionally, at least once a week (often on weekends when little is done to combat the problem) the electricity in the hotel goes out for as long as a couple of days at a time. *Id.*, at 20. During these periods, Molton's refrigerated medications (and consequently his health) are compromised.

Molton contends that the "conditions to which I have been subjected in the emergency housing provided by DASIS have repeatedly caused me tremendous stress and discomfort, and, constitute a threat to my health, safety, and life." *Id.*, at 20.

Jerome Lassiter is a 40-year-old homeless DASIS client who suffers with AIDS or clinical/symptomatic HIV illness. At the time of the petition, he resided in DASIS emergency housing located at the Latham Hotel in Manhattan. Affidavit of Jerome Lassiter, at 2. DASIS placed Lassiter at the Latham years ago.

Lassiter complains that his housing is inappropriate because he does not have a refrigerator, and is therefore, unable to store his food. In addition, there are roaches and rodents in his room. The linens that he is provided-sometimes only twice a month-are often dirty. *Id.*, at 6. The bathroom, moreover, is "terribly maintained and filthy." *Id.*, at 7. "There is dirt and soap scum on the wall of the shower and feces and urine on the toilet and on the floors of the bathroom that can remain for days." *Id.*

Lassiter maintains that his emergency housing conditions leave him depressed, stressed and fearful of using the bathroom. He affirms that he discussed the problems with his case manager but was simply told to have patience. *Id.*, at 8.

Omar Gary is a 31-year-old homeless DASIS client with AIDS. Affidavit of Omar Gary, at 2. DASIS placed Gary at the Davidson Transitional Hotel in the Bronx. There was no elevator in the building and Gary was assigned a fifth-floor room. While moving into the facility, which required several trips up and down the steps, he suffered a seizure "brought about as a result of the pain and fatigue caused by repeatedly hauling [his] belongings up five flights of stairs." *Id.*, at 5. In addition, his room was infested with roaches, which even managed to infiltrate the refrigerator. *Id.*, at 6.

In September 2001, DASIS placed Gary in the Washington Hotel in Manhattan, which closed five days after Gary's placement because it did not meet minimum housing standards. His room at the Washington was on the third floor and there was no elevator in the building. In addition, the room did not contain a refrigerator, and Gary was unable to store his medications and food. Gary complained about the lack of a refrigerator to no avail. *Id.*, at 9.

In November 2001, DASIS placed Gary at the Mount Hope Residence in the Bronx, where he resided at the filing of this petition. *Id.*, at 2. Gary alleges that this emergency housing was inappropriate because his room was on the third floor and there was no elevator. *Id.*, at 4.

Ultimately, in January 2002, DASIS referred Gary to the Fordham Residence. Reply Affidavit of Omar Gary, at 4. Gary had to walk four flights of stairs to get to his room, which contained roaches. Gary further alleges that the facility did not properly maintain the bathroom and on weekends did not remove garbage, which then piled up in the first-floor vestibule. *Id.*, at 8.

Petitioner Israel La Torres is a 31 year-old homeless DASIS client who suffers from AIDS or clinical/symptomatic HIV illness. About three months before filing this petition, DASIS placed him in emergency housing at the Davidson Hotel in the Bronx. Affidavit of Israel La Torres, at 2. La Torres alleges that DASIS has provided him with medically inappropriate housing. For years, La Torres has walked with a cane. Despite La Torres' difficulty walking and his asthma, DASIS assigned him to a room on the fifth floor of the hotel and there is no elevator. La Torres contends that this "situation is wholly inappropriate for [his] medical condition and is exacerbating [his] health problems." *Id.*, at 5. According to La Torres, he sometimes stays at home all day and misses "crucial, life-sustaining" medical appointments because he is too tired or weak to walk up and down the stairs. *Id.*, at 7. La Torres also maintains that his refrigerator is infested with roaches, that there are rodents and roaches throughout his room and in the bathroom, that the toilet is almost always clogged and broken, and that the bathroom and hallway are not cleaned frequently enough. *Id.*, at 9.

Finally, petitioner Denise Alexander is a 36 year-old homeless DASIS client who suffers with AIDS. Affidavit of Denise Alexander, at 2. In January 2001, DASIS placed Alexander in Allerton Annex emergency housing in Manhattan, where she remained through the petition date. Alexander alleges that the housing provided to her is "medically inappropriate." She claims that she was improperly placed on the fifth floor of an elevator-less building and that she has effectively been rendered homebound. Alexander complained to her case manager about the problem to no avail. Additionally, she maintains that her room is infested with roaches and rodents. *Id.*, at 8. Alexander asked the building manager to provide extermination services. The manager agreed to put her name on a waiting list but through the date of this petition, an exterminator has not appeared. *Id.*, at 9. Alexander further claims that when she moved into the Annex, the residence was in disrepair. She even found a crack vial stuffed into a chair.

Alexander maintains that it is bad for her health to be living under the foregoing conditions. *Id.*, at 13.

In sum, petitioners argue that because they have not been provided with "medically appropriate" housing, DASIS has failed to follow the law. They ask this Court to compel compliance with New York City Administrative Code § 21-128, and specifically request a judgment mandating, among other things, that each and every DASIS client residing in emergency housing:

- * have an individual, functioning refrigerator;

- * have housing free of vermin
- * be provided with a clean mattress in good repair
- * be provided with clean linens in good repair at least twice weekly, and as needed in case of emergency; and
- * have a sufficient supply of toilet paper.

See, Verified Petition, at 39. Additionally, petitioners seek an order compelling Respondents to ensure that:

- * all DASIS clients are either placed in a building with an elevator or placed no more than one floor above the ground floor of a facility; and
- * bathrooms are properly cleaned and maintained, "including, but not limited to, cleaning at least twice a day and in cases of emergency."

Id.

Petitioners also ask this Court to compel DASIS "to implement a procedure pursuant to which [it] shall, within one business day, inspect any emergency housing that a DASIS client informs DASIS to be medically inappropriate [on the grounds that the above-listed requested requirements have not been fulfilled], and if the inspector determines that one or more of such requirements is not being met, DASIS shall ensure that the condition(s) is/are corrected, or, if necessary, remove the client to medically appropriate housing within one business day of the inspection, and DASIS shall make bi-monthly written reports to the Court and counsel for the Petitioners regarding compliance with this requirement." Id., at 40.

Respondents counter that petitioners are not entitled to the relief sought. Memorandum of Law in Support of Respondents' Verified Answer, at 2. Respondents contend that many of petitioners' allegations are time barred, [n3] and are "largely unfounded." Id., at 3. They maintain that their inspections (some of which predated petitioners' problems) did not reveal most of the conditions alleged. Respondents contend, moreover, that they recently implemented an "Emergency Housing Unit Client Satisfaction Procedure," which addresses many of petitioners' concerns. They further argue that the petition must be denied because it "is well-settled that courts cannot go beyond the mandatory directives of existing regulations or intrude on the discretion of the executive branch to determine how it will comply with regulatory directives." Id.

This Court, however, need not go beyond the mandatory directives of existing regulations to afford petitioners the basic relief that they deserve. Based on this record, the respondents have violated New York City Administrative Code § 21-128 and the Court will therefore grant the petition.

The New York City Administrative Code provides, in no uncertain terms, that DASIS "shall ensure the provision of benefits and services to eligible persons with clinical symptomatic HIV illness and with AIDS." New York City Administrative Code § 21-128(b). The Administrative Code mandates that such "benefits and services shall include, but not be limited to: medically appropriate transitional and permanent housing." Id. (emphasis added).

Significantly, the Code defines "Medically appropriate transitional and permanent housing" as

"housing which is suitable for persons with severely compromised immune systems, and if necessary accessible to persons with disabilities as defined in section 8-102 of this code. Such housing shall include, but not be limited to, individual refrigerated food and medicine storage and adequate bathroom facilities which shall at a minimum, provide an effective locking mechanism and any other such measures as are necessary to ensure privacy."

New York City Administrative Code § 21-128 (a)(4) (emphasis added).

Through detailed affidavits, petitioners have established that DASIS has not fulfilled its obligations under § 21-128. Petitioners' statements, made under oath, establish that their housing is not suitable for healthy individuals, much less for "persons with severely compromised immune systems." Housing that is not habitable because of vermin, filth, lack of furnishings and inaccessibility, certainly cannot be considered "suitable."

The facilities provided to petitioners are deficient in several respects. The presence of rodents and roaches, which in these cases is not limited to isolated incidents but rather rises to the level of a vermin problem, is inconsistent with the mandate of § 21-128 requiring that housing be "suitable." In fact, in one instance, respondents concede the existence of a vermin problem and the only corrective measure taken, to this Court's knowledge, is that DASIS "will be re-inspecting [the premisses] in the next several weeks to ascertain whether the problem has been addressed." See, Memorandum of Law in Support of Respondents' Verified Answer, at 15(emphasis added). That resolution is simply unacceptable.

Likewise, failure to provide minimal essential furnishings and amenities, such as mattresses, clean usable linens and ample toilet paper renders the housing unsuitable.

Additionally, where as here, DASIS clients are placed on high floors of non-elevator buildings for extended periods of time notwithstanding their medically-motivated requests for low-floor housing, they are denied the "accessible" housing that is guaranteed by law.

Administrative Code § 21-128, similarly, confers each DASIS-housing client with the right to an individual operating refrigerator. Without careful attention to this provision there is a strong possibility-and in the summer months, a likelihood-that critical life-sustaining medications, nutritional supplements and food will spoil. People already suffering from a dreadful disease will be caused to needlessly suffer even more and stress further.

The record also demonstrates that bathroom services are woefully inadequate. Immuno-compromised DASIS clients should not live in fear that they will catch infections from using bathroom facilities. The Administrative Code ultimately places the burden on DASIS to "ensure" the adequacy of bathroom facilities, and filthy bathrooms that are not regularly cleaned are utterly unacceptable.

It does not matter that periodic (infrequent) DASIS inspections did not uncover these violations. Nor does implementation of the Emergency Housing Unit Client Satisfaction Procedure right these existing regulatory wrongs. See, *McCain v. Koch*, 70 N.Y.2d 109 (1987) (court could establish minimum standards for emergency housing where none existed and could compel compliance with them notwithstanding City's adoption of new, more stringent standards for emergency housing).

Petitioners are entitled to a coercive judgment, compelling compliance with legislation-here Administrative Code § 21-128. See, *Klosterman v. Cuomo*, 61 N.Y.2d 525, 535-537 (1984); see also, *McCain v. Koch*, *supra*, 70 N.Y.2d 109. They are entitled to assurance that, from here on in,

DASIS benefits will "be effected in the manner legislated." See, *Klosterman v. Cuomo, supra, 61 N.Y.2d, at 537.*

Indeed, as a matter of equity, this Court is empowered to compel respondents to provide emergency housing conforming to minimum standards it sets, provided that there are no governing departmental regulations and there is no encroachment on the legislative or executive prerogative. *McCain v. Koch, supra, 70 N.Y.2d, at 119.*

Thus, consistent with existing legislation, this Court simply orders respondents to ensure that petitioners are provided "medically appropriate transitional and permanent housing" that is suitable and accessible as follows (see, *McCain v. Koch, supra, 70 N.Y.2d, at 115*; see also, Administrative Code § 21-128):

Respondents shall, arrange so far as is practicable in the placement of petitioners in emergency housing, that such housing:

- * contains suitable and appropriate furnishings and amenities, including but not limited to a bed, a clean mattress, clean and sufficient linens (including sheets, blankets and pillow cases), basic furniture essential for daily living, an individual supply of toilet paper, and an operational individual refrigerator;

- * is accessible to the petitioners and in non-elevator buildings is not on a floor higher than one level above the ground level;

- * includes a usable bathroom, with a working lock, that is consistently maintained and cleaned;

- * includes a working lock on the door to each housing unit;

- * includes operational utility services (including electricity, water and/or gas); and

- * is free of vermin.

Respondents, moreover, are to respond to petitioners' complaints with respect to the above requirements within two business days of receiving written notice of alleged noncompliance.

To ensure compliance with these directives, respondents are to report to this Court within 15 days of this decision, order and judgment and affirm that each directive has been followed. In their affirmations, respondents must detail the measures taken to secure compliance. Further, respondents are to prepare and submit to this Court affirmations of compliance with the above directives every six months for five years from the date of this decision with respect to each petitioner that remains in DASIS housing. After five years have elapsed, the Court will consider whether further reports are necessary.

At this time, the Court will refrain from ordering that bathrooms be cleaned twice daily. Nor will the Court now impose specific times within which clean linens must be distributed. Provided that bathrooms are consistently maintained and cleaned, and provided that DASIS oversees and ensures that its clients are given clean linens and toilet paper upon request, the agency will, for the time being, be permitted to exercise its discretion in choosing the means of strictly enforcing applicable regulations. Implementation of the "Emergency Housing Unit Client Satisfaction Procedure" is certainly a step in the right direction and will facilitate protection of DASIS clients' rights. DASIS, however, must do more to safeguard the provisions of Administrative Code § 21-128-whether it be through performing additional, more frequent inspections of housing, withholding payment for non-conforming housing or discontinuing housing arrangements at particular facilities.

In the end, failure to comply with Code mandates will only result in more proceedings such as this one, additional court orders, additional municipal costs and, potentially, additional obligations.

To the extent that respondents maintain that corrective action has already been taken to resolve certain situations or that there is no truth to some of the allegations, compliance with the Court's directives will be easy. If, for example, there is no vermin in petitioners' housing, all of the petitioners are housed on either the ground or first floors of non-elevator buildings, all of them have working refrigerators and all have been provided with sufficient toilet paper and clean linens, then certification of compliance will be easy.

Accordingly, it is

ORDERED and ADJUDGED that the petition is granted; and it is further

ORDERED and ADJUDGED that respondents shall, arrange so far as is practicable in the placement of petitioners in emergency housing, that such housing:

- * contains suitable and appropriate furnishings and amenities, including but not limited to a bed, a clean mattress, clean and sufficient linens (including sheets, blankets and pillow cases), basic furniture essential for daily living, an individual supply of toilet paper, an operational individual refrigerator;

- * is accessible to the petitioners and in non-elevator buildings is not on a floor higher than one level above the ground level;

- * includes a usable bathroom, with a working lock, that is consistently maintained and cleaned;

- * includes a working lock on the door to each housing unit;

- * includes operational utility services (including electricity, water and/or gas); and

- * is free of vermin; it is further

ORDERED and ADJUDGED that respondents are to respond to petitioners' complaints with respect to the above requirements within two business days of receiving written notice of alleged noncompliance; it is further

ORDERED and ADJUDGED that respondents are to report to this Court within 15 days of this decision, order and judgment and affirm that each directive has been followed; it is further

ORDERED and ADJUDGED that in their affirmations, respondents must detail the measures taken to secure compliance with the above requirements; and it is further

ORDERED and ADJUDGED that respondents are to prepare and submit to this Court affirmations of compliance with the above directives every six months for five years from the date of this decision with respect to each petitioner that remains in DASIS housing. This constitutes the decision and judgment of the Court.

FootNotes:

[n1]. Within the New York City Human Resources Administration, HIV/AIDS Services Administration ("HASA") has succeeded DASIS. For purposes of this decision, the Court will use "DASIS" to refer to either agency.

[n2]. Helen Eghareuba, Winds' DASIS case manager, disputes Winds' account and states that it "is not true that Ms. Winds asked me to find placement for her on the first floor." Eghareuba Affidavit, at 4. Regardless of who is telling the truth, DASIS is now aware that Winds is in no condition to climb stairs. The same principle holds true with respect to other minor inconsistencies between petitioners' allegations and those proffered by DASIS, which generally relate to whether the agency had notice of specific problems and not to whether the problems actually exist or existed.

[n3]. Petitioners have alleged violations of the law that occurred within four months of bringing these proceedings; therefore, even assuming that a four-month statute of limitations applies, such defenses are rejected.

LOAD-DATE: September 24, 2002

APPENDIX D:
**Photos from Transitional Housing
Facilities Visited by CID**

**LOCATION 3, ROOMING HOUSE in
BRONX – HOLE IN CEILING OF KITCHEN**



**LOCATION 3, ROOMING HOUSE in
BRONX –
HOLE IN CEILING**



**LOCATION 3, ROOMING HOUSE in
BRONX –
FRONT DOOR**



**LOCATION 3, ROOMING HOUSE in
BRONX –
BROKEN AND BOARDED WINDOWS**



**LOCATION 3, ROOMING HOUSE in
BRONX –
UNFINISHED WALL WITH EXPOSED
ELECTRICAL WIRING**



**LOCATION 3, ROOMING HOUSE in
BRONX –
SHARED KITCHEN**



**LOCATION 3, ROOMING HOUSE in
BRONX –
DISCONNECTED ROOF DOOR IN
SAFE-HOUSE**



**LOCATION 4, ROOMING HOUSE in
BRONX –
BEDROOM DOOR LOCK**



**LOCATION 13, ROOMING HOUSE in
BROOKLYN –
HOLE IN CEILING OF
BEDROOM**



**LOCATION 13, ROOMING HOUSE in BROOKLYN –
KITCHEN SINK OF HASA CLIENT IN SAFE-HOUSE**



**LOCATION 20, SRO in BROOKLYN –
BATHROOM WINDOW SEALED WITH
PLASTIC**



**LOCATION 10, ROOMING HOUSE in
BROOKLYN –
BEDROOM DOOR WITHOUT A LOCK**



APPENDIX E:
Data from Investigation

Open Class C Violations Issued by HPD

Name	Borough	Description of Class C Violations Issued	Date Violation Issued
Location 1	Queens		
Location 2	Bronx		
Location 3	Bronx		
Location 4	Bronx		
Location 5	Brooklyn		
Location 6	Brooklyn		
Location 7	Manhattan		
Location 8	Bronx		
Location 9	Bronx		
Location 10	Bronx		
Location 11	Brooklyn		
Location 12	Bronx		
Location 13	Manhattan		
Location 14	Brooklyn		
Location 15	Brooklyn		
Location 16	Manhattan		
Location 17	Manhattan	27-2005 adm code & 309 m/d law abate the nuisance consisting of painted sprinkler heads all stories at public hall , 2nd story	2/17/2004
Location 18	Manhattan	27-2070 adm code failure to provide an adequate supply of gas to the fixtures all stys at community kitchen	5/20/2003
	Manhattan	27-2070 adm code failure to provide an adequate supply of gas to the fixtures gas shut off cellar front, gas meter removed cause unknown	5/20/2003
Location 19	Manhattan	27-2018 adm code abate the nuisance consisting of vermin, roaches located at b-rom 4b1, northeast section, 4th story, 3rd b-room from north at east	2/5/2004
Location 20	Manhattan		
Location 21	Brooklyn		
Location 22	Bronx	27-2005 adm code failure to replace with new the broken strike plate at east door jamb in the room located at b-room 2, west section, 1st story, 2nd -room from east at south	2/12/2003
	Bronx	27-2005, 2007 adm code failure to remove the illegal fastening hasp and padlock installed on the entrance door in te room located at b-room 17, 2nd story, 1st b-room from west at north	2/12/2003
	Bronx	27-2005 adm code & 309 m/d law abate the nuisance consisting of the 4" shackle padlock locked on the sprinkler head at the public hall, 2nd story, east section centerhall	2/12/2003
Location 23	Brooklyn	27-2005, 2007 adm code failure to remove the illegal fastening slide bolt accessible to padlock on door at public hall bulkhead, roof	10/21/2003
	Brooklyn	27-2005 adm code & 309 m/d law abate the nuisance consisting of mold and mildew aprox 4 sq ft ceiling in the shower stall #a at public hall at north, 4th story	10/21/2003
	Brooklyn	27-2005, 2007 adm code failure to remove the illegal fastening slide bolt accessible to padlock door to rear yard at public hall at east, 1st story	10/21/2003
Location 24	Brooklyn		
Location 25	Brooklyn	27-2018 adm code abate the nuisance consisting of rodents and rats thur-outfront yard bldg front at south	11/5/2003

	Visited by CID	Borough	ROOMING HOUSE or SRO	House HASA clients	Spoke w/client	>1client in bedroom	>1fl. w/o elevator	Communal fridge	Communal bathroom (shared by)	Lock on bathroom	Winds v Turner amenities	Heat	Leaks	Rodent roach
Location 1	Y	Queens	RH	Y	Y	Y	N	Y	Y(3)	Y	N	Y	Y	N
Location 2	Y	Bronx	RH	Y	Y	Y	N	Y	N	Y	Y	Y	N	N
Location 3	Y	Bronx	RH	Y	Y	N	N	Y	Y(3)	Y	N	N	Y	Y
Location 4	Y	Bronx	RH	Y	Y	Y	Y	N	N	Y	N	Y	N	N
Location 5	Y	Brooklyn	RH	Y	Y	Y	Y	Y	Y(7)	Y	Y	Y	N	N
Location 6	Y	Brooklyn	RH	Y	N - Landlord	N	Y	DK	DK	DK	DK	DK	DK	DK
Location 7	Y	Manhattan	RH	Y	Y	Y	N	Y	Y(9)	Y	Y	Y	N	N
Location 8	Y	Bronx	RH	Y	N - Landlord	N	N	Y	Y	DK	DK	DK	DK	DK
Location 9	Y	Bronx	RH	Y	Y	Y	N	Y	Y(3)	Y	N	Y	N	N
Location 10	Y	Brooklyn	RH	Y	N -House Manager	Y	Y	Y	Y(3)	N	N	Y	N	N
Location 11	Y	Bronx		Y	N - staff	Y	N	DK	Y	DK	DK	DK	DK	DK
Location 12	Y	Manhattan		Y	N - staff	Y	N	DK	Y	DK	DK	DK	DK	DK
Location 13	Y	Brooklyn	RH	Y	Y	N	Y	Y	N	N	N	N	Y	Y
Location 14	Y	Brooklyn	RH	Y	Y	N	Y	N	Y(3)	Y	N	Y	N	N
Location 15		Manhattan	SRO	Y	Y	Y	Y	N	N	Y	Y	Y	N	N
Location 16		Manhattan	SRO	Y	Y	Y	Y	N	Y	Y	N	Y	N	N
Location 17		Manhattan	SRO	Y	Y	Y	N	N	Y	N	N	Y	N	N
Location 18		Manhattan	SRO	Y	Y	N	N	N	Y	Y	Y	Y	N	N
Location 19		Manhattan	SRO	Y	Y	Y	Y (7 FLOORS)	N	N	N	Y	N - 2.5 WEEKS	N	N
Location 20		Brooklyn	SRO	Y	N - Landlord	Y	Y(5 FLOORS)	DK	Y	DK	DK	DK	DK	DK
Location 21		Bronx	SRO	Y	Y	N	N	N	Y	Y	Y	Y	N	N
Location 22		Brooklyn	SRO	Y	Y	Y	Y(4 FLOORS)	N	N	Y	Y	Y	N	N
Location 23		Brooklyn	SRO	Y	Y	N	Y(4 FLOORS)	N	Y	Y	Y	Y	N	N
Location 24		Brooklyn	SRO	Y	Y	N	Y (4 FLOORS)	N	Y (4)	Y	N	Y	N	N
Location 25		Brooklyn	SRO	Y	Y	N	Y (3 FLOORS)	N	Y (2)	Y	Y	Y	N	N
	15			25	19	15	8	9	9	16	10	17	3	2
	29			25	25	25	25	21	24	20	20	20	20	20
	52%			100%	76%	60%	32%	43%	38%	80%	50%	85%	15%	10%

referred by parole officer	HASA caseworker visit	rent subsidy	Lease	length of stay	Reapply each 28 days	Length of time client has been in temporary housing	caseworker assist permanent housing	HPD			DOB Viol	Active DOB Viol	ECB Viol	Active ECB Viol
								Class A Viol	Class B Viol	Class C Viol				
Y	Y	480	N	90 DAYS	N	90 DAYS	Y	No Info	No Info	No Info	0	0	0	0
N	Y	D/K	N	3 MONTHS	N	4 YEARS	N- Residency Does	No Info	No Info	No Info	2	2	2	2
Y	Y	480	N	4 YEARS	N	4 YEARS	Y	0	0	0	0	0	0	0
Y	N	521	Y	4 YEARS	N	4 YEARS	N	No Info	No Info	No Info	0	0	0	0
Y	N	480	Y	3 MONTHS	N	D/K	N	0	0	1	1	1	0	0
DK	DK	DK	DK	DK	N	DK	DK	No Info	No Info	No Info	0	0	0	0
N	N	DK	N	2 YEARS	N	10 YEARS	N	0	0	0	1	1	3	2
DK	DK	DK	DK	DK	N	DK	DK	No Info	No Info	No Info	0	0	0	0
Y	Y	480	Y	2 MONTHS	N	2 MONTHS	Y	0	1	0	0	0	0	0
Y	DK	DK	DK	DK	N	DK	DK	No Info	No Info	No Info	1	1	2	0
DK	DK	DK	DK	DK	N	DK	DK	No Info	No Info	No Info	19	5	2	2
DK	DK	DK	DK	DK	N	DK	DK	No Info	No Info	No Info	210	125	39	27
N	N	440	N	9 MONTHS	N	9 MONTHS	N	No Info	No Info	No Info	0	0	0	0
N	Y	485	Y	3 MONTHS	N	2 YEARS	Y	No Info	No Info	No Info	0	0	0	0
N	N	DK	N	90 DAYS	N	90 DAYS	N	0	3	0	12	12	2	1
N	Y	DK	N	90 DAYS	N	90 DAYS	N	3	8	1	3	3	0	0
N	N	DK	N	1.5 YEARS	N	10 YEARS	N	3	9	9	18	5	19	6
N	Y	DK	Y	7 YEARS	N	9 YEARS	N	0	7	0	41	32	9	2
N	N	DK	N	8 MONTHS	N	8 MONTHS	N	0	2	0	14	8	15	6
N	DK	DK	DK	DK	DK	DK	DK	0	0	0	4	2	0	0
N	Y	DK	N	2 YEARS, 4 MONTHS	N	2 YEARS, 4 MONTHS	N	1	6	3	8	8	1	0
N	Y	2000	N	2 MONTHS	N	2 MONTHS	N	2	2	3	14	7	3	3
N	N	DK	N	30 DAYS	N	30 DAYS	Y	6	18	0	3	3	0	0
N	Y	DK	N	2 YEARS	N	2 YEARS	Y	0	1	1	1	1	0	0
N	Y	DK	N	2 YEARS	N	2 YEARS	Y	0	1	0	5	2	1	0
6	11	5	5	3 or >3 months = 16	0	7	7	5	11	6	17	17	12	9
10	19	19	19	19	24	19	19	15	15	15	25	25	25	25
60%	58%	26%	26%	84%	0%	37%	37%	33%	73%	40%	68%	68%	48%	36%

APPENDIX F:
**HRA Document of Rent Supplement
for HASA Client**



WOMENLY-ITD
400 8th Avenue
4th Floor
New York, NY 10001

Date: 12/27/03
Case Name: [Redacted]
Case: [Redacted]
Caselead: [Redacted]
IS/Job Center: [Redacted]
Telephone number for conference and record access: (212) 971-2669
FH&C
For questions or help call your worker at the telephone number below.



Action Taken on your Application: Public Assistance,
Food Stamps and Medical Assistance Coverage

The action(s) taken on your application dated 12/28/03 are explained below next to the boxes that have been checked.

Public Assistance

Accepted for the period 12/27/03 to 3/31/04. You will receive \$ _____ which will cover the period _____ to _____. These benefits will be available for you beginning on _____. After this you will receive \$ 0 semi monthly.

A RECOUPMENT at the rate shown on the enclosed budget is being taken against your grant. If you believe that this reduction will cause your family an undue hardship, you may contact your worker to explain your reasons. An undue hardship occurs when a person does not have enough income to eat, to pay for shelter or utilities, to clothe and purchase personal incidentals, or to pay for extraordinary medical needs that are not covered by medical assistance. Your worker will let you know what kind of evidence you will need to support your undue hardship claim. If it is determined that the recoupment will cause an undue hardship, the recoupment may be changed to a reduction between 5 and 10 percent (%). The regulation which allows us to do this is 18NYCRR 352.31 (d). The reason for this recoupment/s explained below.

you are only entitle to a rent supplement in a monthly amount of \$ 2,143.00, you must pay \$ 527.00 monthly towards your shelter costs

DENIED because: 527.00 monthly towards your shelter costs

The LAW(S) and/or REGULATION(S) which allows us to do this is 870.2(a)

Food Stamps

ACCEPTED for the period 12/27/03 to 3/31/04. You will receive \$ _____ which will cover the period _____ to _____. This amount will be available to you on _____. After this you will receive \$ 21.00 a month.

A RECOUPMENT is being taken against your food stamp benefits.

DENIED because _____
if your denial is based on failure to provide documentation, you are not required to file a new application if you return these documents within thirty days.

PENDED because _____

The LAW(S) and/or REGULATIONS(S) which allows us to do this is 887.14, 887.15

Medical Assistance

ACCEPTED - All members of your household accepted for public assistance have been accepted for medical assistance effective 12/1/03 except for _____. The enclosed letter will clarify your coverage.

DENIED - All members of your household denied for public assistance have been denied medical assistance except _____ because _____

PENDED - Your application for medical assistance is being reviewed. We will send you our decision or request additional information within thirty days.

The LAW(S) and/or REGULATIONS(S) which allows us to do this is 360-3

Worker/Date: [Signature] Telephone Number: (212) 971-0825 Supervisor/Date: _____

We will review the decision with you if you call us at the above telephone number and ask for a LOCAL CONFERENCE. You also have the right to ask for a STATE FAIR HEARING within 60 days of the date on the top of this Notice for Public Assistance and Medical Assistance issues. You have 90 days to request a STATE FAIR HEARING on Food Stamp issues. You must meet this deadline to request a STATE FAIR HEARING even if you ask for a LOCAL CONFERENCE first. The STATE FAIR HEARING is held by the New York State Office of Temporary and Disability Assistance.
BE SURE TO READ THE REVERSE ON HOW TO APPEAL THIS DECISION

APPENDIX G:
Questionnaire Used by CID in
Investigation

INVESTIGATION TRACKING FORM

INVESTIGATOR _____

DATE _____

NAME OF
RESIDENCE _____

ADDRESS OF
RESIDENCE _____

ROOM NUMBER _____

NAME OF
LANDLORD _____

NAME OF BUILDING MANAGER _____

LIVING CONDITIONS

1. Number of occupants in room? _____

2. Does each resident have their own refrigerator or a communal
fridge? _____

3. Where is the refrigerator located? _____

4. Is there a communal bathroom or one bathroom per
room? _____

5. How many people share the bathroom? _____
6. Does the bathroom door have a lock? _____
7. Did/does the resident receive a:
Mattress? _____
clean linens? _____
toilet paper? _____
8. Are there additional problems with the building conditions that you can observe? _____
(heat, hot water, leaks, paint peeling, rodent/road infestation, etc)

RESIDENT INFORMATION

1. Is the resident on parole? _____
2. Does the resident identify himself/herself as HIV+ or having AIDS? _____
3. Who referred the resident to this house? _____
4. Does resident have a HASA case-worker? _____
- Has the case-worker visited the resident/inspected residents' room? _____
5. Does HASA give the resident rent assistance? _____
- How much is the subsidy? _____
- How much is the total rent? _____

6. Who does the resident pay rent to/what is the payment process? _____

Is the rent paid weekly or monthly? _____

7. How long has the resident lived at this house? _____

8. What, if any, other conditions are there on residency? _____

9. Does resident have household duties/obligations? _____

What are they? _____

10. How long is the resident allowed to stay at the house? _____

11. Has the resident had to renew their stay at the house? _____

12. If resident had to renew their stay, what is the process? _____

13. How many temporary housing facilities has the resident lived in? _____

Over what time period? _____

14. What steps is resident taking towards permanent housing? _____

Is the resident getting assistance with this? _____

If so, from whom? _____

APPENDIX H:
HRA Document to the HASA Client
“Your Right to Fair Treatment”



HUMAN RESOURCES ADMINISTRATION

12 WEST 14TH STREET
NEW YORK, NEW YORK N.Y. 10011

**TO THE HRA CLIENT
WHEN REFERRED TO A COMMERCIAL HOTEL
YOUR RIGHT TO FAIR TREATMENT**

You have informed HRA Client Services that you were in need of emergency housing, and have been referred to a commercial hotel.

HRA Client Services expects that every client it places in a commercial hotel or other housing facility will have the same rights to use that facility as any other guest, and will be treated with the same courtesy and respect as any other guest. That means that there can be no special rules or curfews that apply only to HRA clients, no special limits for HRA clients on entrances, elevators or stairways, and no other unequal treatment of HRA clients.

If you are subjected to treatment by the hotel that is not the same as the hotel's treatment of other guests, you should notify the HRA Emergency Placement Unit at 212-620-9448 or 212-971-2015/3037.

gear