



NEW YORK
CITY BAR

**STATEMENT TO MAYOR ADAMS AND NEW YORK CITY OFFICIALS OPPOSING
PROPOSED MODIFICATIONS TO THE RIGHT TO SHELTER DECREE**

The right to shelter for unhoused individuals and families is a bedrock right that has protected vulnerable members of our New York City community since 1981.¹ In May 2023, the City of New York notified the New York County Supreme Court that it wished to modify the *Callahan* consent decree. The effect of the modifications proposed by the City would be to make the provision of shelter to unhoused persons discretionary rather than a legal obligation. The Civil Rights Committee and the Social Welfare Committee of the New York City Bar Association strongly urge Mayor Adams and other New York City officials to stop their attempt to curtail or suspend the *Callahan* decree. While recognizing that the City’s attempt to modify the *Callahan* decree occurs at a time when the City is under pressure stemming from public attention focused on the arrival of immigrants into the City, we do not believe that modifying the consent decree will lessen such scrutiny, nor will it address the practical problem of unhoused persons needing shelter in the City. The right to shelter under the Constitution of the State of New York applies irrespective of national origin, and is essential to keeping *all* New Yorkers off the streets and safe.

While the City cites the high number of recently arrived migrants and the lack of resources as its impetus for challenging the right to shelter law, this belies the reality of the City’s homelessness crisis. Mass homelessness in New York City is neither a recent phenomenon nor the result of the recent influx of migrants. Numerous economic and social factors have contributed to the City’s growing shelter population of over 100,000,² including but not limited to the end of statewide eviction protections that were put in place during the Covid-19 crisis, the lack of affordable housing, voucher discrimination, skyrocketing rents, long shelter stays,³ failures to address domestic violence,⁴ surging eviction cases where tenants lack mandated counsel, and staffing shortages at agencies that assist those in shelters in finding permanent homes. While the

¹ The right to shelter was first established for homeless men in a consent judgment in *Callahan v. Carey* (Sup. Ct. N.Y. Cnty. 1981). It was subsequently extended to homeless women by *Eldredge v. Koch*, 118 Misc. 2d 163 (Sup. Ct. N.Y. Cnty. 1983), *rev’d in part on other grounds*, 98 A.D.2d 675 (1st Dep’t 1983) and to homeless families with children by *McCain v. Koch*, 117 A.D.2d 198 (1986).

² See “A Record 100,000 People in New York Homeless Shelters,” New York Times, June 28, 2023 (<https://www.nytimes.com/2023/06/28/nyregion/nyc-homeless-shelter-population.html>) (All websites last accessed on Aug. 17, 2023).

³ For the first four months of fiscal year 2023, the average length of stay in shelter was 802 days for adult families, 485 days for families with children, and 441 days for single adults. See Preliminary Mayor’s Management Report, February 2023 (<https://www.nyc.gov/assets/operations/downloads/pdf/pmmr2023/dhs.pdf>).

⁴ See “Housing Survivors: How New York City Can Increase Housing Stability for Domestic Violence Survivors,” New York City Comptroller (<https://comptroller.nyc.gov/reports/housing-survivors/>) (estimating that domestic violence incidents accounted for 40% of families entering DHS shelters).

About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has over 23,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.

recent arrival of immigrants is undoubtedly a factor, it is not the only driver of the City's homelessness crisis.

The City can reduce the shelter population by facilitating moves from shelter into stable housing; this will not only benefit individuals and families in shelters but will also save the City money.⁵ The City, however, has failed to use all the tools at its disposal to reduce the shelter population. In 2022, the number of households that received city-funded rent vouchers reached its lowest level in five years; the number of single adults placed into supportive housing was at its second-lowest level since 2004; and affordable housing, including set-aside units financed for homeless households, was at its lowest level in eight years.⁶ The City has also failed to fill over 2,000 vacant supportive housing apartments⁷ and has cut NYCHA funding used to fill vacant apartments, leaving over 6,500 units empty and unavailable for tenants.⁸ Additionally, in June 2023, Mayor Adams vetoed a package of four bills that sought to remove barriers that prevent New Yorkers from receiving housing vouchers and to smooth the transition from the shelter system to permanent housing.⁹ Rather than eliminating the right to shelter, we believe the Adams Administration should focus on reversing these trends and increase funding for affordable and subsidized housing.

While New York City's shelter system is overburdened, terminating the fundamental right to shelter will not quell the crisis – and may, in fact, worsen it. Without the right to shelter baseline, our neighbors will be relegated to the streets and risk exposure, arrest, and violence. We urge the Adams Administration to prioritize its responsibility to assist with the relocation of people from shelter to permanent housing rather than seek to diminish its legal obligation to provide life-saving shelter to homeless New Yorkers.

Civil Rights Committee
Molly Thomas-Jensen, Co-Chair

Social Welfare Law Committee
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August 2023

⁵ See “Every Family Housed: A Blueprint to End Family Homelessness for the Next Mayor,” p. 13, WIN NYC, May 13, 2021 (https://winnyc.org/wp-content/uploads/2021/05/Every_Family_Housed_Final-2.pdf).

⁶ See “Don't Erode NYC's right to shelter: The migrant crisis is no excuse to retreat on providing for the homeless,” New York Daily News, June 23, 2023 (<https://www.nydailynews.com/opinion/ny-oped-dont-erode-nycs-right-to-shelter-20230612-ocgekwwq4rg3jpksvsga4ovvei-story.html>).

⁷ See “Thousands of NYC apartments for homeless sit empty amidst migrant crisis,” New York Daily News, May 28, 2023 (<https://www.nydailynews.com/news/politics/new-york-elections-government/ny-thousands-nyc-supportive-housing-units-empty-migrant-crisis-20230528-docbsw5a6ffajbgeows6uv62pq-story.html>).

⁸ See “Vacant NYCHA Units Continue to Increase With Transfers Complicated by PACT,” City Limits, May 31, 2023 (<https://citylimits.org/2023/05/31/vacant-nycha-units-continue-to-increase-with-transfers-complicated-by-pact/>).

⁹ See “City Council Vows to Override Mayor Adams Veto of Housing Voucher Bills,” The City, June 23, 2023 (<https://www.thecity.nyc/housing/2023/6/23/23771600/city-council-override-adams-veto-housing-bills>). The Council did ultimately vote to override the veto, see “With Veto Override on Housing, City Council Deepens Conflict With Adams,” July 13, 2023 (<https://www.nytimes.com/2023/07/13/nyregion/housing-vouchers-ny-council-eric-adams.html>). The Mayor had opted previously to issue an executive order to eliminate a rule that required people to stay in shelters for 90 days before they could get vouchers.