

DEPARTMENT OF HOMELESS SERVICES

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NOTICE OF INTENTION  
TO AMEND TITLE 31 OF THE RULES OF THE CITY OF NEW YORK

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**NOTICE OF PUBLIC HEARING**

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**Subject:** Opportunity to comment on the proposed amendment to the Department of Homeless Services

**Date/Time:** Monday, March 18, 2013, 1:30PM

**Location:** 89-111 Porter Avenue, Brooklyn, New York 11237

**Contact:** Gloria Langlais  
Department of Homeless Services  
33 Beaver Street, 17<sup>th</sup> Floor  
New York, NY 10004  
Phone: (212) 361-7993  
Fax: (212) 361-8010

**Proposed Rule Amendment**

In compliance with §1043(b) of the New York City Charter (the “Charter”) and pursuant to the authority granted to the Commissioner of the New York City Department of Social Services and Administrator of the New York City Department of Homeless Services by Social Services Law §§56 and 61(1), notice is hereby given of the proposed amendment to Title 31 of the Rules of the City of New York.

**Instructions**

- Prior to the hearing persons interested in pre-registering to speak should notify Ms. Langlais by mail by 5:00 PM on **Thursday, March 14, 2013**. Please include a telephone number where you may be reached during business hours. Registration will be accepted at the door until 9:30 A.M. however, preference will be given to those who pre-register. Speakers will have five (5) minutes each.
- To request a sign language interpreter or other form of reasonable accommodation for disability at the hearing, please notify Ms. Langlais by phone or mail by **Thursday, March 14, 2013**.
- Prior to the hearing you may submit written comments about the proposed amendment to Ms. Langlais by mail, fax, through email at [publichearing@dhs.nyc.gov](mailto:publichearing@dhs.nyc.gov) or online at NYC Rules at [www.nyc.gov/nycrules](http://www.nyc.gov/nycrules), before 5:00 PM **Monday, March 18, 2013**.

- Summarized copies of the written and oral comments received at the hearing will be available within a reasonable time after the hearing, between the hours of 9:00 AM and 5:00 PM at:

DHS' Office of Legal Affairs  
33 Beaver Street, 17<sup>th</sup> Floor  
New York, NY 10004  
(212) 361-7993.

### **STATEMENT OF BASIS AND PURPOSE**

The Department of Homeless Services (DHS) provides temporary emergency shelter to homeless New York City residents and does so in accordance with State and local law and implementing regulations with the goal of moving shelter residents back into permanent housing in the community as soon as possible.

Title 31, Chapter 2 of the Rules of the City of New York instructs shelter staff at all homeless shelters for single adults to refrain from referring clients to permanent housing in buildings that meet one or more of the criteria set forth in the rule and to penalize programs that make such referrals.

To increase the stringency of the effort to prevent referrals of homeless individuals to unsafe or substandard buildings and to ensure that DHS clients are fully informed when making decisions about permanent housing, DHS proposes to amend Title 31, Chapter 2 of the Rules of the City of New York. Specifically, DHS proposes to amend the rule as follows:

§2-01(a) provides criteria for evaluating whether a housing referral is inappropriate. If the housing option meets any of the criteria set forth in this subdivision, shelter providers may not make the referral.

- §2-01(a)(3) is amended to include buildings with Hazard Class "P" violations in the New York City Department of Housing Preservation and Development (HPD) Complaint, Violations and Registration Information database as buildings inappropriate for referral. This hazard class signifies violations that lead to vacate orders from HPD.
- §2-01(a)(4) is amended to include buildings inappropriate for referral that have one or more complaints on the Department of Building's (DOB) website within four years preceding the time the client's exit from shelter is being planned. The rule currently prohibits referrals to buildings with complaints on DOB's website within two years preceding the time the client's exit from shelter is planned. This provision is also amended to include buildings that have complaint disposition codes that are blank on the DOB website and those with complaint dispositions indicating the DOB investigator could not obtain access to investigate the reported violations.

§2-01 is further amended to include a new subdivision (d), which requires that shelter providers evaluate housing options presented by a landlord or agent against the criteria set forth in subdivision (a) before the housing option is presented to shelter clients. If the housing options meet any of the

criteria in (a), the shelter provider is to forbid the landlord or agent from presenting it. This amendment prevents presentations of substandard and unsafe housing to DHS clients.

§2-01 is further amended to include a new subdivision (e), which provides a procedure for clients to report housing they believe meets the criteria set forth in subdivision (a). Shelter providers are to assist clients in reporting the housing violations via 311. Shelter providers are to make the referral if HPD or DOB inspect the housing and do not find any violations, though the client may still refuse. This amendment provides means for the client to prevent shelter providers from making inappropriate referrals.

§2-01 is further amended to include a new subdivision (f), which requires shelter providers to provide clients with a listing the criteria set forth in subdivision (a), as well as written instructions for reporting violations through 311. This amendment provides further assurance that clients are fully informed when evaluating potential housing options.

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Deleted material is in [brackets]; new text is underlined.

Section 1. Subdivision (a) of section 2-01 of Title 31 of the Rules of the City of New York is amended, and new subdivisions (d), (e) and (f) are added, to read as follows:

#### §2-01 Single Adult Permanent Housing Referral Criteria

- (a) Homeless shelters for single adults may not refer clients to permanent housing in buildings that meet one or more of the following criteria:
  - (1) Buildings that appear on the New York State Department of Health (DOH) Referral Suspension List or on the DOH Uncertified Facilities List, as posted on the DOH website, when a client’s exit from shelter is being planned, or when the shelter otherwise considers referring a client to the address.
  - (2) Buildings that have active vacate orders listed by the NYC Department of Buildings (DOB), Department of Housing Preservation and Development (HPD) and/or the Fire Department (FDNY) on their respective websites when a client’s exit from shelter is being planned, or when the shelter otherwise considers referring a client to the address.
  - (3) Buildings against which HPD has pending litigation, or with one or more Hazard Class “I” violations as reflected in the HPD “Complaint, Violations and Registration Information” database, when a client’s exit from shelter is being planned, or when the shelter otherwise considers referring a client to the address, or buildings [which] that at such time are identified on the HPD website as enrolled in the HPD Alternative Enforcement Program (AEP) established [pursuant to] by the New York Administrative Code §27-2153.
  - (4) Buildings with one or more complaints posted on the DOB website (Buildings Information System or BIS) within the [two] four years preceding the time when a

client's exit from shelter is being planned, or when the shelter otherwise considers referring a client to the address, that meet both criteria (i) and (ii) below:

(i) Coded as one or more of the following Complaint Categories:

Code	Complaint Category Description
31	Certificate of occupancy (CO) – None/Illegal/Contrary to CO
45	Illegal conversion
71	Single Room Occupancy (SRO) – Illegal work/No permit/Change in occup – use

(ii) Complaint Disposition Codes that are blank in BIS or are A1 through A9 (violations or summons served) or are C1 through C4 (failure to gain access/access denied).

- (d) Using the criteria set forth in subdivision (a) of this section, shelter providers must evaluate a housing option provided by a potential landlord or agent before that landlord or agent presents that housing option to clients within a homeless shelter for single adults. If a shelter provider discovers that a housing option is found to meet one or more of the criteria set forth in subdivision (a) of this section, the shelter provider must prohibit the landlord or agent from presenting this housing option to clients in the shelter.
- (e) Should a client view a housing option provided by a potential landlord or agent and believe that it meets one or more of the criteria set forth in subdivision (a) of this section, the shelter provider must offer to assist the client in making a complaint to the 311 citizen service center. The shelter provider must provide the client with access to a telephone if the client does not have one available. If the client refuses to accept the housing option based on his/her report of a condition that would make the housing option inappropriate under such criteria, the shelter provider must not make the referral. If an inspection conducted by the Department of Buildings and/or Department of Housing Preservation and Development subsequent to a 311 complaint determines that the housing option does not meet any of the criteria set forth in subdivision (a) of this section, the shelter provider may make the referral. In the event a client refuses the referred housing option, the reason(s) for the refusal must be documented in the client's case record.
- (f) Shelter providers must distribute to all clients in shelter a plain language document that describes the conditions that preclude a referral to a housing option meeting one or more of the criteria set forth in subdivision (a) of this section and contains information about how to contact the Department of Buildings and the 311 citizen service center.

**NEW YORK CITY LAW DEPARTMENT  
100 CHURCH STREET  
NEW YORK, NY 10007  
212-788-1087**

**CERTIFICATION PURSUANT TO  
CHARTER §1043(d)**

**RULE TITLE: Amendment of Rules Governing Referrals to Permanent Housing**

**REFERENCE NUMBER: 2012 RG 087**

**RULEMAKING AGENCY: Department of Homeless Services**

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN  
Acting Corporation Counsel

Date: December 7, 2012

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

**CERTIFICATION/ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE: Amendment of Rules Governing Referrals to Permanent Housing**

**REFERENCE NUMBER: 2012 RG 087**

**RULEMAKING AGENCY: Department of Homeless Services**

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Hunter Gradie  
Mayor's Office of Operations

December 11, 2012  
Date