



THE CITY OF NEW YORK
LAW DEPARTMENT

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May 23, 2022

Honorable Deborah Kaplan
Deputy Chief Administrative Judge
for the New York City Courts
Supreme Court, New York County, Civil Term
New York, New York 10007

Re: *Callahan v. Carey*, Index No. 42582/1979
Letter application for modification of provision of Final Judgment on
Consent, dated August 26, 1981

Dear Justice Kaplan:

On behalf of Defendant The City of New York¹ ("City Defendant") and pursuant to the requirements of a post-judgment Order in the above-referenced matter, dated October 15, 1984 ("Post-Judgment Order") (annexed as Appendix 1), I am writing to seek the permission of this Court to move for relief from, and modification of, a provision of the Final Judgment on Consent, dated August 26, 1981 ("Judgment") (annexed as Appendix 2). Given the antiquity of this matter, commenced nearly 44 years ago, I provide the following background and context for the Court's benefit.

Plaintiffs commenced this action on October 2, 1979, challenging the adequacy of shelter then offered by the City Defendant to homeless men in New York City. With the issuance of the Judgment, the parties – Plaintiffs, the City Defendant, and New York State

¹ The City of New York was sued herein as Edward I. Koch, as Mayor of the City of New York; James A. Krauskopf, as Commissioner of the New York City Human Resources Administration; and Calvin Reid, as Director of the Shelter Care Center for Men.

defendant officials² – agreed to numerous substantive terms regarding the provision of shelter to homeless men and to specified standards applicable thereto.³ Pursuant to Paragraph 19 of the Judgment, this Court retained jurisdiction “for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction, modification, or termination of this entire judgment or of any applicable provisions thereof”

By the subsequent Order, dated October 15, 1984, this Court set forth the following process for any such application made under Paragraph 19 of the Judgment:

[H]enceforth no motions are to be made except with the permission of the court. Such permission is to be sought by letter from counsel addressed to the court briefly describing the relief needed and setting forth proposals for the submission of proof and argument. Responses from opposing counsel are also to be made by letter addressed to the court and should be received by the court within two or three days thereafter. Should the party seeking leave to make a motion wish to reply, such will be received by the court if delivered to chambers within a day or two after delivery of the responding letter. In a written order the court will then determine whether to entertain the proposed motion and, if so, schedule its submission.

Order at 1. The City Defendant submits this pre-motion letter for modification and relief as authorized by Paragraph 19 of the Judgment and in accordance with the process outlined in the Order, as set forth above.

For the purposes of the instant application, the substantive provision of the Judgment from which the City Defendant seeks relief is Paragraph 1, providing as follows:

1. The City defendants shall provide shelter and board to each homeless man who applies for it provided that (a) the man meets the need standard to qualify for the home relief program established in New York State; or (b) the man by reason of physical, mental or social dysfunction is in need of temporary shelter.

² The Defendant State officials named in the caption were Hugh L. Carey, as Governor of the State of New York; and Barbara Blum, as Commissioner of the New York State Department of Social Services.

³ The *Callahan* obligations for homeless men were subsequently extended to homeless women in a subsequent action. *Eldredge v. Koch*, 118 Misc. 2d 163 (Sup. Ct. N.Y. City, 1983), *rev'd in part on other grounds*, 98 A.D.2d 675 (1st Dep't 1983).

Callahan Judgment, Para. 1. The City Defendant requests an opportunity to move to amend Paragraph 1 as follows:

- Change “Paragraph 1” to “Paragraph 1(a),” and, within that sub-paragraph, replace “each homeless man” with “homeless single adults,” consistent with *Eldridge, supra*; and
- Add a new Paragraph 1(b), providing for the staying of both Paragraph 1 obligations to homeless single adults, as well as similar (but not equivalent) obligations to adult families.⁴

The resulting provision would read as follows:

1(a) The City defendants shall provide shelter and board to each homeless ~~man~~ single adult who applies for it provided that (a) ~~the man~~ such single adult meets the need standard to qualify for the home relief program established in New York State; or (b) ~~the man~~ such single adult by reason of physical, mental or social dysfunction is in need of temporary shelter.

1(b) The obligations to provide shelter to both homeless adults and to adult families shall be stayed when the City of New York, acting through the New York City Department of Homeless Services (“DHS”), lacks the resources and capacity to establish and maintain sufficient shelter sites, staffing, and security to provide safe and appropriate shelter.

Should the City Defendant be permitted to move for the above-described relief, it will provide affidavits from high-ranking City officials establishing the following facts:

- (1) Starting in April 2022, the City Defendant, through DHS, began experiencing an unprecedented increase in the number of single adults, adult families, and families with children seeking emergency shelter. The main driver of this increase was an influx of asylum-seekers arriving here from the southern border of the United States, in large part orchestrated by out-of-State actors seeking to score political points by exporting the responsibility and attendant fiscal burdens of caring for this population out of their state and, by political calculation, to the City of New York. These asylum-

⁴ City Defendant, by this application, seeks no relief regarding its obligations to families with children. The provision of shelter to families with children has its roots in a judgment in a separate case, *Boston v. City of New York*, Index No. 402295/08 (Sup. Ct., N.Y. Cty. Dec. 12, 2008).

seekers arrived without housing and, in many cases, without any resources to care for themselves.

- (2) Since the Spring of 2022, tens of thousands of asylum-seekers have arrived in the City and been provided a temporary place to stay in various City locations. By October of 2022, more than 17,000 asylum-seekers had entered the City's DHS shelter system. Last Summer, the State of Texas and the City of El Paso began chartering buses of migrants to various major cities, with by far the majority of this population sent to New York City. While El Paso has provided the City with scheduling and other basic information regarding the buses and their passengers, the State of Texas has refused any outreach by the City to coordinate this process. Consequently busloads of asylum-seekers arrive at the Port Authority Bus Terminal at unpredictable hours.
- (3) By May 15, 2023, more than 65,000 asylum-seekers had arrived in the City, and currently, more than 44,000 asylum-seekers remain in locations provided by the City, with more arriving every day.
- (4) This ongoing flood of asylum-seekers arriving in New York City from the southern border represents a crisis of national, indeed international dimension; yet, the challenges and fiscal burden of this national crisis have fallen almost exclusively upon the City. As the country's by-default backstop for international and national policy failures, as well as inter- and intra-state political maneuvering, all entirely outside of its control, the City is now facing an unprecedented demand on its shelter capacity. These unprecedented demands on the City's shelter resources confront the City Defendant with challenges never contemplated, foreseeable, or indeed even remotely imagined by any signatory to the *Callahan* Judgment.
- (5) Notwithstanding that the influx of asylum-seekers from the border has been orchestrated in large measure by out-of-State actors without regard for the City's ability to provide care, the City has responded, to date, with compassionate concern for the welfare of migrant individuals and families who have endured unimaginable hardships before arriving here.
- (6) The City has made extraordinary efforts to meet the needs of these tens of thousands of asylum-seekers, including the establishment of numerous DHS emergency shelters; the declaration of a state of emergency by Mayor Adams on October 7, 2022 (Emergency Executive Order Number 224)

(annexed as Appendix 3)⁵; the corresponding direction to city agencies to establish Humanitarian Emergency Response and Relief Centers to provide, among other things, immediate respite and sleeping accommodations to asylum-seeking individuals and families; and the recent urgent response by the New York City Office of Emergency Management to open Emergency Respite Centers. However, even as these emergency measures are undertaken, stretching the City's fiscal and personnel resources to the breaking point, waves upon waves of asylum-seekers continue to arrive, with those numbers only now increasing upon the expiration of the Title 42 Order.⁶


- (7) Including both asylum-seekers and the City's "resident homeless" population, the City Defendant is currently providing shelter for over 93,000 individuals, over 81,000 of whom are being provided for by DHS. This represents an over 75 % increase in the DHS shelter population in a single year and far exceeds the City's previous highest-ever-recorded population of 61,000 individuals.
- (8) While the City is endeavoring to enlist other localities within New York State to share the shelter burdens imposed almost exclusively upon the City by out-of-State actors, those efforts are meeting with local resistance including executive orders and related legal challenges that, even if of questionable merit, effectively hamstringing the City's efforts at modest burden-sharing at a time when the City has reached the extended outer limits of its shelter capacity, both in terms of sites and staffing.
- (9) The dire extremity of this crisis does not represent a failure of will or commitment on the City's part to asylum-seeking individuals and families seeking refuge from the peril and hardship in their countries of origin; rather it results precisely from that commitment: the City has done far more than many other – if not all – other jurisdictions in the United States for this desperate population. The unfortunate reality is that the City has extended itself further than its resources will allow, placing in jeopardy the City's obligations to manage its fisc in order to maintain critical infrastructure and services and provide for the well-being of all of its citizens.

⁵ Emergency Executive Order Number 224 has been extended by subsequent executive orders.

⁶ Pursuant to sections 362 and 365 of the Public Health Services Act (42 U.S.C. §§ 362, 365) and the implementing regulation at 32 C.F.R. § 71.40, the Director of the United States Center for Disease Control ("CDC") issued the *Public Health Reassessment and Order Suspending the Right to Introduce Certain Persons from Countries Where a Quarantinable Communicable Disease Exists* (the "Title 42 Order").

Based upon the above summary, on behalf of the City Defendant, I respectfully request that Your Honor assign this 44-year-old matter to a newly-assigned justice for consideration of City Defendant's request for leave to move for partial relief from the Judgment. I thank Your Honor for your consideration of this application.

Very truly yours,


Jonathan Pines
Assistant Corporation Counsel

Copies (by email) to:

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First Deputy Attorney General
Office of the New York State Attorney General
Attorneys for State Defendants

APPENDIX 1

Callahan 1984 Order

SUPREME COURT : STATE OF NEW YORK
TRIAL TERM : PART 23

----- X

ROBERT CALLAHAN, et al.,

Plaintiffs

- against -

HUGH L. CAREY, as Governor of the
State of New York, et al.,

Defendants

Index No. 42582/79

10/11/67

----- X

WALLACH, RICHARD W., J.:

The parties are advised that henceforth no motions are to be made except with the permission of the court. Such permission is to be sought by letter from counsel addressed to the court briefly describing the relief needed and setting forth proposals for the submission of proof and argument. Responses from opposing counsel are also to be made by letter addressed to the court, and should be received by the court within two or three days thereafter. Should the party seeking leave to make a motion wish to reply, such will be received by the court if delivered to chambers within a day or two after delivery of the responding letter. In a written order the court will then determine whether to entertain the proposed motion, and, if so, schedule its submission.

Service of all papers herein is to be made in the same manner as delivery is effected upon the court.

In the event that there is a need for immediate, temporary relief pending the submission and decision of a motion, this too is to be sought by letter, clearly alerting that immediate, temporary relief is being sought and covering any affidavits or other evidentiary materials necessary to warrant the granting of immediate, temporary relief. Upon receipt thereof, the other sides should hold themselves ready to appear in chambers within 48 hours for argument on the question of whether immediate, temporary relief should be granted, bringing with them any evidentiary materials they deem appropriate for purposes of opposition. They may also bring with them a responding letter opposing submission of the proposed motion. The conference in chambers will be set up by way of telephone communications with chambers.

In the event the question of immediate, temporary relief is not resolved consensually in chambers, the court, by oral order dictated into the record, will decide whether to grant such relief; if so, the court will schedule the submission of formal proof and argument; if not, whether the proposed motion should be entertained at all will remain

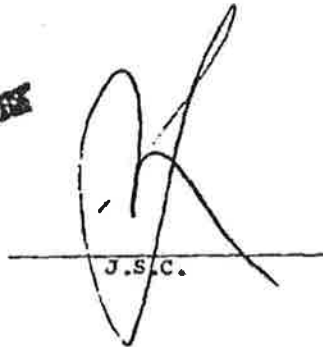
an open question to be decided by the court in a subsequent written order.

Defendants are requested to respond forthwith to the letter dated October 15, 1984 from Mr. Hayes to the court.

The foregoing constitutes an order of the court made sua sponte pursuant to its inherent power of control over its own calendar and the disposition of business before it.

FILED
OCT 15 1984
COUNTY CLERK'S OFFICE
NEW YORK

Dated: October 15, 1984


J.S.C.

APPENDIX 2

Callahan Order

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

ROBERT CALLAHAN, CLAYTON W. FOX,
 THOMAS DAMIAN ROIG, JAMES HAYES,
 JAMES SPELLMAN and PAUL E. TOOLE,
 on their own behalves and on behalf
 of all others similarly situated,

Plaintiffs,

-against-

HUGH L. CAREY, as Governor of the State
 of New York, BARBARA BLUM, as Commissioner
 of the New York State Department of Social
 Services, EDWARD I. ROCE, as Mayor of the
 City of New York, JAMES A. KRAUSKOPF, as
 Commissioner of the New York City Human
 Resources Administration, and CALVIN REID,
 as Director of the Shelter Care Center
 for Men,

Defendants.

Index No.:
 42582/79

FINAL
 JUDGMENT
 BY CONSENT

Plaintiffs Robert Callahan, Clayton Fox and Thomas
 Roig, having brought this action on October 2, 1979 challeng-
 ing the sufficiency and quality of shelter for homeless men
 in New York City, and plaintiffs Callahan, Fox, Roig, James
 Hayes, James Spellman and Paul Toole, having filed their
 Amended Complaint on March 31, 1980, and defendants Hugh L.
 Carey, as Governor of the State of New York, and Barbara
 Blum, as Commissioner of the State of New York Department

of Social Services (the "State defendants"), having filed their Amended Answer on January 19, 1981 therein denying the material allegations of the Amended Complaint, and defendants Edward Koch, as Mayor of the City of New York, Stanley Brazenoff, as Administrator of the New York City Human Resources Administration, and Calvin Reid, as director of the Shelter Care Center for Men (the "Men's Shelter") (the "City defendants"), having filed their Amended Answer on January 19, 1981 therein denying the material allegations of the Amended Complaint, and plaintiffs and defendants by their respective attorneys, having consented to the entry of this Final Judgment without any final adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence or admission by any party hereto with respect to any such issue:

NOW, therefore, without final adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence or admission by any party hereto with respect to any issue, and upon consent of all parties, it is hereby

ORDERED, ADJUDGED and DECREED as follows:

Provision of Shelter

1. The City defendants shall provide shelter and board to each homeless man who applies for it provided

that (a) the man meets the need standard to qualify for the home relief program established in New York State; or (b) the man by reason of physical, mental or social dysfunction is in need of temporary shelter.

Shelter Standards

2. The City defendants shall provide shelter at facilities operated in accordance with the standards set forth in this paragraph as soon as practicable and not later than September 1, 1981. The term "shelter facility" refers to the Kaener Building, Camp LaGuardia, the Men's Shelter and any other facility used by the City defendants to shelter homeless men. This paragraph does not apply to the Bowery lodging houses (Palace, Kanton, Union, Sunshine, Delevan and Stevenson) presently used by the City defendants to shelter homeless men (the "hotels"); if the City defendants choose to shelter homeless men in any additional Bowery lodging house, they will advise counsel for the plaintiffs and a good faith effort shall be made by plaintiffs and the City defendants to agree to operating standards for such facilities.

(a) Each resident shall receive a bed of a minimum of 30 inches in width, substantially constructed, in good repair and equipped with clean springs.

(b) Each bed shall be equipped with both a clean, comfortable, well-constructed mattress standard in size for the bed and a clean, comfortable pillow of average size.

(c) Each resident shall receive two clean sheets, a clean blanket, a clean pillow case, a clean towel, soap and toilet tissue. A complete change of bed linens and towels will be made for each new resident and at least once a week and more often as needed on an individual basis.

(d) Each resident shall receive a lockable storage unit.

(e) Laundry services shall be available to each resident not less than twice a week.

(f) A staff attendant to resident ratio of at least 2 per cent shall be maintained in each shelter facility at all times.

(g) A staff attendant trained in first aid shall be on duty in each shelter facility at all times.

(h) A minimum of ten hours per week of group recreation shall be available for each resident at each shelter facility.

(i) Residents shall be permitted to leave and to return to shelter facilities at reasonable hours and without hindrance.

(j) Residents of shelter facilities shall be provided transportation (public or private) to enable them to return to the site where they applied for shelter.

(k) Residents of shelter facilities shall be permitted to leave the facility by 7:00 a.m. if they so desire.

(l) Residents shall be permitted to receive and send mail and other correspondence without interception or interference.

(m) The City defendants shall make a good faith effort to provide pay telephones for use by the residents at each shelter facility. The City defendants shall bear any reasonable cost for the installation and maintenance of such telephones.

3. The capacity of shelter facilities shall be determined as follows:

(a) The capacity of newly constructed shelter facilities shall comply with the standards set forth in Appendix A, except

in cases of emergency need as defined in Appendix B.

(b) The City defendants shall disclose to plaintiffs' counsel any plan to convert an existing structure to a shelter facility and the intended capacity for that facility at least 30 days in advance of the implementation or execution of any such conversion plan. A reasonable capacity for each such facility shall be established. The standards set forth in Appendix A shall be used as guidelines in determining whether the planned capacity of the City defendants is reasonable.

(c) Effective December 31, 1981, the capacity of the Keener Building shall not exceed 416 except in cases of emergency need as defined in Appendix B, in which case the maximum number of men who may be sheltered in the Keener Building is 450. Between the date of entry of this judgment and December 31, 1981, the capacity of the Keener Building shall not exceed 450.

(d) The capacity of Camp LaGuardia shall comply -- by construction of new dormitory buildings -- with the standards set forth in Appendix A,

except in cases of emergency need as defined in Appendix B, as soon as practicable and not later than December 31, 1982, except that the individual rooms in the "Main Building" may be used as sleeping rooms for one person each. The construction start of such new dormitory buildings shall occur no later than March 1, 1982.

Bowery Lodging Houses

4. Hotels presently used by the City defendants shall meet the following standards at the time of entry of this judgment and the City defendants shall maintain such standards thereafter:

(a) Each resident shall receive a bed, a clean mattress, two clean sheets, one clean blanket, one clean pillow and one clean pillow case. A complete change of bed linens (sheets and pillow case) shall be made for each new resident and at least once a week and more often as needed on an individual basis.

(b) Each resident shall be supplied with a clean towel, soap and toilet tissue. A clean towel shall be provided to each new resident and towels shall be changed at least once a week and more often as needed on an individual basis.

(c) There shall be two trained security guards in the Palace Hotel between the hours of 3:00 p.m. and 4:00 a.m. and one trained security guard between the hours of 4:00 p.m. and 8:00 p.m., and 4:00 a.m. to 8:00 a.m. There shall be one trained security guard in the Xanton Hotel between the hours of 4:00 p.m. and 8:00 a.m. These security guards shall file with the City defendants incident reports on any incidents of violence or attempted violence occurring in the hotels.

(d) Showers shall be available at the Men's Shelter beginning at 7 a.m. and signs advising hotel residents of that fact shall be posted at the front desk in each hotel and at the door of each bathroom in each hotel. Persons showering at the Men's Shelter shall be provided adequate supervision (including safeguarding of personal property), a clean towel, soap and, if requested, a delousing agent.

(e) A lockable storage unit of adequate size to store personal property shall be available either at the Men's Shelter or at the hotels for each man sheltered by the City defendants at hotels.

(f) Heat shall be maintained in accordance with New York City guidelines for rental residences.

(g) Cleanliness shall be maintained throughout the hotels at all times.

Intake Centers

5. The City defendants shall accept applications for shelter at the Men's Shelter, 8 East Third Street, New York, New York and at 529 Eighth Avenue, New York, New York (the "central intake centers"). Applications for shelter shall be accepted at all times at the Men's Shelter, and applications for shelter shall be accepted at 529 Eighth Avenue between the hours of 3:00 p.m. and 1:00 a.m., seven days per week. The City defendants shall provide direct transportation to shelter facilities from the central intake centers to all homeless men for whom the City defendants must provide shelter pursuant to paragraph 1, supra. The 529 Eighth Avenue intake center, shall be opened as a central intake center not later than September 1, 1981.

6. The City defendants shall operate additional satellite intake centers on a 24-hour basis Monday through Friday at the following locations:

(a) Harlem Hospital Center, 506 Lenox Avenue, New York, New York;

- (b) Kings County Hospital Center,
451 Clarkson Avenue, Brooklyn, New York;
- (c) Lincoln Hospital, 234 East 149th
Street, Bronx, New York; and
- (d) Queens Hospital Center, 82-68 164th
Street, Jamaica, New York.

Men seeking shelter at the satellite intake centers shall be provided adequate fare for public transportation and clear written directions to either (i) a shelter facility, or (ii) a central intake center -- according to the preference of the persons seeking shelter. The City defendants shall provide direct transportation from the satellite intake centers to a shelter facility to all men who appear so physically or mentally disabled that they are unable to reach a shelter facility by public transportation. Satellite intake centers shall be opened not later than September 1, 1981. It is understood that the above satellite intake centers shall be operated in conjunction with borough crisis centers. In the event that the borough crisis center program is terminated, the City defendants may, in their discretion, reduce the hours of operation of the satellite intake centers to between 5 p.m. and 1 a.m.

7. The City defendants shall accept applications for shelter at shelter facilities providing that such applicants have applied for and have been found eligible for

shelter by the City defendants within six months of the time of application at a shelter facility. Shelter facilities shall also provide shelter for one night to any person who has not previously applied for shelter who seeks shelter at a shelter facility after 8:00 p.m.

Community Participation

8. Each shelter facility, central intake center and satellite intake center, shall utilize the services of available community members to the maximum reasonable extent. These persons are not City employees or volunteers in a City sponsored program within the meaning of section 50(k) of the General Municipal Law and such persons shall execute statements to this effect.

Information

9. The City defendants shall provide applicants for shelter with clear written information concerning other public assistance benefits to which they may be entitled at the time applicants apply for shelter.

Compliance Monitoring

10. Defendant Krauskopf shall appoint qualified employees with no administrative responsibility for providing shelter to monitor defendants' shelter care program for and with respect to compliance with this decree. These employees shall visit each shelter facility, central intake center, satellite intake center and hotel at least twice a month and will submit to defendant Krauskopf a written report at least

twice a month describing compliance or lack thereof with each provision of this decree. These reports shall be made available to plaintiffs' counsel upon reasonable notice.

11. Plaintiffs' representatives shall have full access to all shelter facilities, central intake centers and satellite intake centers, and plaintiffs' counsel shall be provided access to any records relevant to the enforcement and monitoring of this decree.

12. Defendant Krauskopf shall deliver by hand each day to plaintiffs' counsel a statement listing:

(a) the number of men who applied for shelter at each central intake center and at each satellite intake center;

(b) the number of men who were provided shelter at each shelter facility or hotel;

(c) the number of men who were denied shelter at each shelter facility, central intake center and satellite intake center and the reason for each such denial;

(d) the number of men who were accepted for shelter at each central intake center and satellite intake center who did not reach a shelter facility; and

(e) the number of men who were provided direct transportation from each satellite intake center to a shelter facility.

Human Resources Administration of the Kew-Forest Building on
authorities or to prevent the operation by the New York City
15. Nothing in this judgment shall be deemed to

any subsequent administrative or judicial proceeding.
forfeiture any signatory party from any claim or defense in
construed as res judicata or collateral estoppel so as to
15. Nothing in this judgment should operate or be

and regulations, or any other applicable law.
Social Services Law, Title 18, of the New York Code of Rules
§ 485.2(c), in violation of the requirements of the New York
defined in New York Code of Rules and Regulations, Title 18,
governmental entity or subdivision to operate a shelter, as
not-for-profit corporation, charitable organization, or
14. Nothing in this judgment permits any person,

No Waivers

form to be used is attached hereto as Exhibit C.
to plaintiffs' counsel. A sample of the inspection report
reports of such inspections not less than three times a week
less men not less than three times per week and to deliver
tions of the other hotels used by defendants to shelter home-
also the intention of defendant Krauskopf to conduct inspec-
reports of such inspections each day to plaintiffs. It is
conduct daily inspections of the Palace Hotel and to deliver
13. It is the intention of defendant Krauskopf to

Wards Island as a shelter or shelter facility after October 15, 1981, except in accord with a valid contract or agreement among the New York State Department of Social Services, the New York State Office of Mental Health and the New York City Human Resources Agency and with an operating certificate issued by the New York State Department of Social Services.

17. The Commissioner of the New York State Department of Social Services agrees to reimburse the New York City Human Resources Agency for the operation of a shelter facility or shelter facilities referred to in this judgment pursuant to New York Social Services Law § 153, except if such shelter facility fails to comply with the requirements for shelters contained in the New York Social Services Law or the New York Code of Rules and Regulations, Title 13; provided that nothing in this judgment can or does obligate the Legislature of the State of New York to appropriate funds.

18. Nothing in this judgment shall prevent, limit or otherwise interfere with the authority of the Commissioner of the New York State Department of Social Services to enforce and carry out her duties under the New York Social Services Law, Title 13, of the New York Code of Rules and Regulations, or any other applicable law.

Continuing Jurisdiction

19. Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction, modification, or termination of this entire judgment or of any applicable provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

Dated: New York, New York
August 24, 1981

David Weschler
The Legal Aid Society
Volunteer Division
125 Broad Street
New York, New York 10004
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By: Robert M. Hayes
Robert M. Hayes

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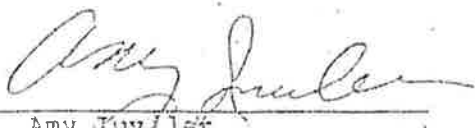
By: George Gutwirth
George Gutwirth
Assistant Corporation
Counsel

Attorney for the City Defendants

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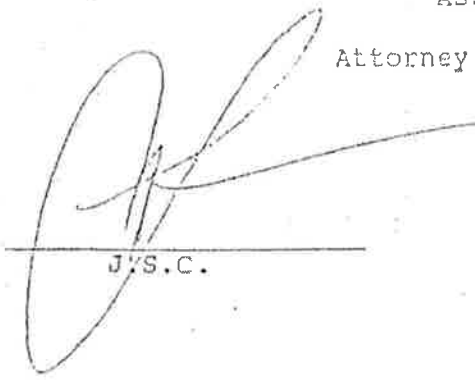
Robert Abrams
Attorney General
Two World Trade Center
New York, New York 10047
(212) 488-6770

By:


Amy Juviler
Assistant Attorney General

Attorney for the State Defendants

So ordered:


J.S.C.

Appendix ASpace Requirements for Shelters for Adults

(1) Every facility shall have space for dining and leisure activities.

(2) Sleeping areas shall not be considered as dining or leisure areas.

(3) Space provided for dining shall be:

(i) at least 120 square feet in facilities with a certified bed capacity of less than 10 beds;

(ii) at least 12 square feet for each additional certified bed.

(4) Space provided for leisure areas shall be:

(i) at least 120 square feet in facilities with a certified bed capacity of less than 10 beds.

(ii) at least 12 square feet per bed in facilities with a certified bed capacity of 10 or more beds.

(5) When not in use, dining space may be used, with written approval from the New York State Department of Social Services ("Department"), as leisure space.

(6) An operator may request Department approval of a waiver to reduce the square footage requirements for dining and leisure space.

A waiver shall be granted only upon demonstration by the operator that the food service and the program needs of residents can be met.

(7) Baths and Toilet Facilities

There shall be a minimum of one toilet and one lavatory for each six residents and a minimum of one tub or shower for each ten residents.

(3) Sleeping Rooms

(i) in single occupancy sleeping rooms, a minimum of 80 square feet per resident shall be provided;

(ii) in sleeping rooms for two or more residents, a minimum of 60 square feet per resident shall be provided;

(iii) a minimum of 3 feet, which is included in the per resident minima, shall be maintained between beds and for aisles;

(iv) partitions separating sleeping areas from other areas shall be ceiling high and smoke tight;

(v) all bedrooms shall be:

(a) above grade level;

(b) adequately lighted;

(c) adequately ventilated;

(vi) light and ventilation for bedrooms shall be by means of windows in an outside wall;

(vii) bedrooms shall open directly into exit corridors;

(viii) bedrooms may not be used as a passageway, corridor or access to other bedrooms.

(9) Adequate storage space for cleaning supplies and equipment shall be provided.

Appendix B

Short term emergency shelter may be provided to a number of persons in excess of the capacity of the facility provided that all of the following conditions are met:

- (1) Snow emergencies, excessive cold or other similar circumstances create an emergency need for additional shelter space;
- (2) The operator is able to meet the food and shelter needs of all persons in residence;
- (3) The facility remains in compliance with applicable local building, fire protection and health and sanitation codes;
- (4) The operator advises plaintiffs' counsel of the maximum number of persons to be cared for during an emergency situation in any facility as soon as possible after an emergency situation develops;
- (5) The operator provides shelter to additional persons no more than 30 days in any calendar year; and
- (6) The operator maintains records which document adherence to these conditions.

APPENDIX 3

Emergency Executive Order No. 224



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

EMERGENCY EXECUTIVE ORDER NO. 224

October 7, 2022

WHEREAS, over the past several months, thousands of asylum seekers have been arriving in New York City, from the Southern border, without having any immediate plans for shelter; and

WHEREAS, as of October 5, 2022, the asylum seekers who have entered the City's shelter system operated by the Department of Homeless Services (DHS Shelter System") include approximately 17,429 individuals, comprised of 2,896 families with children; 6,014 adults; and 734 adult families; and

WHEREAS, to date, the City has opened 42 DHS shelters in response to this influx of asylum seekers;

WHEREAS, the state of Texas, and the city of El Paso, have pledged to continue sending asylum seekers on buses to New York City, and

WHEREAS, Texas has not provided notice to New York City, and has indicated that it will continue not providing notice to New York City, regarding how many busloads of people will be arriving, or the dates and times of their arrival; and

WHEREAS, many of the buses arrive at the Port Authority Bus Terminal unannounced and unscheduled, in the early morning or late night hours; and

WHEREAS, many of the asylum seekers are coping with the effects of trauma and exhaustion, as well as other physical and mental health concerns; and

WHEREAS, the stress on the asylum seekers has been compounded by the additional days of travel to New York City, during which time it has been reported that many have been afforded limited food and water, and limited opportunities to leave the bus; and

WHEREAS, the DHS Shelter System is nearing its highest ever recorded population of over 61,000 individuals and is not designed to serve the influx of asylum seekers arriving to New York City from the Southern border;

WHEREAS, if asylum seekers continue to enter the City at the current rate, the total population within the DHS Shelter System will exceed 100,000 individuals next year;

NOW, THEREFORE, pursuant to the powers vested in me by the laws of the State of New York and the City of New York, including but not limited to the New York Executive Law, the New York City Charter and the Administrative Code of the City of New York, and the common law authority to protect the public in the event of an emergency:

Section 1. State of Emergency. A state of emergency is hereby declared to exist within the City of New York based on the arrival of thousands of individuals and families seeking asylum.

§2. Humanitarian Emergency Response and Relief Centers.

a. I hereby direct New York City Emergency Management (NYCEM) to coordinate with the New York City Health and Hospitals Corporation (H+H), the Department of Information Technology and Telecommunications, also known as the Office of Technology and Innovation (OTI), the Department of Design and Construction (DDC), the Mayor's Office of Immigrant Affairs, and other agencies as appropriate, to establish and operate temporary humanitarian relief centers to be known as "Humanitarian Emergency Response and Relief Centers" ("HERRCs") that will provide assistance for arriving asylum seekers, helping them by immediately offering respite, food, medical care, case work services, and assistance in accessing a range of settlement options, including through connections to family and friends inside and outside of New York City, in addition to, if needed, direct referrals to alternative emergency supports.

b. I hereby authorize the Deputy Mayor of Health and Human Services to enter into a memorandum of understanding with H+H concerning the establishment and operation of the HERRCs, which shall, among other things, provide for the establishment of policies and procedures for the operation of the HERRCs, provide for the confidentiality of information collected from the persons served in the HERRCs, and provide restrictions on disclosure of information about an individual's immigration status consistent with the policies set forth in Executive Order 34 (dated May 13, 2003) and Executive Order 41 (dated September 17, 2003).

§ 3. Cooperation of all agencies.

I hereby direct all agency heads, including but not limited to the Mayor's Office of Immigrant Affairs, the New York City Emergency Management, the Department of Health and Mental Hygiene, the Mayor's Community Affairs Unit, the Fire Department, the Police Department, the Sheriff's Office, the Chief Privacy Officer, and the Departments of Buildings, Housing Preservation and Development, Sanitation, Social Services, Homeless Services, Environmental Protection, and Parks and Recreation, to take all appropriate and necessary steps to preserve health and public safety during this humanitarian crisis.

I hereby direct all agency heads, including but not limited to the Mayor's Office of Immigrant Affairs, the New York City Emergency Management, the Department of Health and Mental Hygiene, the Mayor's Community Affairs Unit, the Fire Department, the Police Department, the Sheriff's Office, the Chief Privacy Officer, and the Departments of Buildings, Housing Preservation and Development, Sanitation, Social Services, Homeless Services, Environmental Protection, and Parks and Recreation, to take all appropriate and necessary steps to preserve health and public safety during this humanitarian crisis.

§ 4. Suspension of laws and rules.

a. I hereby direct that the following laws and rules related to the Uniform Land Use Review Procedure, and other procedures applicable to the City planning and land use review processes, to the extent they would apply to the siting, construction and operations of the HERRCs, impose limitations on the amount of time permitted for the holding of public hearings, the certification of applications, the submission of recommendations, any required or necessary voting, the taking of final actions, and the issuance of determinations, are suspended, and that any such time limitations are tolled for the duration of the State of Emergency: sections 195, 197-d, 203, and 3020 and subdivisions (b) through (h) of section 197-c of the Charter, sections 25-303, 25-306, 25-308, 25-309, 25-310 and 25-313 of the Administrative Code, and sections 1-05.5 and 1-07.5 of Title 2 and sections 2-02 through 2-07 of Title 62 of the Rules of the City of New York.

b. I hereby direct that section 14-140 of the Administrative Code and section 12-10 of Title 38 of the Rules of the City of New York are suspended, to the extent they impact the disposition of personal property at the HERRCs.

§ 5. Effective date. The State of Emergency declared in section 1 of this Order shall remain in effect for 30 days and may be extended. The remaining provisions of this Order shall take effect immediately and shall remain in effect for five (5) days unless they are terminated or modified at an earlier date.



Eric Adams
Mayor