

Preventing Eviction for New Yorkers Amid Covid-19

Policy Recommendations of the New York City Eviction Prevention Roundtable

JANUARY 2021



PROJECT
PARACHUTE

Contents

1	Executive Summary
2	Background on Eviction Prevention Roundtable
4	Covid-19 Threatens to Further Destabilize an Already-Burdened Housing Market
6	Evictions and Homelessness Have Devastating Impacts on Renters' Economic and Health Outcomes
7	Evictions Threaten the Viability of Building Owners and the City's Housing Stock and Tax Revenue
9	Challenges in Accessing Existing Resources
10	Recommendations of the Roundtable
13	Addendum I. Procedural Overview of FHEPS, CityFHEPS and One Shot Deals
15	Addendum II. Steps Being Taken to Address Unprecedented Housing Instability
17	Addendum III. New Initiatives to Address Housing Instability and Rental Arrears
19	Endnotes

Executive Summary

The New York City Eviction Prevention Roundtable is a collaborative effort by a broad set of stakeholders including affordable rental property owners and operators, advocates for lower-income tenants, legal service providers and social service providers. Roundtable participants sought to develop options for assisting lower-income tenants who are in arrears, including those receiving rent subsidies in the form of vouchers and those living in affordable units, to avoid eviction through interventions upstream of the legal eviction process. These reforms would help more tenants stay housed during and after the immediate crisis of Covid-19 and address the viability of building owners, while also confronting longstanding problems with the court-centered eviction process, particularly the cost, time, and trauma required to resolve non-payment cases.¹ Early intervention when there is risk of nonpayment is critical for the wellbeing of renters, the viability of building owners, and the long-term fiscal health of the City.

The Roundtable has created a set of recommendations to streamline and expand eligibility for the existing assistance programs Family Homelessness & Eviction Prevention Supplement (FHEPS), CityFHEPS and one-time rent payments known as One Shot Deals, to align them more closely with the cost of housing in New York, and to address growing economic need.

Specifically, we recommend the following changes:

- 1 Waive the requirement for a Housing Court proceeding or eviction filing for FHEPS and CityFHEPS (in community) eligibility, while targeting eligibility criteria to those most vulnerable to evictions.
- 2 Raise the rent ceiling for FHEPS and CityFHEPS to align with market conditions.
- 3 Ensure that the New York City Human Resources Administration's (HRA) decision to end the de facto eviction filing requirement for One Shot Deals is fully implemented by providing training and awareness to HRA workers on situations that are eligible for One Shots.
- 4 Clarify the eligibility criteria for One Shot Deals and allow landlords to initiate the process.
- 5 Waive the requirement to repay One Shot Deals and provide flexibility in its assessment of future ability to pay, at least for the duration of the pandemic.
- 6 Adopt explicit priorities for award of One Shot Deals.

Background on Eviction Prevention Roundtable

Project Parachute is a coalition of New York City property owners who have pledged to help the most vulnerable renters remain in their homes during and in the aftermath of the Coronavirus crisis and provide a vehicle for the real estate industry to contribute toward the economic viability of the City and its residents. Participating property owners are philanthropically supporting Enterprise Community Partners and nonprofit community-based service providers to support tenants in the wake of the Covid-19 crisis. More information can be found at www.projectparachute.nyc.

[Funds and Services for Tenants Experiencing Need \(FASTEN\)](#) is a program offered through Project Parachute to help vulnerable tenants stay in their homes in the wake of Covid-19. FASTEN connects individuals to services and financial resources, including rental arrears assistance.

While these direct services are vital to address rapidly growing rental arrears, they are insufficient without additional resources and policy changes to more systematically and permanently address housing instability. To this end, Enterprise Community Partners (Enterprise) convened the New York City Eviction Prevention Roundtable as a collaborative effort by affordable rental property owners and operators, advocates for lower-income tenants, legal service providers, and social service providers. Together, the participants sought to assist lower income tenants who are in arrears to avoid Housing Court and eviction in incidences of non-payment through interventions upstream of the legal eviction process.

It is critical to address rental arrears triggered by the Covid-19 crisis to avoid a wave of evictions that will likely occur when the eviction moratoria lift and supplemental unemployment insurance payments end. This is also an opportunity to address longstanding problems with the court-centered eviction process, particularly the cost, time, and trauma required to resolve non-payment cases, while addressing the needs of both tenants and landlords.

Roundtable participants include:

- Pablo Estupiñan, Deputy Director, Community Action for Safe Apartments (CASA)
- Hon. Fern Fisher, Special Assistant for Social Justice Initiatives to the Dean of the Maurice A. Deane School of Law, Hofstra University
- Basha Gerhards, Vice President of Policy and Planning, Real Estate Board of New York
- Judith Goldiner, Attorney in Charge, Civil Law Reform Unit, The Legal Aid Society
- Julia McNally, Housing Director, The Legal Aid Society
- Jenny Laurie, Executive Director, Housing Court Answers
- Jolie Milstein, President and CEO, New York State Association for Affordable Housing (NYSFAH)

- Patrick Boyle, Director of Policy, NYSFAFH
- Ron Moelis, Founding Partner and CEO, L&M Development Partners
- Michelle Mulcahy, Director, Enterprise Community Partners
- Elizabeth Ginsburg, Program Director, Enterprise Community Partners
- Michael Collins, Senior Program Officer, Enterprise Community Partners
- Jonathan Eber, Policy & Communications Intern, Enterprise Community Partners
- Shali Sharma, Department Director, Homebase and Home to Stay Programs, BronxWorks
- Catherine Trapani, Executive Director, Homeless Services United
- Adam Weinstein, President and CEO, Phipps Houses
- Nisha Mistry, Director of External Affairs, LISC NYC
- Eva Alligood, Deputy Director, LISC NYC
- Samantha Adler, Program Manager, New York Peace Institute
- Nick Schmidt, Program Manager, New York Peace Institute
- Jason Boroff Esq, Jason Boroff & Associates, PLLC
- Jocelyn Morales, Bronx resident with first-hand experience with the eviction process
- Jessie Yager, Vice President of Policy and Planning, WIN

The Roundtable met virtually for four two-hour sessions in July and August 2020 and subsequently in smaller working groups to identify and further refine our recommendations. Following a discussion of the scale of current challenges, these recommendations are outlined below, and are followed by an overview of existing and new initiatives to address rent instability.

Covid-19 Threatens to Further Destabilize an Already-Burdened Housing Market

The health and economic impact of Covid-19 ravaged New York City in the spring and summer of 2020 and a second wave hit the City in late fall 2020. This crisis has undoubtedly affected every New Yorker, but has disproportionately impacted low-income communities and communities of color. It has been twice as deadly for Black and Latinx people.² Lower-income residents are at particular risk of pandemic-related job loss^{3,4} and are also more likely to be undocumented, and ineligible for many government resources.

Prior to the Covid-19 pandemic, New York City already faced a crisis of housing affordability and homelessness, with an average of 59,509 individuals staying in NYC Department of Homeless Services (DHS) shelters each night in 2019, and over 24% of renter households paying at least 50% of their income towards rent in 2019, according to that year's American Community Survey (ACS) data. The pandemic has intensified housing insecurity to an unprecedented degree. An estimated 526,200 renter households in New York City had at least one household member who filed an unemployment insurance claim between March and June of 2020 alone,⁵ and by November 2020, there were 545,000 fewer private sector jobs in New York City than in November 2019.⁶ The City's unemployment rate remained at above 12% as of the end of November 2020, a rise of 8.5% when compared to November of 2019. Based on results from the recent U.S. Census' Pulse Survey, nearly 18% of renter households in New York State indicated they were not caught up on rent as of December 7, 2020.⁷ The Pulse survey has also found consistent racial disparities in New York State households that fell behind on rent, with an estimated 12% of white households not caught up on rent payments in November, compared with 23% of Latinx households, and 27% of Black households.⁸

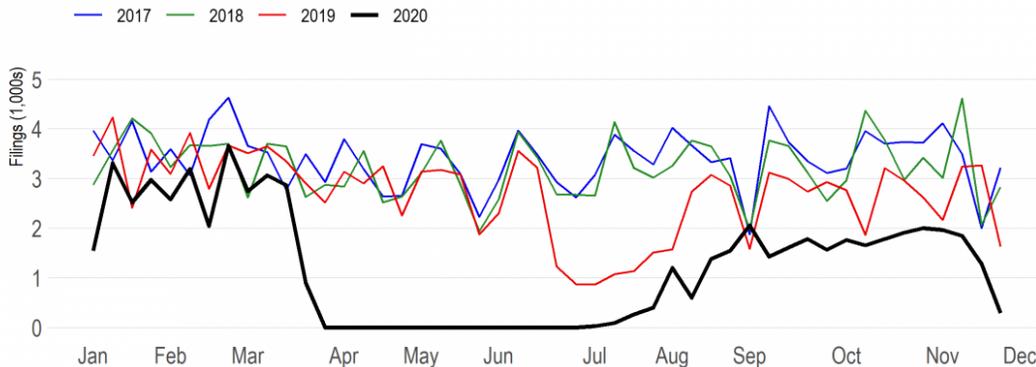
As the economic crisis continues, renters in New York City are estimated to owe roughly \$1 billion.⁹ Even with newly appropriated federal funds for rent relief, which will provide \$1.3 billion in rental assistance funds to New York State,¹⁰ the growing need is outpacing current resources. When the moratoria are lifted, over 14,500 New Yorkers¹¹ with pending eviction warrants will be at risk of being removed from their homes, and at least 228,490 more cases will be allowed to proceed through the court system, including 200,000 cases filed before March 17 and at least 28,490 private residential eviction cases filed between June 22nd and November 29th.¹²

Without additional intervention, this eviction crisis will force households to double up and flood New York City's shelter system, putting further strain on the City's resources, threatening the viability of building owners, and putting thousands of New Yorkers through the trauma of housing court, eviction, and homelessness, as well as at greater risk of the associated health impacts.

This body of recommendations acknowledges that a central tenet of any approach to avoiding eviction must be to get resources and support to more tenants in need and to provide these resources sooner. While it requires upfront investment, we know that these upstream preventative methods are more cost effective than last resort emergency measures such as shelter.^{13 14}

Total Private Eviction Filings

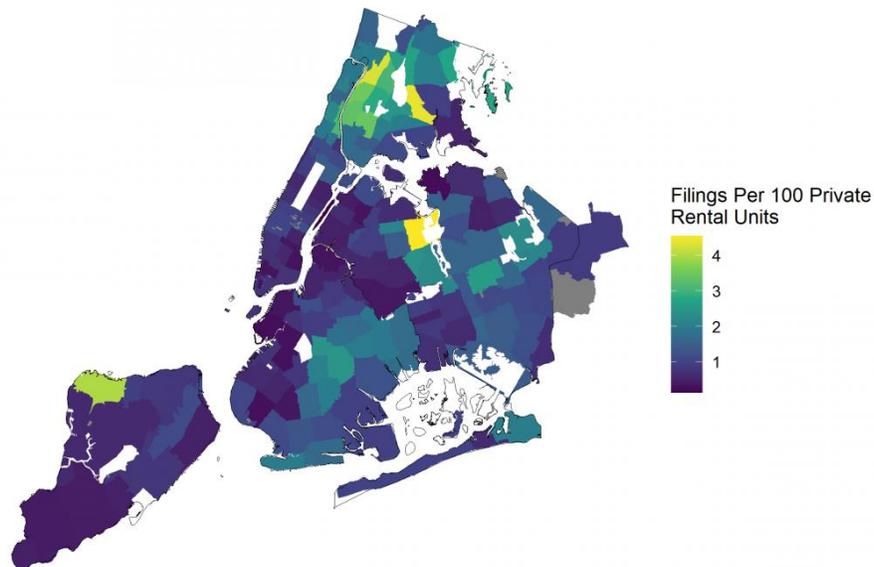
Weekly Totals for New York City, 2017 – 2020



“Weeks” are defined as ISO weeks to account for annual differences. The dip in the summer of 2019 corresponds with the passage of rent reform. Sources: New York State Office of Court Administration’s Universal Case Management System via Housing Data Coalition, [NYU Furman Center](#)

Total Private Eviction Filings

New York City ZIP Codes, June 20 – November 29, 2020



Sources: New York State Office of Court Administration’s Universal Case Management System via Housing Data Coalition, [NYU Furman Center](#)

Evictions and Homelessness Have Devastating Impacts on Renters' Economic and Health Outcomes

Housing instability causes intergenerational trauma. Eviction is deeply destabilizing, increasing the chance of a family entering the shelter system, and it is especially traumatic for young children whose schooling and overall development suffer. 62% of children in shelters are chronically absent from school.¹⁵ One of the predictors of homelessness as an adult is the incidence of homelessness as a child, with roughly 20% of adults who are now in DHS shelters having experience in the shelter system as children.¹⁶ Preventing eviction and homelessness for children is key to breaking the cycle of poverty and instability.

Research has shown that evictions are also linked to increased stress, depression and negative mental health outcomes for both parents and children.¹⁷ On top of the trauma and mental health impact of evictions, housing instability leads to a range of negative physical health impacts and increases the likelihood of emergency room visits.¹⁸ While these health risks are always present, as we continue to battle Covid-19, housing is more essential than ever to health. As New York State works to flatten the curve, preventing homelessness, overcrowding, and housing instability must be central to that effort. In a paper published in November 2020, researchers from UCLA asserted that evictions and the lifting of local moratoria between March and September had led to 433,700 excess Covid-19 cases, and 10,700 additional deaths, nationwide, accounting for stay-at-home orders, mask mandates, school closures and other local prevention measures.¹⁹

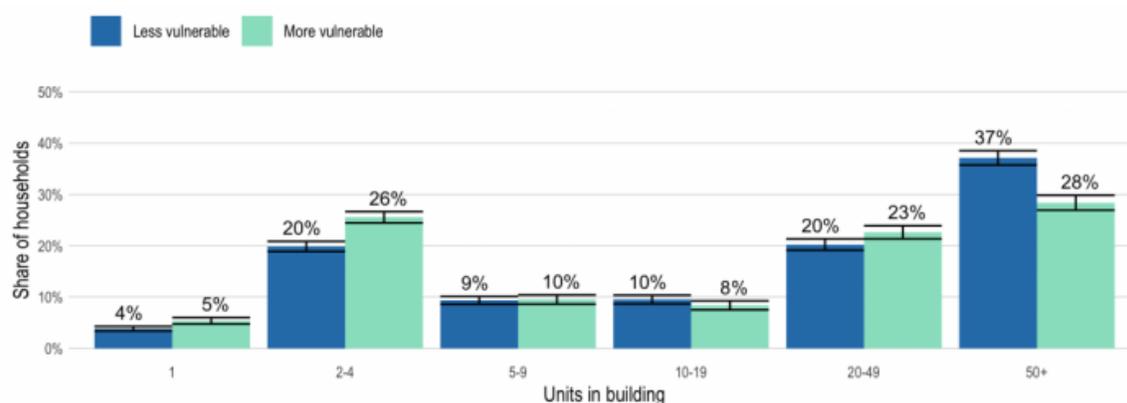
Evictions Threaten the Viability of Building Owners and the City’s Housing Stock and Tax Revenue

The inability of tenants to afford their rent has far-reaching consequences that impact not only renters but also property owners, the city’s affordable and rent-stabilized housing stock, and vital city services. Declining rental payments make it harder for property owners to cover the costs of utilities and maintenance and other financial obligations, including property taxes. The National Multifamily Housing Council’s Rent Payment Tracker found that out of 11.5 million apartment units nationwide, 24.6% of households did not make a full or partial rent payment for December by December 6, a 7.8% decrease from December 6, 2019, and a 5% increase compared to November 6, 2020, mostly attributed to the expiration of additional payments from the federal government.²⁰

Local collection rates are consistent with these trends. The New York City Independent Budget Office decreased their property tax revenue projection by \$137 million from their initial February 2020 report due to the impact of Covid-19 on property owners’ ability to pay property taxes as a result of decreased rent collections and subsequent delinquencies.²¹ The Community Housing Improvement Program, a trade association made up of 4,000 owners of 400,000 rent-stabilized units across New York City, found a non-payment percentage of roughly 25% in April, prior to federal benefits, which dropped to 17.5% in November, but then rose again to nearly 21% in December. Collections are significantly down compared to 2019, which fluctuated between 5-10% depending on neighborhood and housing stock.

Distribution of Renter Households Across Building Sizes, by Economic Vulnerability

New York City, 2018



Only renter households with at least one employed member are included. Households are considered more vulnerable if at least one member works in a vulnerable occupation and households without any members in such occupations are considered less vulnerable. Error bars represent 90% confidence intervals and value labels reflect point estimates. Sources: American Community Survey (2018), IPUMS USA, [NYU Furman Center](#)

Moreover, tenants that are most vulnerable to economic impact in this crisis disproportionately live in small buildings of one to four units.²² Owners of smaller buildings tend to lack sufficient capital on hand or access to credit to be able to maintain viability if rents go unpaid.²³ Owners of small buildings are more likely to be older and retired, without an additional source of income compared to residential property owners as a whole, and are also more likely than owners of larger buildings to be Black and Latinx.²⁴ As arrears go unpaid, this building stock is at an elevated risk of deterioration, and the economic impact to these owners could be devastating.²⁵

Challenges in Accessing Existing Resources

There are two types of eviction proceedings in New York City: non-payment cases, in which the landlord sues for rent arrears, and holdover cases, in which the landlord seeks to end a tenancy based on an act or omission of the tenant or because the lease has ended or where there was never a landlord-tenant relationship. For property owners looking to secure arrears, there are incentives to file non-payment cases rather than to resolve the arrears out of court. State and local rental assistance such as FHEPS and CityFHEPS require eviction proceedings as an eligibility criterion. One Shot Deals, a one-time emergency rental assistance grant, do not technically require a case in housing court, but applicants and landlords often experience delays or denials without an eviction filing to the extent that a filing is commonly considered a de facto requirement.

Prosecuting an eviction proceeding requires the petitioner to file a predicate notice, wait a designated period of time, serve and file court papers, go through a lengthy and expensive court process, secure a judgment, and ultimately obtain an eviction warrant and execute an eviction. This process is time consuming, and even proceedings that do not result in eviction warrants are traumatic and destabilizing to tenants as well as highly costly in terms of both the public and private expenses to the litigants and the court system.

Recommendations of the Roundtable

While the local, state, and federal responses to Covid-19—including eviction moratoria, new initiatives to address housing stability, and existing rental assistance programs, as outlined below—are all necessary, they are not sufficient given the unprecedented and long-term demand for non-payment assistance that the Covid-19 pandemic has brought. In the absence of adequate federal resources to address this demand, it is critical that New York City and State leverage all of its local resources to better address the current crisis.

The members of the New York City Eviction Prevention Roundtable have developed a set of recommendations to expand and clarify eligibility for existing rental assistance programs, make them available further upstream, align them more closely with the realities of New York City's housing market, address growing tenant arrears, and make stable affordable housing accessible to more New Yorkers, as emergency measures in the wake of Covid-19.

- 1 Waive the requirement for Housing Court proceeding or eviction filing for FHEPS and CityFHEPS (in community) eligibility, while adding eligibility for members of vulnerable populations.** Instead of requiring an eviction proceeding, require that the applicant show risk of eviction as evidenced by a rent demand letter, bills, other materials from the landlord that show monthly rent breakdown and rent owed, a signed affidavit, or a mediated agreement between tenant and landlord initiated in lieu of eviction proceedings. While removing the eviction requirement opens up the potential for many new cases, limiting FHEPS and CityFHEPS eligibility to those at risk of eviction and members of vulnerable populations will limit new applications.
 - For FHEPS, expand eligibility to include adults with disabilities, seniors, those aging out of foster care, runaway and homeless youth, hospital discharges and those discharged from incarceration who otherwise would go to shelter and those who have lived 15 years or more in their current residence and face eviction.
 - For CityFHEPS (in community) include adults with disabilities, seniors, domestic violence survivors, hospital discharges, those discharged from incarceration who otherwise would go to shelter and those who have lived 15 years or more in their current residence and face eviction. Also eliminate the requirement for an Adult Protective Services (APS) case or guardianship referral.
 - Fully implement CityFHEPS in community eligibility for youth aging out of foster care and runaway and homeless youth, by having the Administration for Children's Services (ACS) and the Department of Youth and Community Development (DYCD) draft clear referral procedures and have HRA approve them.

In addition to the expanded eligibility above, we believe that broader public assistance eligibility should be expanded to include undocumented people so that they can access One Shot Deals, FHEPS and CityFHEPS.

- 2 Raise the rent ceiling for FHEPS and CityFHEPS. FHEPS should be raised to Section 8 payment standards and inspection standards, and CityFHEPS should be raised to Fair Market Rent, as determined by the US Department of Housing and Urban Development (HUD), mirroring existing city legislation, while also encouraging high-quality housing for all New Yorkers through investment in inspection infrastructure and better administrative coordination.** A major underlying problem with both programs is that subsidy amounts are simply too low to meet many rent levels. There are currently no neighborhoods in New York City where median rent for a two-bedroom apartment is affordable with the existing voucher. Raising rent ceilings for these vouchers would improve fair housing outcomes, providing increased geographic mobility for voucher holders.
- 3 HRA should fully implement its decision to end the de facto eviction filing requirement for One Shot Deals (OSDs) by providing training and awareness for property owners, and guidance to HRA staff on cases that are eligible for One Shot Deals.** We commend HRA for making tenants eligible for OSDs without an eviction filing, but we must ensure that this is widely known so tenants and landlords can take advantage of One Shot Deals before a destabilizing eviction filing. Roundtable participants welcome the opportunity to help make housing providers aware of this change. We also recommend enabling landlords to initiate the process for accessing a One Shot Deal, as landlords already have many items needed to verify eligibility, including a rent ledger showing a breakdown of rent owed.
- 4 HRA should clarify the eligibility criteria for One Shot Deals and ensure expenses and income are considered holistically. We recommend the following clarifications and additions to HRA's program guidance:**

 - Eligibility should be determined using an affidavit of need to reduce barriers to access this program.
 - Clarify language around considering any special at-risk factors, such as disability and add more explicit examples, such as medical status, to ensure that OSDs are available as entitlement.
 - Factor in living expenses before rent payment to consider a household's budget holistically when developing a viable future plan to pay rent going forward, as people should not have to become essentially indigent to qualify for help, especially amid the current crisis.
- 5 The State should waive the requirement to repay One Shot Deals and provide flexibility on the future ability to pay assessment, at least for the duration of the Covid-19 emergency, by including people with strong future job prospects and parties who have reached a mediated agreement attesting to the viability of future ability to pay.** Amid the pandemic, thousands of tenants who already had little cushion have lost jobs and wages, and the struggle to find employment continues. It is not feasible to expect these individuals

to pay both future and past rent. This change would have limited fiscal impact on the City as many One Shot Deals are already not repaid.

- 6 HRA should adopt explicit priorities for awarding One Shot Deals to promote bias-free outcomes that are commensurate with the economic pressures facing applicants, and designate a single point of contact or window within the agency to expedite applications for applicants who are not in eviction proceedings.** This set of priorities and expedited process could incentivize landlords to come to the table so arrears can be resolved before an eviction filing. One Shot Deal applications should prioritize:

- Those with pre-pandemic eviction judgments;
- Those who are receiving some income, and can pay rent going forward;
- Those who don't have income now, but have a good prospect of getting back to work soon. These deals could function like an Enhanced One Shot Deal, with money to pay for arrears and assurance of a second payment within 12 months if needed;
- Landlords would also agree not to bring eviction proceedings for non-payment or an end of lease holdover during this period;
- Tenants and landlords with a mediated agreement to pay back arrears, which demonstrates a willingness to continue a stable housing arrangement.

It is important to note that there is a significant lack of data transparency within existing rental assistance programs and few accountability measures in place to track fund expenditures over time. As such, in addition to these policy recommendations regarding the programs themselves, we also urge the City and State to make more data around these programs available so that we know more about who is being served by the programs, at what cost and other information, which would inform cost and impact projections of these recommendations.

Addendums

I. Procedural Overview of FHEPS, CityFHEPS and One Shot Deals

FHEPS (Family Homelessness Eviction Prevention Supplement) Part A

- 1 FHEPS Part A is for families who receive cash assistance and have a minor child in the home, and who have been evicted in the past 12 months or face eviction. It can be used to remain in a household's current housing and pay arrears, to move within New York City or to move out of shelter.
 - a Tenants who are currently in housing court and seek FHEPS to stay in their current housing will work with a legal services provider who submits a FHEPS application to HRA.
 - b For households already in shelter who are eligible, HRA should issue a shopping letter after 90 days.
- 2 HRA reviews applications for eligibility. For a full list of eligibility requirements [click here](#).
- 3 If eligible:
 - a and a tenant wants to remain in current housing, HRA will ensure that unit meets FHEPS requirements, and often send checks directly to property owners.
 - b and a tenant wants to move into new housing, HRA sends tenant 'shopping letter' to indicate their eligibility to property owners. Once a unit is identified, housing specialist or caseworker prepares housing packet for HRA, and a lease signing is scheduled.
- 4 The subsidy can last up to five years or more if a tenant qualifies for an extension. The subsidy is added to the regular shelter allowance and checks are sent in bimonthly installments to the property owner.

FHEPS Part B

- 1 FHEPS Part B is available to families that include a survivor of domestic violence who are either:
 - a in HRA shelter, or
 - b has been certified as eligible for HRA shelter by either HRA's No Violence Again (NoVA) program or a Family Justice Center.

This program can be accessed from shelters in the same way as described above. Applicants living in the community must be referred by a Family Justice Center who completes the application on behalf of the survivor and forwards the package directly to HRA.

One Shot Deals

- 1 Tenant must submit a full application for cash assistance to HRA seeking rent arrears. HRA requires identity and income documents from the household as well as documents of the tenancy, including a lease or agreement to stay for at least one year. During the pandemic, this process is mostly done online via the ACCESS HRA application or at 7 open welfare centers. Paper applications can be mailed to HRA or dropped off. An interview must be done with HRA over the phone to complete the application.
- 2 HRA should process applications with just a rent breakdown, a rent breakdown and a rent demand, or with a rent breakdown and stipulation. No judgment is needed. Anecdotally, HRA is more likely to prioritize applications with a court proceeding.
- 3 If arrears are too high, HRA will sometimes require the applicant to lower arrears through other methods, including through the Homebase program or charitable contributions.
- 4 During the pandemic, checks are generally sent directly to the landlord when the arrears are approved.
- 5 A large portion of each month of arrears is a loan and must be repaid to HRA. HRA will send the tenant a letter with a repayment agreement and the tenant can seek a smaller monthly payment over a longer amount of time.

CityFHEPS

- 1 CityFHEPS can be used to remain in a home and pay arrears, to move within New York City or to move out of shelter.
 - a Households in the community have their applications processed and request for a “shopping letter” issued by Homebase providers or Adult Protective Services, who work with the household to gather required documentation of income, rent ledgers etc. Legal services providers may help gather some of the required paperwork, including a lease and taxpayer identification of the property owner. Homebase or APS will seek additional signatures after the apartment has passed inspection.
 - b Households who want to move out of shelter may have housing specialist submit an application via the DHS HOME system, which is then processed by HRA, which should issue a ‘shopping letter’ after 90 days in shelter if all other eligibility criteria are approved.
- 2 HRA reviews applications for eligibility. For a complete list of eligibility criteria for households in community, [click here](#). For a complete list of eligibility criteria for households in shelter, [click here](#).
- 3 If eligible and:
 - a a tenant wants to remain in current housing, HRA will ensure that the unit meets CityFHEPS requirements.
 - b a tenant wants to move into new housing, HRA sends tenant a ‘shopping letter’ to indicate eligible to property owners. HRA also sends other materials indicating how

much rent their voucher will cover. Once the unit is identified, HRA ensures that the unit meets CityFHEPS requirements. If the unit meets these requirements, Homebase prepares a housing packet, and schedules lease signing.

- 4 CityFHEPS eligibility allows for up to four annual renewals. Seniors over 65 may remain on the program for over 5 years, as can others on a case-by-case basis. For households in the community, the subsidy is paid in bimonthly installments, and the tenant must pay 30% of their gross income or their shelter allowance each month. For households moving out of shelter, landlords have the option to receive several months of rent up front. During the second and subsequent years of the program, the household income must be at or below 250% of the Federal Poverty Line.

II. Steps Being Taken to Address Unprecedented Housing Instability*

**As of January 2021; please note that rules are changing frequently so this information may be out of date.*

Eviction Moratoria

In this crisis, New York has relied on stay-at-home orders to limit spread of the coronavirus, which underscores the importance of stable, uncrowded housing to stay safe. Eviction moratoria have been vital to keeping people safely housed despite unprecedented economic vulnerabilities. The two most notable local pieces of legislation to protect tenants amid Covid-19 are:

- **The Emergency Eviction and Foreclosure Prevention Act**, signed into law in December 2020, imposes a 60-day stay of all residential evictions, until February 26, and a further stay to May 1, 2021 for some tenants impacted by Covid-19. However, the Act does not address rental arrears and, in so doing, defers rather than resolves the housing instability and economic disparity caused by the pandemic.
- **The Tenant Safe Harbor Act**, signed into law in July 2020, allows tenants to use Covid-19 related hardship as an affirmative defense in eviction proceedings. A tenant alleges hardship, which creates a “rebuttable presumption” that a landlord must counter in order to evict a tenant for arrears that accrued during the Covid-19 emergency period, with an indefinite end date.²⁶ This law does not prevent courts from issuing a monetary judgment against tenants. Monetary judgments can negatively affect tenants in other ways as well, including garnished wages, negative changes to credit score and appearing in private background checks. Additionally, the Tenant Safe Harbor Act does not protect the 14,000 tenants with outstanding eviction warrants prior to March, 17th 2020, who are solely protected by the Emergency Eviction and Foreclosure Prevention Act.

Eviction moratoria have been critical to keeping renters in their homes during the pandemic but they are far from a comprehensive or permanent solution. In addition to being confusing for both

tenants and property owners, they do not address arrears, a critical component of keeping people housed long-term. As arrears continue to build up, the City's affordable housing stock is at risk of deterioration.

Existing Rental Assistance Programs

New York City and State have some of the most robust and comprehensive rental assistance programs in the nation. While these programs have been critical in promoting housing security for New Yorkers both before and during the Covid-19 pandemic, each program is somewhat limited in its effectiveness and reach by its eligibility requirements and point of intervention relatively late in the eviction process. Below is a brief overview of these programs, including existing eligibility factors and funding sources.

- **Emergency Rental Assistance Grants, commonly known as "One Shot Deals":** One Shot Deals are an emergency assistance program administered by the New York City Human Resource Administration (HRA) that provides one-time payments to people who can't meet an expense due to an unexpected situation or event. While the program can be used for a variety of needs, one of the most common is for rental assistance to address arrears to prevent an eviction.²⁷ Eligibility criteria for the program is not fully delineated, allowing HRA to evaluate applications on a case-by-case basis, but applicants are required to submit a rent ledger showing rent owed, and approval is contingent on future ability to pay and a source of income other than public assistance, as paying back the grant is usually required.²⁸ While this protocol allows the subsidy to be flexible in individual situations, it also means that applicants in crisis may be rejected without clear reason and some of the requirements may be a deterrent for those who would otherwise apply. While a pending eviction case is explicitly not a requirement for One Shot Deals, they often function as a de facto requirement as case workers prioritize applicants with a pending case. One Shot Deals are typically required to be repaid, and applicants must prove their ability to repay assistance, which is particularly limiting amid the current crisis. One Shot Deals are funded through the City's general fund but also through the State's Safety Net Assistance (SNA), Emergency Safety Net Assistance (ESNA), Emergency Assistance to Families (EAF) and Emergency Assistance to Adults (EAA) as well as Federal TANF funds.
- **The Family Homelessness & Eviction Prevention Supplement (FHEPS):** FHEPS is a State program administered by the New York City Human Resources Administration (HRA) in New York City. FHEPS provides a monthly rent supplement for families with children who receive cash assistance and are currently facing an eviction proceeding or have been evicted in the past 12 months. It can be used to pay for existing housing or to find new housing. Families with children who are on public assistance who are fleeing domestic violence are also eligible for the program. FHEPS payment amounts are determined by household size. For a family of four, FHEPS can cover \$1,557 in rent.²⁹ The voucher's rent

caps are extremely low when compared to New York City's cost of living. There are currently no neighborhoods in New York City where median rent for a two-bedroom apartment is affordable with the existing voucher.³⁰ FHEPS is funded partially by the city's general fund, but also by State safety net and administrative funding, federal TANF funding and others.

- **CityFHEPS:** CityFHEPS is a City program administered by the New York City Human Resources Administration (HRA) and funded entirely by New York City.³¹ CityFHEPS eligibility includes individuals staying in HRA/DHS shelters for 90 days, individuals living on the street in contact with case management services for 90 days, or individuals evicted in the past 12 months or currently facing eviction and previously in shelter all being eligible for the program. Applicants in this latter category are referred to as clients "at risk of entering shelter" or "in community." Applicants must make less than 200% of the Federal Poverty Level, or less than \$25,520 for an individual. FHEPS has rent caps that are essentially the same as the rent caps for FHEPS, with a family of four able to receive a subsidy amount of \$1,580 per month, too low to afford the median rent for a two-bedroom in any New York City neighborhood. New CityFHEPS vouchers are funded by the City's general fund, though existing CityFHEPS vouchers include local funding, State safety net and administrative funding, federal TANF funding, and others.

III. New Initiatives to Address Housing Instability and Rental Arrears

While critical, existing rental assistance programs were not established to meet the massive and long-term demand that we now face amid the Covid-19 pandemic. We need further solutions for this unique and unprecedented crisis. In addition to these resources, several new initiatives have been established in recent months:

- **Federal Stimulus:** In late March, Congress passed the **Coronavirus Aid, Relief and Economic Security (CARES) Act**, providing \$2 trillion in federal aid to individuals, businesses and state and local governments. New York City can expect to see \$5.3 billion from the CARES act over the next two years, with funds for transportation, health and some funds for housing. While the package includes aid from federal housing programs like the Community Development Block Grant (CDBG),³² it is unclear exactly how the City and State plan to spend these flexible funds. So far, the Covid-19 Rent Relief Program (see below) is the only new rental assistance program to emerge from CARES act funding. A new Covid relief package was negotiated in December of 2020, with an additional \$25 billion in emergency rental assistance through the Coronavirus Relief Fund, with roughly \$1.3 billion going to New York State.

- **Covid-19 Rent Relief Program (RPP):** \$100 million program by the New York State Legislature using federal CARES Act funds to provide eligible households with a one-time rental subsidy that will be sent directly to the household's landlord. Applicants will not need to repay this assistance. HCR will prioritize eligible households with "greatest economic and social need" accounting for income, rent burden, percent of income lost and risk of homelessness. This program has significant limitations, including the fact that applications were only open for two weeks, it only provides assistance up to the household's previous rent burden, and its application had limited accessibility to those whose first language is not English and those who do not have access to technology. Additionally, assistance was only provided for the four months of April through July 2020.³³ As of November 2020, only 40% of the program's allocated \$100 million had been spent because not enough people met the narrow requirements of the program.³⁴ On December 3, Governor Cuomo announced by executive order that he was reopening the application window through February 1st, with HCR re-evaluating all applications that were previously denied according to new criteria.³⁵
- **Funds and Services for Tenants Experiencing Need (FASTEN):** As described in the introduction, FASTEN is a program offered through Project Parachute to help vulnerable New York City tenants stay in their homes in the wake of the Covid-19 crisis. FASTEN connects renters facing housing instability to services and financial resources, including rental arrears assistance. Eligible households have income that is not more than 50% area median income (AMI), are experiencing housing instability, such as inability to pay rent fully, and have experienced negative pandemic-related financial impacts, such as loss of income or an increase in expenses. Rental arrears assistance is available specifically for New Yorkers who are ineligible for existing rental arrears grants due to immigration status or nonstandard employment.
- **NYC Landlord Tenant Mediation Project:** The City-Wide Landlord-Tenant Mediation Project, also known as the Tenant-Landlord Covid-19 Mediation Program, is managed by Community Dispute Resolution Centers (CDRCs) in coordination with Department of Housing Preservation and Development, the Mayor's Office to Protect Tenants, and the Mayor's Public Engagement Unit, with support from the Human Resource Administration's Office of Civil Justice. Eligible tenants are referred to CDRCs in each borough, and each CDRC manages case intake, provide mediation sessions, and monitor case follow up for tenants. Any tenant or landlord, experiencing housing issues as a result of Covid-19 are welcome to reach out to their local CDRC and inquire about services. While an inability to pay rent and communication issues between landlords and tenants are common reasons to enter the program, almost any issue between landlords and tenants can be mediated. Even without entering into mediation, local CDRCs can provide tenants and landlords with references and other resources. More information about evictions and mediation [here](#).

Endnotes

- 1 Roundtable participants recognize that not all eviction cases focus on non-payment, and that there are legitimate reasons for some eviction cases to proceed. Their shared view is that there are many non-payment cases that could be resolved through an expedited and effectively supported process of communication, counseling, mobilization of public and private resources, and negotiation, to resolve the immediate arrears and ensure ongoing rent sustainability.
- 2 <https://www.nytimes.com/2020/04/08/nyregion/coronavirus-race-deaths.html>
- 3 <https://furmancenter.org/thestoop/entry/what-are-the-housing-costs-of-households-most-vulnerable-to-job-layoffs-an> and <https://www.cssny.org/news/entry/race-and-the-economic-fallout-from-covid-19-in-new-york-city>
- 4 <https://www.ny1noticias.com/nyc/noticias/noticias/2020/04/22/abogados-aseguran-que-inquilinos-tienen-derechos--que-no-los-pueden-desalojar-sin-antes-iniciar-un-caso-en-la-corte>
- 5 <https://furmancenter.org/thestoop/entry/understanding-the-potential-magnitude-of-rent-shortfalls-in-new-york-state>
- 6 <https://www.labor.ny.gov/stats/nyc/>
- 7 <https://www.census.gov/programs-surveys/household-pulse-survey/data.html>
- 8 <https://www.census.gov/data/tables/2020/demo/hhp/hhp20.html>
- 9 https://www.wsj.com/articles/new-york-city-renters-owe-more-than-1-billion-in-unpaid-rent-survey-finds-11610622000?mod=searchresults_pos1&page=1
- 10 <https://therealdeal.com/2020/12/21/new-york-could-get-1-3b-for-rent-relief-in-stimulus-package/>
- 11 <https://ny.curbed.com/2020/8/19/21368734/new-york-city-eviction-crisis-rent-tenants-greatest-risk>
- 12 <https://furmancenter.org/thestoop/entry/data-update-eviction-filings-in-new-york-city-as-some-renter-protections-ex>
- 13 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4679128/>
- 14 <https://www.economist.com/united-states/2015/06/04/nipped-in-the-bud>
- 15 <https://fhcnyc.org/the-facts/>
- 16 <https://fhcnyc.org/the-facts/>
- 17 https://scholar.harvard.edu/files/mdesmond/files/desmondkimbro.evictions.fallout.sf2015_2.pdf
- 18 https://robcollinson.github.io/RobWebsite/jmp_rcollinson.pdf
- 19 https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3739576
- 20 <https://www.nmhc.org/research-insight/nmhc-rent-payment-tracker/>
- 21 <https://ibo.nyc.ny.us/iboreports/tumbling-tax-revenues-shrinking-reserves-growing-budget-gaps-new-york-city-faces-substantial-fiscal-challenges-in-the-weeks-and-months-ahead-may-2020.pdf>

