

## **The Right to Shelter for Homeless New Yorkers: Twenty Years and Counting**

- 1979** *Callahan v. Carey* lawsuit is filed, arguing that a “right to shelter” for homeless men exists under the New York State Constitution. *Callahan* is filed as a class action lawsuit by Robert Hayes, a co-founder of Coalition for the Homeless. In December, the State Supreme Court orders the City and State to provide emergency shelter for all homeless men in New York City.
- 1981** *Callahan* is settled as a court consent decree, entered into by the City and State. The consent decree guarantees a right to shelter for all homeless men in New York City and establishes minimum health and safety standards for homeless shelters.
- 1982** *Eldredge v. Koch* is filed, a lawsuit arguing for a right to shelter and for equal shelter standards for homeless women in New York City. *Eldredge* is eventually included in the *Callahan* consent decree, and extends the right to shelter to homeless women.
- 1985** *Cosentino v. Perales* is filed, a lawsuit brought by the Legal Aid Society. In 1989, the Appellate Division (First Department) of the State Supreme Court mandates that children cannot be removed from parents and placed into foster care solely because of the family’s lack of housing. The *Cosentino* mandate results in the expansion of preventative services, including the foster care rent subsidy.
- 1986** In *McCain v. Koch*, a lawsuit filed by the Legal Aid Society on behalf of homeless families with children, the Appellate Division (First Department) of the State Supreme Court orders the City to provide emergency housing to homeless families with children, and prohibits the City from consigning homeless families to remain overnight in welfare offices. *McCain* extends the right to shelter to homeless families with children.
- 1988** *Mixon v. Grinker* is filed, a class action lawsuit brought by Coalition for the Homeless arguing that medically appropriate housing be provided for all HIV-positive homeless people in New York City. As a result of *Mixon*, homeless persons living with HIV and AIDS are provided with expanded housing services, including enhanced housing allowances and supportive housing.
- 1990** In *McCain*, a consent order requires (1) the City to phase out the use of noncompliant welfare hotels and overnight shelter beds; (2) the City annually to provide the necessary number of permanent housing units for homeless families with children so that the amount of permanent and emergency housing is sufficient to meet the temporary-housing needs of homeless families; and (3) the City to operate at least one 24-hour emergency intake center for homeless families.
- 1995** Governor George Pataki, at the request of Mayor Rudolph Giuliani, issues new State regulations forcing shelters to eject homeless families and individuals for a *minimum* of thirty days for (1) failure to comply with a service plan, (2) violations of shelter rules, (3)

failure to cooperate with an assessment, and (4) failure to comply with public assistance requirements. Under the *Callahan* consent decree, the Coalition for the Homeless is granted a stay on the implementation of the regulations for homeless single adults in New York City. In *McCain*, the Legal Aid Society seeks a similar stay while the court decides the constitutionality of the new regulations. However, the new State regulations take effect in all other New York State counties, resulting in many families and individuals being denied emergency shelter.

- 1996** Throughout the winter of 1995-1996, hundreds of homeless men sleep on the floors of a Manhattan intake shelter due to a shortage of shelter capacity. The Giuliani Administration refuses to provide additional shelter beds for homeless men. In February, acting on a motion by Coalition for the Homeless pursuant to the *Callahan* consent decree, the State Supreme Court orders the City to provide 200 additional decree-compliant shelter beds for homeless men.

In August, the Giuliani Administration introduces new “eligibility review” procedures for homeless families that result in the denial of shelter to hundreds of families. As a result of this unilateral policy, from City Fiscal Year 1995 to 1998 the number of annual family application denials rose from 365 to 14,041. Religious leaders, shelter providers, and advocacy groups, including Coalition for the Homeless, oppose the new measures, and the Legal Aid Society begins legal challenges.

- 1998** The Appellate Division (First Department) of the State Supreme Court affirms a ruling in *McCain* that allows the City to implement the 1995 State shelter termination regulations for homeless families. However, citing *Cosentino v. Perales*, the court’s decision prohibits the City from taking the children of ejected families into foster care placement based on the family’s lack of housing, which the City announced was its intention.

- 1999** In October, the *New York Times* reports that the Giuliani Administration plans to force all homeless shelter residents to perform workfare in exchange for shelter, a plan which would implement the 1995 regulations issued by the Pataki Administration. City court papers make it clear that the workfare mandate is only one of several new requirements that would be imposed on shelter residents, and that “sanctions” (i.e., ejection from shelters) for non-compliance with welfare and shelter rules may last as long as 180 days. According to the Administration, families and individuals who do not comply will be evicted from shelters, and children will be placed into foster care. The City announces plans to implement the new requirements by January 1, 2000. In order to move forward, the City must still seek clearance from the court to modify the *Callahan* consent decree. Coalition for the Homeless challenges the City’s motion to modify *Callahan*, and the court schedules oral arguments for January 2000.

In December, acting on a motion by the Legal Aid Society, two State Supreme Court judges in *McCain* and *Cosentino* issue temporary restraining orders barring the City from implementing the shelter termination and denial regulation and from seeking foster care placement for ejected families. Throughout December, shelter providers, advocacy groups, and social services organizations citywide voice their opposition to the Giuliani

Administration's plan, and a coalition of family shelter providers announces that its members have pledged not to eject homeless families from their shelters.

**2000** On February 18th State Supreme Court Justice Stanley Sklar issues a decision in *Callahan* prohibiting the City from implementing the 1995 State shelter termination and denial regulations. The decision declares the regulations “null and void” for homeless single adults in New York City. The strongly-worded decision affirms the importance of the *Callahan* decree in preventing the death and injury of homeless individuals. Moreover, it recognizes the dangers inherent in the Giuliani Administration's proposal to link the welfare system to the provision of emergency shelter for homeless New Yorkers, and to deny shelter to all homeless people who have a welfare sanction or case closing. As Justice Sklar writes about the City's plan, “bureaucratic error is as much a part of bureaucracy, as human error is a part of life.” Therefore, his decision continues, “the simple bureaucratic error which might send an individual out into the street, because he or she was unable to understand or cooperate with these requirements, might be the error which results in that individual's death by exposure, death by violence, or death by sheer neglect. The risk is simply too great to take.” Justice Sklar's decision concludes with this powerful statement: “If [the City and State] defendants sincerely want to create a system in which our homeless citizens can rejoin, and contribute to society, as is evident, they should do so by means which do not endanger those very persons. The court is confident that such a goal can be accomplished. This was, in fact, the goal of the Consent Decree, and still is.” The Giuliani Administration declares its intention to appeal the decision.

In March, the Appellate Division (First Department) of the State Supreme Court denies the City's appeal of the December injunction blocking the implementation of its plan to eject homeless families from shelters for violations of welfare and shelter rules, and to place the homeless children of ejected families into foster care placement. The decision blocks the City from implementing its plan for homeless families. The Giuliani Administration declares its intention to appeal the ruling but takes no action for nearly two years.

**2001** In December, only weeks before leaving office, Mayor Giuliani files a notice of appeal of the February 2000 decision in *Callahan* blocking implementation of the plan to deny and terminate shelter for homeless individuals. This action gives the incoming Bloomberg Administration less than nine months to decide whether or not to pursue the appeal.

**2002** On June 28th, the *New York Times* reports, “Mayor Michael R. Bloomberg will appeal a state court ruling that barred the Giuliani administration from ejecting homeless families from shelters and putting their children in foster care.... Linda I. Gibbs, Mr. Bloomberg's commissioner for homeless services, called the appeal ‘critical in achieving the kind of goals we want to achieve.’” That same day, the Department of Homeless services releases a new strategic plan that also declares Mayor Bloomberg's intention to move forward with a plan to eject some homeless families and individuals from shelters under the State shelter termination regulations. Although the Bloomberg plan apparently does not include linking shelter termination to welfare eligibility, it appears to continue with mandated compliance with shelter rules and social service plans as a condition for

receiving emergency shelter, and would also bar sanctioned families and individuals from shelter for a minimum of thirty days. Under the plan, sanctioned families could also have their children removed from their custody and placed into foster care. The Bloomberg Administration announces its plan despite opposition from shelter providers; the *New York Times* article quotes Fred Shack, president of the Tier II Coalition of family shelter providers, saying “The idea of discharging families to the streets we believe is unacceptable.” Coalition for the Homeless and the Legal Aid declare their intention to challenge the Bloomberg appeal, expected to be filed in the autumn.

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