

Barbara Guinn, Executive Deputy Commissioner
Krista Rock, General Counsel
New York State Office of Temporary & Disability Assistance
40 North Pearl Street
Albany, NY 12243

November 17, 2021

Re: The Need to Re-Open the Emergency Rental Assistance Program Portal

Dear Commissioner Guinn:

We write to urge you to fully re-open the Emergency Rental Assistance Program (“ERAP”) application and portal for all low-income tenants living in New York.

We represent law firms and the law departments of New York-based corporations with a shared interest both in access to justice for low-income people, and in the health and stability of New York. The relief that ERAP has provided to low-income tenants and landlords alike has been essential to both of those concerns in recent months. We believe that ERAP has the potential to substantially blunt the impending eviction crisis by compensating landlords for unpaid rent during the pandemic, avoid burdening housing courts with hundreds of thousands of nonpayment cases, preserve neighborhoods and communities by preventing the mass exodus of low-income residents, and give vulnerable tenants housing stability and peace of mind.

Hundreds of our attorneys from more than 20 law firms and corporations have worked directly with tenants who are pursuing ERAP through our pro bono partnerships with Legal Services NYC. From that experience, many of us have witnessed how vital these benefits are. Our lawyers are eager to continue helping tenants to secure ERAP benefits, with more than 14 pro bono application clinics currently scheduled – but now on hold – with Legal Services NYC. (These paused clinics are in addition to more than 40 LSNYC pro bono clinics that already have been held.)

We were disappointed to learn that the New York State Office of Temporary and Disability Assistance (“OTDA”) suddenly ceased accepting ERAP applications, on just two days’ notice, from all tenants across New York City, and the vast majority of tenants across the state. The tenants who need ERAP the most – the elderly, people with disabilities, those without access to technology or limited English proficiency, among others – simply need more time and help to pursue this relief.

We appreciate the concern that ERAP funds have already been “obligated.” But according to data published on OTDA’s website, \$1.1 billion of the obligated funds were *unspent* as of November 9 because landlords have not completed the necessary paperwork to receive payment. And although they have more time to do so, our understanding is that many will not, and that hundreds of millions of dollars will therefore return to the ERAP fund for new applicants. We also greatly appreciate Governor Hochul’s request for an additional \$1 billion from the federal

government to shore up the program, and hope that it will yield additional resources to continue paying ERAP benefits.

OTDA should continue accepting ERAP applications while these funding questions are resolved. Thanks to “on the ground” efforts of Legal Services NYC and other legal service providers across the state, tremendous momentum has been created that has helped to educate communities about the availability of ERAP relief. This shutdown will hurt those efforts.

Moreover, the continuing influx of new ERAP applications is one of the state’s best tools for measuring the need for rental assistance arising from the pandemic and anticipating the potential scope of the eviction crisis when the eviction moratorium lifts. That information, in turn, provides a strong basis for securing additional funding from the federal government and other sources. Importantly, having an ERAP application on file offers tenants essential protections in any ensuing housing court litigation that can further mitigate the looming eviction crisis.

We understand that the ERAP program cannot continue indefinitely, but we strongly urge OTDA to fully re-open, and to keep open, the application portal at least until all federal funds are exhausted and have been redistributed and spent.

Sincerely,

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