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**Testimony of Kelly McAnnany
On Behalf of New York Lawyers for the Public Interest
Before the New York City Council's Committees on Housing and Buildings, Community
Development, and Land Use**

**“Building Homes, Preserving Communities: A First Look at the Mayor's Affordable
Housing Plan”**

We would like to thank Chairperson Williams and the Committees on Housing and Buildings, Community Development, and Land Use for convening an oversight hearing on affordable housing in New York City. New York Lawyers for the Public Interest (“NYLPI”) is a civil rights law firm with a robust disability rights practice, and as such we appreciate the opportunity to provide testimony regarding the need to increase the availability of affordable, *accessible* housing in New York City.

We applaud the Mayor’s Affordable Housing Plan (“Mayor’s Plan”) proposal to enhance the roles of the ADA and Section 504 coordinators to improve access to the City’s Housing Agencies and we hope that an expansive view of access is undertaken in the coming months to ensure that all residents of New York City – regardless of ability – have access to affordable housing.

Robust Enforcement of Accessibility Laws

Consistent and aggressive enforcement of anti-discrimination laws will allow more people with disabilities to remain in their existing apartments. Our office has assisted countless individuals with disabilities living in untenable situations merely because landlords and managing agents refuse to provide them with legally required reasonable accommodations. We’ve spoken to numerous individuals with mobility impairments, including seniors, who could not safely enter and exit their building because their landlord refused to provide a ramp or an elevator key to allow access through the basement. Other clients with mental illness or visual impairments have been at risk of eviction because their landlord claimed they were “harboring a pet,” when in reality they had a legally protected service animal that provided them with critical emotional support or physical assistance.

The New York City Human Rights Law (“NYCHRL”) prohibits disability discrimination in the sale or rental of housing and requires the provision of “reasonable accommodations” to enable people with disabilities to fully enjoy their housing premises. NYC Admin. Code § 8-107(5)(a); § 8-107(15)(a). The protections under the NYCHRL have been interpreted more broadly – and the law covers more housing providers – than its state and federal counterparts. The additional protections available under the NYCHRL undoubtedly benefit New Yorkers with disabilities. Take for example, an elderly couple with severe arthritis who contacted NYLPI seeking a reasonable accommodation in their rent-stabilized apartment. Due to their disabilities,

they had great difficulty using their bathtub and toilet without the assistance of grab bars. They made numerous requests of their landlord to pay for and install grab bars, but the landlord refused. Unlike other laws that merely require a housing provider to *allow* tenants to make accessibility modifications in their apartment, the NYCHRL requires landlords to provide and pay for reasonable accommodations as long as it does not constitute an undue burden. For this elderly couple with multiple health conditions and living off a fixed income, such a distinction made quite a difference. NYLPI represented the couple in a lawsuit asserting a claim under the NYCHRL and successfully forced the landlord to cover the cost and installation of the grab bars.

While this example illustrates the strength of the NYCHRL, it also reveals its limitations for the many New Yorkers with disabilities who do not have legal representation to enforce such rights. As discussed, the NYCHRL is one of the most progressive anti-discrimination laws in the country, particularly with respect to rights to accessible housing. Yet, this promise rings hollow given the lack of resources dedicated to the New York City Human Rights Commission (“The Commission”), the entity charged with enforcing the law.¹ The Commission has for years failed to exercise its power to initiate investigations and complaints regarding discrimination. The Commission’s current staff of 11 represents a 90% decline from its staffing of 152 employees in 1991, and its current budget of under \$6.5 million dollars represents a fraction of its initial budget of approximately \$10 million in 1992, particularly when adjusted for inflation. In the absence of dedicated staff and resources, the Commission cannot quickly and aggressively address disability discrimination in housing. Given that the majority of victims of discrimination do not have legal representation and must file complaints *pro se*, we must increase funding and resources to ensure that the Commission is a legitimate avenue for redress.

Finally, we support the Mayor’s Plan to “increase oversight of accessibility standards in the private market as well as in its regulated affordable housing stock...” (Mayor’s Plan, p. 84). Federal and local law – including Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and the New York City Building Code – contain various provisions requiring accessible design and construction, including for renovations and alterations. Yet, as evidenced by recent litigation by the United States Attorney’s office against a major real estate developer, new construction of rental apartment buildings in New York City routinely fails to comply with accessibility guidelines and regulations. We hope that the Mayor’s Plan proposal to increase oversight will mean real consequences for new construction and renovations that fail to comply with accessibility standards, including code enforcement by the New York City Department of Buildings. New York City cannot afford to miss opportunities to grow its supply of accessible, affordable housing.

Increased Supply of Accessible NYCHA Housing

We applaud the Mayor’s commitment to increasing the availability of affordable, accessible housing, but we are concerned that NYCHA’s responsibility to provide accessible housing has not been adequately addressed in this initial plan.

Over the years, NYLPI has received calls from individuals with disabilities who live in NYCHA housing and have waited many months – sometimes years – to be transferred to an accessible apartment. While federal guidance and a settlement resulting from the *Rivera*

¹ The concerns and recommendations for strengthening the New York City Human Rights Commission are outlined in a policy paper penned by the New York City Human Rights Working Group, of which NYLPI is a member. Please contact me to obtain a copy.

litigation mandate that 5% of NYCHA housing units be made accessible, this figure is arbitrary and untethered to the demands of the public housing population. As documented in a 2011 report by the Center for Independence of the Disabled New York, nearly 32% of individuals with disabilities in New York City are living below the poverty line.² Further, as noted in the Mayor’s Plan, nearly 20% of NYCHA residents are seniors, the vast majority of whom already have or will develop disabilities that require reasonable accommodations of some kind. This number will only go up as “the number of New Yorkers who are age 65 and older will increase by 40 percent to more than 1.4 million” by the year 2040.

We hope the Mayor’s Office and the City Council will take steps to match the supply of accessible NYCHA housing to the needs of the public housing population.

Oversight of Homeless Shelter Accessibility

The Mayor’s Plan identifies several key statistics to support the promotion of homeless, senior, supportive and accessible housing, including that “New York City’s shelter population has increased to an all-time high of more than 50,000 people” and that “approximately 850,000 people, or 10 percent of the City’s total population, are living with a disability.” Yet, the plan fails to connect the dots between the needs of these intersecting and overlapping populations.

Over the years, we have heard complaints from individuals with disabilities and advocates that New York City homeless shelters – in particular domestic violence shelters – have refused to provide accommodations or otherwise equally serve people with disabilities. Among other barriers, we have been told of individuals with mental illness being inappropriately screened out of shelter services, deaf individuals not being provided with sign language interpreters or other reasonable accommodations, and blind individuals being told they cannot keep their service animal. This can lead to the inappropriate discharge of individuals with disabilities from hospitals to nursing facilities. In other circumstances, people with disabilities may be forced to remain in abusive situations or end up living on the street.

The disproportionately high rate of domestic violence experienced by people with disabilities lends further incentive to ensuring that shelters are accessible.³ In addition, given the strong correlation between poverty and disability, we know that a significant number of individuals seeking or already housed in the homeless shelter system have disabilities and need accommodations of some kind. There must be increased oversight and accountability for shelter compliance with accessibility requirements.

Ongoing Support from NYLPI

Once again, we would like to thank the Committees on Housing and Buildings, Community Development, and Land Use for convening this critical oversight hearing on affordable housing in New York City. We appreciate the opportunity to provide this testimony on behalf of our clients with disabilities who seek – and deserve – equal treatment and access to

² “Disability Matters: Unequal Treatment and the Status of People with Disabilities in New York City and New York State,” Center for Independence of the Disabled, New York. Available at: <http://www.cidny.org/resources/News/Reports/Disability%20Matters.pdf>.

³ See, e.g., “Violence against people with disabilities: New developments and important implications,” Emily M. Lund, M.Ed. Available at: <http://www.apa.org/pi/disability/resources/publications/newsletter/2012/12/disabilities-violence.aspx>.

affordable housing in New York City. We hope the issues we have identified above will help inform the Committees' advocacy in the coming months. Please feel free to contact Kelly McAnnany at (212) 244-4664 or kmcannany@nylpi.org for further information or discussion.