

## NEW YORK CITY HUMAN RESOURCES ADMINISTRATION

### **Notice of Public Hearing and Opportunity to Comment on Proposed Rule and Notice of Extension of Emergency Rule**

**What are we proposing?** To implement the Mayor's priority of moving households from shelter into stable housing, the New York City Human Resources Administration (HRA) proposes to add a new subchapter to Chapter 7 of Title 68 of the Rules of the City of New York to continue implementation of two new rental assistance programs for single adults and adult families that were established by emergency rule on December 12, 2014. These housing initiatives are conducted jointly with the New York City Department of Homeless Services (DHS). In addition, HRA proposes to make a technical correction to Section 7-07 of Title 68 of the Rules of the City of New York to account for the addition of the new subchapter to Chapter 7.

**When and where is the hearing?** HRA will hold a public hearing on the proposed rule. The public hearing will take place at 11:00 a.m. on March 25, 2015. The hearing will be held at 180 Water Street in Manhattan in the 12<sup>th</sup> Floor Exhibition Center.

**How do I comment on the proposed rules?** Anyone can comment on the proposed rule by:

- **Website.** You can submit comments to HRA through the NYC rules website: <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to [constituentaffairs@hra.nyc.gov](mailto:constituentaffairs@hra.nyc.gov). Please include "LINC IV and V Proposed Rule" in the subject line of your email.
- **Mail.** You can mail written comments to:

New York City Human Resources Administration  
The Office of Constituent Services  
180 Water Street, 23rd Floor  
New York, NY 10038

- **Fax.** You can fax written comments to HRA at 212-331-5998. Please include "LINC IV and V Proposed Rule" on the cover page of your fax.
- **Speaking at the hearing.** You can speak at the public hearing. Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak at the beginning of the hearing. You can speak for up to two minutes.

**Is there a deadline to submit written comments?** The deadline to submit written comments is March 25, 2015.

**What if I need assistance to participate in the hearing?** If you need an interpreter or if you need a reasonable accommodation for a disability at the hearing, you must tell us by March 18, 2015. You can call us at 929-221-5188, send a fax to 917-639-0296, or contact us by mail at:

LINC Rental Assistance Programs  
180 Water Street, 2nd Floor  
New York, NY 10038  
Attention: Public Hearing

**Can I review the comments made on the proposed rules?** You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments made at the public hearing concerning the proposed rule will be available to the public on HRA's website.

**What authorizes HRA to make this rule?** Sections 34, 56, 61, 62, 77, and 131 of the Social Services Law, sections 603 and 1043 of the New York City Charter, and sections 352.3(a)(3) and 352.6 of Title 18 of the New York Codes, Rules and Regulations authorize HRA to make this proposed rule. This proposed rule was not included in HRA's most recent regulatory agenda because it was not contemplated when HRA published the agenda.

**Where can I find HRA's rules?** HRA's rules are in Title 68 of the Rules of the City of New York.

**What rules govern the rulemaking process?** HRA must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the City Charter.<sup>1</sup>

### **Notice of Extension of Emergency Rule**

Notice is further given, pursuant to New York City Charter Section 1043(i)(2), that the emergency rule establishing the Living in Communities (LINC) Rental Assistance Programs for Single Adults and Adult Families, issued on December 12, 2014, is hereby extended an additional sixty days, to April 12, 2015. The additional sixty days are needed for HRA to adopt a final rule concerning the LINC programs after completing the public comment and hearing process set forth in New York City Charter Section 1043(e).

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<sup>1</sup> In following the process set forth in New York City Charter § 1043, HRA does not waive its right to take the position that any future action, requirement or procedure, or any part thereof, does not meet the definition of a rule under New York City Charter § 1041 and is not subject to this process.

## **Statement of Basis and Purpose of Proposed Rule**

To implement the Mayor's priority of moving adults from shelter into stable housing, the New York City Human Resources Administration (HRA) proposes to add a new subchapter to Chapter 7 of Title 68 of the Rules of the City of New York to continue implementation of two new rental assistance programs targeted to specific populations who are within the Department of Homeless Services (DHS) shelter system, on the streets, or at risk of shelter entry. This initiative is a joint effort with the DHS.

These two rental assistance programs, established by emergency rule issued on December 12, 2014, are known as the Living in Communities ("LINC") Rental Assistance Programs for Single Adults and Adult Families. These programs assist older and low-income working adults move out of shelter or off the streets, or avert entry into shelter, by relocating them into stable housing and helping them to remain stably housed in their communities.

There is an urgent need for these programs. Shelter census data shows that the numbers of single adults and adult families in the DHS shelter system are at a record high while vacancy rates in the DHS shelter systems for these populations are at their lowest since 2009. The number of single adults and adult families in DHS shelter has increased because their length of stay has increased while fewer of them have left shelter.

Specifically, for single adults, the average daily census between July 1, 2004 and December 31, 2013 increased by 20%. In November 2014, there were on average 11,165 single adults in the DHS shelter system each day. The length of stay in shelter for single adults increased by 6% between August 2012 and December 2013. In November 2014, the vacancy rate in single adult shelters was 0.3%, compared to 4.3% in November 2013, and 3.0% in November 2012.

The number of adult families in the DHS shelter system increased by 59% between July 1, 2004 and December 31, 2013. In November 2014, there were on average 2,128 adult families in the DHS shelter system each day. The length of stay in shelter for adult families increased about 15% between August 2012 and December 2013. On November 7, 2014, the vacancy rate for adult families in the shelter system was 0%. In November 2014, the average monthly vacancy rate in adult family shelters was 0.6%, compared to 1.1% in November 2013, and 6.0% in November 2012.

In addition to the men and women in DHS's shelters for single adults and adult families, the City estimates that as of January 2014 there were over 5,000 unsheltered individuals living on the streets, in parks, and in other public spaces of the City, including the subway system.

Finally, shelter census data also shows the urgent need for a rental assistance program targeted to those over 60, who comprise 14% of the single adult shelter population.

The LINC Rental Assistance Programs for Single Adults and Adult Families consists of two programs: LINC IV and LINC V. Over a twelve-month period, these programs will assist about 2,100 adult households to relocate from, or avoid entering, DHS shelters and become securely housed in the community. LINC IV will assist about 1,100 adult households with seniors and LINC V will assist up to 1,000 adult households that include a working adult but are unable to afford stable housing on their own. Some of the individuals who will be assisted by these programs are chronically street homeless individuals or at risk of shelter entry. The programs will be subject to an annual review of available funding.

In the two programs, the City will give priority to adults who have experienced homelessness for the longest, whether in shelter or on the streets, as well as to those who are at risk of entry into shelter and are referred by HRA's Rental Assistance Unit or another City agency, with additional priority given in LINC IV to the oldest adults or medically frail adults, and in LINC V to adults who are working the most hours.

Specifically, the proposed rule sets forth:

- definitions applicable to the new subchapter;
- a general description of responsibility for program administration and eligibility;
- eligibility, certification, and renewal requirements;
- a description of how monthly program participant contributions and rental assistance amounts are calculated;
- provisions governing moves;
- review and appeal procedures; and,
- additional provisions, including a description of certain program benefits as well as requirements for program participants and participating landlords.

In addition, HRA is making a technical correction to § 7-07(b), which is now in Subchapter A of Chapter 7 of Title 68 of the Rules of the City of New York, to reflect that its provisions relate only to Subchapter A and not to the chapter as a whole.

HRA's authority for this proposed rule may be found in sections 34, 56, 61, 62, 77, and 131 of the New York Social Services Law, sections 603 and 1043 of the New York City Charter, and Section 352.6 of Title 18 of the New York Codes, Rules and Regulations.

"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 text is [bracketed]. New text is underlined.

Section 1. Chapter 7 of title 68 of the rules of the city of New York is amended by creating a subchapter A, entitled "Living in Communities (LINC) Rental Assistance Programs for Families with Children," encompassing sections 7-01 through 7-09.

Section 2. Subdivision (b) of section 7-07 of title 68 of the rules of the city of New York is amended to read as follows:

(b) All Other Challenges.

All other challenges to determinations or actions made by DHS and/or HRA under this [chapter] subchapter, as well as any failures to act, or failures to act with reasonable promptness, by DHS and/or HRA in implementing the provisions of this [chapter] subchapter, shall be governed by the procedures set forth in section 7-08 of this chapter.

Section 3. Chapter 7 of title 68 of the rules of the city of New York is amended by adding a new subchapter B, entitled "Living in Communities (LINC) Rental Assistance Programs for Single Adults and Adult Families," to read as follows:

## **Subchapter B: The Living in Communities (LINC) Rental Assistance Programs for Single Adults and Adult Families**

### **§ 7-10 Definitions.**

For the purposes of this subchapter, unless otherwise specified, the following terms shall have the following meanings:

(a) The “LINC Rental Assistance Programs for Single Adults and Adult Families” means the two rental assistance programs described in this subchapter.

(b) A “Homeless Adult” means an individual who:

(1) resides in a shelter for single adults operated by or on behalf of DHS, or a DHS veterans shelter, a DHS drop-in center or a DHS safe haven as those terms are defined in § 3-113 of the Administrative Code of the City of New York as added by local law 37 for the year 2011; or

(2) resides in a shelter for adult families operated by or on behalf of DHS and has been found eligible for shelter, as determined by DHS pursuant to Parts 351 and 352 of Title 18 of the New York Code of Rules and Regulations; or

(3) does not reside in a shelter, residence, or other accommodations and has not secured any other temporary or permanent housing; or

(4) is at risk of entry into a shelter operated by or on behalf of DHS, as determined by HRA in consultation with DHS.

(c) The “household” means the individual or individuals intended to reside and/or residing in the housing obtained pursuant to this subchapter, regardless of eligibility for Public Assistance. The term “household” does not include other individuals residing in a dwelling within which a program participant is renting a single room.

(d) A “primary tenant” is the person whose name is on the lease or who has the primary responsibility for payment of the monthly rent for an apartment.

(e) A “program participant” means an individual who has entered into a lease or other agreement for housing to which LINC rental assistance payments have been or are being applied.

(f) “SET Program” means the Shelter Exit Transitional Jobs Program jointly operated by DHS and HRA to help shelter clients obtain employment and move into permanent housing.

(g) “Subsidized employment” means subsidized private sector employment or subsidized public sector employment as those terms are used in New York Social Services Law § 336(1)(b)-(c), except for employment pursuant to the SET Program.

(h) “Unsubsidized employment” means unsubsidized employment as that term is used in New York Social Services Law § 336(1)(a), except that it shall also include employment pursuant to the SET program.

**§ 7-11 Administration of the LINC Rental Assistance Programs for Single Adults and Adult Families.**

HRA shall administer the LINC IV and LINC V Rental Assistance Programs, except that initial eligibility determinations pursuant to subdivision (a) of section 7-12 or 7-13 of this chapter shall be made by HRA in consultation with DHS.

**§ 7-12 The LINC IV Rental Assistance Program.**

**(a) Initial Eligibility and Certification for the LINC IV Program.**

(1) To be eligible for an initial year of LINC IV rental assistance, a household must meet the following eligibility requirements at the time of certification:

(A) The household must include at least one member who receives Public Assistance, and all household members who are eligible for Public Assistance must receive such benefits;

(B) The household must include a Homeless Adult who is at least 60 years of age; and

(C) The household must have total gross income that does not exceed 200 percent of the federal poverty level as established annually by the U.S. Department of Health and Human Services.

(2) The number of eligible households that can be certified to receive LINC IV rental assistance will be limited by the amount of available funding. Subject to HRA's exercise of discretion under subdivision (a) of section 7-17 of this chapter, when a household has met the eligibility requirements set forth in paragraph (1) of this subdivision and appropriate funding is available to provide LINC IV rental assistance to such household, HRA and/or DHS shall issue such household a certification letter. The letter will include an expiration date and will be conditioned on the household continuing to meet the requirements of paragraph (1) of this subdivision until the lease or other agreement for the housing to which LINC rental assistance will be applied is executed. Priority will be given to households whose Homeless Adult member or members have met the definition of Homeless Adult under paragraph (1), (2) or (3) of subdivision (b) of section 7-10 of this chapter for the longest period of time and to households whose Homeless Adult member or members meet the definition of a Homeless Adult under paragraph (4) of subdivision (b) of section 7-10 and have been referred by HRA's Rental Assistance Unit or another City agency, with additional priority given to households that include the oldest Homeless Adults or medically frail Homeless Adults.

(3) At the time of certification, HRA will calculate the household's monthly program participant contribution and the maximum monthly rental assistance amount pursuant to section 7-14 of this chapter. Except as provided in section 7-15 of this chapter, the monthly program participant contribution and monthly rental assistance amount will not change during the first year of the program, regardless of changes in household composition or income.

(b) Renewals after the First Year.

(1) Subject to the availability of funding, a household receiving LINC IV rental assistance will receive annual renewals of such assistance if it meets the following continued eligibility requirements:

(A) The household continues to include an adult who is at least 60 years of age;

(B) The household's total gross income does not exceed 200 percent of the federal poverty level as established annually by the U.S. Department of Health and Human Services;

(C) All members of the household eligible for Public Assistance must receive Public Assistance; and

(D) The household must provide prompt notice to HRA of any rent arrears that have accrued so that they may be addressed.

(2) HRA will determine a household's eligibility for renewal of LINC IV rental assistance at the end of each year of the household's participation in the program, subject to the availability of funding. Before the start of each one-year renewal, HRA will recalculate the household's monthly program participant contribution and the monthly rental assistance amount pursuant to section 7-14 of this chapter. Except as provided in section 7-15 of this chapter, the monthly program participant contribution and monthly rental assistance amount will not change during the one-year renewal period, regardless of changes in household composition or income.

(3) HRA in its discretion may waive any of the requirements set forth in paragraph (1) of this subdivision on a case-by-case basis if the household's failure to meet the requirement was due to circumstances beyond the household's control, or where non-renewal is likely to result in the household's entry into shelter.

**§ 7-13 The LINC V Rental Assistance Program.**

(a) Initial Eligibility and Certification for the LINC V Program.

(1) To be eligible for an initial year of LINC V rental assistance, a household must meet the following eligibility requirements at the time of certification:

(A) The household must include at least one member who receives Public Assistance, and all household members who are eligible for Public Assistance must receive such benefits;

(B) The household must include at least one Homeless Adult who is working in unsubsidized employment and can demonstrate earned income for at least thirty days prior to certification; and

(C) The household must have total gross income that does not exceed 200 percent of the federal poverty level as established annually by the U.S. Department of Health and Human Services.

(2) The number of eligible households that can be certified to receive LINC V rental assistance will be limited by the amount of available funding. Subject to HRA's exercise of discretion under subdivision (a) of section 7-17 of this chapter, when a household has

met the eligibility requirements set forth in paragraph (1) of this subdivision and appropriate funding is available to provide LINC V rental assistance to such household, HRA and/or DHS shall issue such household a certification letter. The letter will include an expiration date and will be conditioned on the household continuing to meet the requirements of paragraph (1) of this subdivision until the lease or other agreement for the housing to which LINC rental assistance will be applied is executed. Priority will be given to households whose Homeless Adult member or members have met the definition of Homeless Adult under paragraph (1), (2) or (3) of subdivision (b) of section 7-10 of this chapter for the longest period of time and to households whose Homeless Adult member or members meet the definition of a Homeless Adult under paragraph (4) of subdivision (b) of section 7-10 and have been referred by HRA's Rental Assistance Unit or another City agency, with additional priority given based on the number of hours worked per week.

(3) At the time of certification, HRA will calculate the household's monthly program participant contribution and the monthly rental assistance amount pursuant to section 7-14 of this chapter. Except as provided in section 7-15 of this chapter, the monthly program participant contribution and monthly rental assistance amount will not change during the first year of the program, regardless of changes in household composition or income.

(b) Renewals after the First Year.

(1) Subject to the availability of funding, a household receiving LINC V rental assistance will receive four one-year renewals of such assistance if it meets the following continued eligibility requirements:

(A) At least one member of the household must be working in unsubsidized employment;

(B) The household's total gross income must not exceed 200 percent of the federal poverty level as established annually by the U.S. Department of Health and Human Services;

(C) Where such supports are made available to the household, at least one member of the household must be continually engaged in enhanced employment and social service supports developed in conjunction with a case manager or employment vendor designated by DHS or HRA intended to maintain or enhance the household's employment;

(D) All members of the household eligible for Public Assistance must receive Public Assistance; and

(E) The household must provide prompt notice to HRA of any rent arrears that have accrued so that they may be addressed.

(2) Subject to the availability of funding and in order to prevent entry or re-entry into the shelter system or a return to the streets, households that meet the continued eligibility requirements in paragraph (1) of this subdivision may receive additional one-year extensions after their fifth year in the LINC V rental assistance program on a case-by-case basis.

(3) HRA will determine a household's eligibility for renewal of LINC V rental assistance at the end of each year of the household's participation in the program, subject to the availability of funding. Before the start of each one-year renewal period, HRA will

recalculate the household's monthly program participant contribution and the monthly rental assistance amount pursuant to section 7-14 of this chapter. Except as provided in section 7-15 of this chapter, the monthly program participant contribution and monthly rental assistance amount will not change during the one-year renewal period, regardless of changes in household composition or income.

(4) HRA in its discretion may waive any of the requirements set forth in paragraph (1) of this subdivision on a case-by-case basis if the household's failure to meet the requirement was due to circumstances beyond the household's control, or where non-renewal is likely to result in the household's entry into shelter.

**§ 7-14 Maximum Rents and Calculation of Monthly Program Participant Contributions and Rental Assistance Amounts.**

(a) Apartment Rentals.

(1) Where a household certified to receive or receiving LINC IV or LINC V rental assistance enters into a lease for an apartment, during the first year of the lease, the maximum monthly rent of such apartment must not exceed the amounts set forth in the table below, except that HRA may make exceptions on a case-by-case basis if the rent: (i) is reasonable in relation to current rents for comparable units in the private unassisted market; (ii) is not in excess of current rents for the owner's comparable non-luxury unassisted units; and (iii) does not exceed the 2014 New York City Housing Authority Section 8 Voucher Payment Standards for the same type of unit.

<u>Household Size</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>
<u>Maximum Rent for LINC IV</u>	<u>\$1,028</u>	<u>\$1,028</u>	<u>\$1,200</u>	<u>\$1,257</u>	<u>\$1,428</u>	<u>\$1,542</u>	<u>\$1,599</u>	<u>\$1,714</u>
<u>Maximum Rent for LINC V</u>	<u>\$914</u>	<u>\$1,028</u>	<u>\$1,200</u>	<u>\$1,257</u>	<u>\$1,428</u>	<u>\$1,542</u>	<u>\$1,599</u>	<u>\$1,714</u>

(2) A program participant contribution of thirty percent of the household's total monthly gross income at the time of certification will be required and will be paid by the household directly to the landlord each month. The program participant contribution will be deducted from the monthly rent to determine the monthly rental assistance amount. HRA shall pay the monthly rental assistance amount directly to the landlord each month for so long as the program participant's household remains eligible and funding for the program remains available. In addition to the program participant contribution, the program participant shall be responsible for any increases in the rent permitted under subdivision (l) of section 7-17 of this chapter.

(b) Room Rentals.

(1) Where a household certified to receive or receiving LINC IV or LINC V rental assistance enters into a rental agreement for a single room with a landlord or a primary tenant, the monthly rent of such single room must not exceed \$800, except that HRA may make exceptions on a case-by-case basis if the rent is reasonable in relation to current rents for comparable units in the private unassisted market. It is further provided that:

(a) Where the rental agreement is with a primary tenant who receives Public Assistance, the monthly rent cannot exceed the difference between the primary tenant's rent obligation to the landlord and the primary tenant's shelter allowance under Section 352.3 of Title 18 of the New York Codes, Rules and Regulations at the time of the effective date of the rental agreement; and

(b) In no event shall the rent charged to the household by a primary tenant exceed the household's proportionate share of the rent for the entire apartment. The determination of what constitutes the household's proportionate share of the rent shall be based on the formula set forth in Section 2525.7 of Title 9 of the New York Code of Rules and Regulations or a comparable measure.

(2) A program participant contribution of thirty percent of the household's total gross income at the time of certification will be required and will be paid by the household directly to the landlord or primary tenant, as applicable, each month. The program participant contribution will be deducted from the monthly rent to determine the monthly rental assistance amount. HRA shall pay the monthly rental assistance amount directly to the landlord or the primary tenant, as applicable, each month for so long as the program participant's household remains eligible and funding for the program remains available.

**§ 7-15 Moves**

(a) A household receiving LINC IV or LINC V rental assistance may not move to a new residence and maintain eligibility for LINC rental assistance except with the prior approval of HRA. HRA shall grant such approval if the household is moving from a room to an apartment, unless the program participant is breaking a lease for the room, in which case the program participant must establish either good cause for the move or that the landlord is willing to release the household from the lease. In all other situations, HRA shall grant approval for a move from one residence to another residence only upon a showing by the program participant that there is good cause for the move. If the requested move is to a residence with a higher rent than the rent for the current residence, approval will also be subject to the availability of funding.

(b) If HRA has approved a move to a new residence, HRA shall recalculate the monthly program participant contribution and monthly rental assistance amount and those amounts shall not change for one year from the effective date of the lease or other rental agreement for the new residence, regardless of changes in income or household composition. If the effective date of the lease or rental agreement for the new residence is not more than ten months after the start of the household's current year of participation in the program, then the household's current year of LINC rental assistance shall begin anew on the effective date of such lease or rental agreement. If the effective date of the lease or rental agreement for the new residence is more than ten months after the start of the household's current year of participation in the program and the household is eligible for renewal of LINC assistance, then the household's renewal period shall begin on the effective date of such lease or rental agreement.

## § 7-16 Agency Review Conference and HRA Administrative Appeal Process.

### (a) Right to HRA Administrative Review.

A Homeless Adult or LINC IV or LINC V program participant may request an agency review conference and/or an HRA administrative hearing to seek review of any determinations or actions made by DHS and/or HRA under this subchapter, as well as any failures to act, or failures to act with reasonable promptness, by DHS and/or HRA in implementing the provisions of this subchapter.

### (b) Agency Review Conference.

(1) If a Homeless Adult or LINC IV or LINC V program participant requests an agency review conference, HRA shall informally review and attempt to resolve the issues raised.

(2) A Homeless Adult or LINC IV or LINC V program participant may request an agency review conference without also requesting an HRA administrative hearing. Requesting an agency review conference will not prevent a Homeless Adult or program participant from later requesting an HRA administrative hearing.

(3) Except as provided in paragraph (4) of this subdivision, an agency review conference must be requested within sixty days after the challenged determination or action, provided further that if an HRA administrative hearing is scheduled, an agency review conference must be requested reasonably in advance of the scheduled hearing date.

(4) Notwithstanding paragraph (3) of this subdivision, a request for an agency review conference to review a failure by DHS and/or HRA to issue a certification letter pursuant to subdivision (a) of section 7-12 or 7-13 of this chapter may be made at any time prior to the receipt of any such letter.

(5) A request for an agency review conference will extend the time period to request an HRA administrative hearing as set forth in paragraph (2) of subdivision (c) of this section to sixty days after the date of the agency review conference.

### (c) Request for an HRA Administrative Hearing.

(1) An administrative hearing must be requested in writing. Such written request must be submitted by mail, electronic means or facsimile, or other means as HRA may set forth in an appeals notice.

(2) Except as provided in paragraph (3) of this subdivision and paragraph (5) of subdivision (b) of this section, a request for an administrative hearing must be made within sixty days after the challenged determination or action.

(3) A request for an administrative hearing to challenge a failure by DHS and/or HRA to issue a certification letter under subdivision (a) of section 7-12 or 7-13 of this chapter may be brought at any time prior to the receipt of any such letter.

### (d) Authorized Representative.

(1) Except where impracticable to execute a written authorization, a person or organization seeking to represent a Homeless Adult or LINC IV or LINC V program

participant must have the Homeless Adult's or program participant's written authorization to represent him or her at an agency review conference or administrative hearing and to review his or her case record, provided that such written authorization is not required from an attorney retained by such Homeless Adult or program participant. An employee of such attorney will be considered an authorized representative if such employee presents written authorization from the attorney or if such attorney advises HRA by telephone of such employee's authorization.

(2) Once HRA has been notified that a person or organization has been authorized to represent a Homeless Adult or LINC IV or LINC V program participant at an agency review conference or administrative hearing, such representative will receive copies of all correspondence sent by HRA to the Homeless Adult or program participant relating to the conference and hearing.

(e) Aid Continuing.

(1) If a LINC IV or LINC V program participant requests an administrative appeal of a determination by HRA that rental assistance payments issued under section 7-14 of this chapter are to be reduced, restricted, suspended or discontinued, or that the program participant's household is not eligible for renewal pursuant to subdivision (b) of section 7-12 or 7-13 of this chapter, such program participant shall have the right to continued receipt of LINC IV or LINC V rental assistance payments at the rental assistance amount in effect at the time of the determination until the hearing decision is issued pursuant to subdivision (l) of this section, provided that:

(A) The program participant requests the administrative appeal within ten days of the mailing of the notice of such determination; and

(B) The appeal is based on a claim of incorrect computation or an incorrect factual determination.

(2) There is no right to continued rental assistance payments pursuant to this subdivision where the sole issue on appeal is one of local, State or Federal law or policy, or change in local, State or Federal law.

(3) Rental assistance payments will not continue pending the issuance of a hearing decision when:

(A) The LINC IV or LINC V program participant has voluntarily waived his or her right to the continuation of such assistance in writing; or

(B) The LINC IV or LINC V program participant does not appear at the administrative hearing and does not have a good reason for not appearing.

(4) If a LINC IV or LINC V program participant requests an additional appeal pursuant to subdivision (m) of this section, rental assistance payments will continue uninterrupted after issuance of the hearing decision until a written decision is issued pursuant to subdivision (l) of this section.

(f) Notice.

HRA shall provide the Homeless Adult or LINC IV or LINC V program participant with notice of the date, time, and location of the administrative hearing no fewer than seven calendar days prior to the scheduled date of the administrative hearing, unless the issue underlying the request for an administrative hearing has been resolved and the Homeless Adult or program participant has withdrawn his or her hearing request.

(g) Examination of Case Record.

The Homeless Adult or LINC IV or LINC V program participant or his or her authorized representative has the right to examine the contents of his or her LINC program case file and all documents and records that HRA intends to use at the administrative hearing. Upon request by telephone or in writing, HRA shall provide such Homeless Adult or program participant with copies of all such documents, and copies of any additional documents in the possession of HRA and/or DHS that the Homeless Adult or program participant identifies and requests for purposes of preparing for the administrative hearing. HRA shall provide such documents at no charge reasonably in advance of the administrative hearing. If the request for such documents is made less than five business days before the administrative hearing, HRA must provide the Homeless Adult or program participant with copies of such documents no later than at the time of the administrative hearing.

(h) Adjournment.

The administrative hearing may be adjourned for good cause by the administrative hearing officer on his or her own motion or at the request of the Homeless Adult or LINC IV or LINC V program participant, HRA, or DHS.

(i) Conduct of Administrative Hearing.

(1) The administrative hearing shall be conducted by an impartial hearing officer appointed by HRA who shall have the power to administer oaths and issue subpoenas and who shall have no prior personal knowledge of the facts concerning the challenged determination or action.

(2) The administrative hearing shall be informal, all relevant and material evidence shall be admissible and the legal rules of evidence shall not apply. The administrative hearing shall be confined to the factual and legal issues raised regarding the specific determination(s) for which the administrative hearing was requested.

(3) The Homeless Adult or LINC IV or LINC V program participant shall have a right to be represented by counsel or other representative, to testify, to produce witnesses to testify, to offer documentary evidence, to offer evidence in opposition to the evidence presented by HRA and DHS, to request that the hearing officer issue subpoenas, and to examine any documents offered by HRA and DHS.

(4) An audio recording, an audio visual recording or written transcript of the administrative hearing shall be made.

(j) Abandonment of Request for Administrative Hearing.

(1) HRA will consider an administrative hearing request abandoned if neither the Homeless Adult or LINC IV or LINC V program participant nor his or her authorized representative appears at the administrative hearing, unless either the Homeless Adult or program participant or his or her authorized representative has:

(A) contacted HRA prior to the administrative hearing to request rescheduling of the administrative hearing; or

(B) within fifteen calendar days of the scheduled administrative hearing date, contacted HRA and provided a good cause reason for failing to appear at the administrative hearing on the scheduled date.

(2) HRA will restore the case to the calendar if the Homeless Adult or LINC IV or LINC V program participant or his or her authorized representative has met the requirements of paragraph (1) of this subdivision.

(k) Hearing Record.

The recording or written transcript of the hearing, all papers and requests filed in connection with the hearing, and the hearing decision collectively constitute the complete and exclusive record of the administrative hearing.

(l) Hearing Decision.

(1) The hearing officer shall render a decision based exclusively on the hearing record. The decision must be in writing and must set forth the administrative hearing issues, the relevant facts, and the applicable law, regulations and approved policy, if any, upon which the decision is based. The decision must identify the issues to be determined, make findings of fact, state the reasons for the determinations, and when appropriate, direct HRA to take specific action.

(2) A copy of the decision, accompanied by written notice to the Homeless Adult or LINC IV or LINC V program participant of the right to further appeal and the procedures for requesting such appeal, will be sent to each of the parties and to their authorized representatives, if any.

(m) Additional Appeal.

(1) An appeal from a decision of a hearing officer may be made in writing to the Commissioner of HRA or his or her designee provided it is received by HRA through the procedures described in the notice accompanying the hearing decision within at least five business days after the delivery of the hearing officer's decision. The record before the Commissioner shall consist of the hearing record, the hearing officer's decision and any affidavits, documentary evidence, or written arguments that the Homeless Adult or LINC IV or LINC V program participant may wish to submit.

(2) The Commissioner or his or her designee shall render a written decision based on the hearing record and any additional documents submitted by the Homeless Adult or LINC IV or LINC V program participant and HRA or DHS.

(3) A copy of the decision, accompanied by written notice to the Homeless Adult or LINC IV or LINC V program participant of the right to judicial review, will be sent to each of the parties and to their authorized representatives, if any.

(4) Upon issuance, the decision of the Commissioner or his or her designee made pursuant to an appeal under this section is final and binding upon HRA and must be complied with by HRA.

### **§ 7-17 Additional Provisions.**

(a) If a household is eligible for both LINC IV and LINC V rental assistance, HRA and DHS reserve the right to determine, based on administrative and programmatic needs, which LINC program the household will be certified for. HRA and DHS also reserve the right to determine the schedule for release of available funding for the LINC IV and LINC V programs based on administrative and programmatic needs.

(b) Households in the LINC Rental Assistance Programs for Single Adults and Adult Families will be referred to service providers who will assist them with connecting to appropriate services in their communities.

(c) HRA shall provide a household moving expenses, a security deposit voucher equal to one month's rent, and a broker's fee equal to up to one month's rent, if applicable, as set forth in Section 352.6 of Title 18 of the New York Codes, Rules and Regulations, if such household is moving from shelter, is moving from other accommodations and is at risk of shelter entry, or is not residing in a shelter, residence, or other accommodations at the time of entry into the housing to which LINC IV or LINC V rental assistance will be applied.

(d) Rental assistance provided under any of the LINC Rental Assistance Programs for Single Adults and Adult Families cannot be combined with any other rent subsidies other than a Public Assistance shelter allowance provided pursuant to Section 352.3 of Title 18 of the New York Codes, Rules and Regulations, except that HRA may make exceptions on a case-by-case basis.

(e) Households receiving rental assistance under the LINC Rental Assistance Programs for Single Adults and Adult Families that are unable to make their program participant contributions on account of involuntary job loss or other extenuating circumstances may be eligible for emergency rent assistance and arrears under Section 352.7 of Title 18 of the New York Codes, Rules and Regulations.

(f) Waitlists will not be maintained for the LINC Rental Assistance Programs for Single Adults and Adult Families.

(g) Homeless Adults are responsible for identifying potential housing. However, shelter staff may provide assistance to such individuals in their housing search.

(h) A landlord or primary tenant who has entered into a lease or rental agreement with a household receiving LINC IV or LINC V rental assistance is prohibited from demanding, requesting, or receiving any monies, goods or services above the rent or any applicable fees as set forth in the lease or rental agreement regardless of any changes in household composition or income. A landlord or primary tenant who demands, requests or receives any monies, goods or services above the rent or any applicable fees as set forth in the lease or rental agreement will be barred from further participation in any HRA rental assistance programs and may be barred from other rental assistance programs administered by the City of New York. Before

placing a landlord or primary tenant on a disqualification list, HRA will provide notice to the landlord or primary tenant and an opportunity to object in writing.

(i) If a program participant leaves the apartment or room for which the program participant is receiving LINC IV or LINC V rental assistance due to an eviction or move, the landlord or primary tenant must return any over-payment to HRA.

(j) Any apartment to which LINC IV or LINC V rental assistance is applied pursuant to subdivision (a) of section 7-14 of this chapter must pass a City inspection. Section 8 Housing Quality Standards set forth in Section 982.401 of Title 24 of the Code of Federal Regulations will be applied in the inspection process with respect to the physical condition of apartments. The number of persons who can occupy a particular apartment will be evaluated on a case-by-case basis with each household.

(k) Where LINC IV or LINC V rental assistance is applied towards a single room pursuant to subdivision (b) of section 7-14 of this chapter, the room and the dwelling containing the room must be evaluated to verify that residing in such room and dwelling will not result in harm to the health, safety, or welfare of the program participant.

(l) As a condition of participating in the LINC Rental Assistance Programs for Single Adults and Adult Families, a landlord who has entered into a lease for an apartment with a household receiving LINC IV or LINC V rental assistance shall be required to:

(1) renew a participating household's lease for a second year at the same monthly rent as provided for in the first year provided that (a) funding for the applicable LINC Rental Assistance Program remains available, and the household has been found eligible by the City for a second year of the program, or (b) the household is able to pay its entire rent for a second year; and

(2) after the second year and after each subsequent year that the household participates in the program, renew a participating household's lease at the same total monthly rent provided for as in the previous year, increased by a percentage no greater than that allowed at that time for one-year leases for rent-stabilized apartments in New York City, regardless of whether the housing is subject to rent stabilization, provided that: (a) funding for the applicable program remains available and the participating household has been found eligible by the City for the applicable year of the program, or (b) the participating household is able to pay its entire rent for the applicable year.

(m) As a condition of participating in the LINC Rental Assistance Programs for Single Adults and Adult Families, a landlord or primary tenant who has entered into a lease or rental agreement for a room with a household receiving LINC IV or LINC V rental assistance shall be prohibited from raising the rent for one year from the effective date of the lease or rental agreement, regardless of changes in household composition or changes in the primary tenant's rent obligations.

(n) If a household certified to receive LINC IV or LINC V rental assistance includes a person under eighteen years of age, such rental assistance may not be applied towards a room rental.

**NEW YORK CITY LAW DEPARTMENT  
DIVISION OF LEGAL COUNSEL  
100 CHURCH STREET  
NEW YORK, NY 10007  
212-356-4028**

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

**RULE TITLE:** Living in Communities Rental Assistance Programs for Single Adults and Adult Families (LINC IV and V)

**REFERENCE NUMBER:** 2015 RG 010

**RULEMAKING AGENCY:** Human Resources Administration

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: February 6, 2015

**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: Living in Communities Rental Assistance Programs for Single Adults and Adult Families (LINC IV and V)**

**REFERENCE NUMBER: HRA-7**

**RULEMAKING AGENCY: HRA**

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/ Francisco X. Navarro  
Mayor's Office of Operations

February 6, 2015  
Date