

Exhibit A

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

THE COUNCIL OF THE CITY OF NEW YORK,

Petitioner-Plaintiff,

-against-

MAYOR ERIC ADAMS, in his official capacity
as Mayor of the City of New York,

Respondent-Defendant.

**PROPOSED VERIFIED
PETITION-COMPLAINT IN
INTERVENTION**

Index No. 450563/2024

Petitioner-Plaintiff, the Council of the City of New York, by and through its attorneys, the Office of the General Counsel for the Council of the City of New York and Emery Celli Brinckerhoff Abady Ward & Maazel LLP, alleges as follows:

PRELIMINARY STATEMENT

1. The New York City Charter provides for a clear separation of powers—the New York City Council serves as the legislative body of the City while the Mayor operates as the City’s chief executive.
2. As co-equal branches of City government, the Council passes local legislation that the Mayor is then required to implement.
3. The Mayor’s obligation in this regard is not discretionary but *mandatory*.
4. A Mayor is duty bound to effectuate a valid local law regardless of whether the law aligns with their policy preferences.
5. The Council brings this action to compel Respondent Mayor Eric Adams to implement valid local laws enacted by the Council to address the increasing homelessness crisis in the City.

6. Homelessness has risen to its highest levels in the City since the Great Depression of the 1930s.

7. The City's eviction rates surged after New York State's eviction moratorium ended in January 2022. By the following year, City marshals had evicted more than 4,400 households and more than 18,000 eviction cases have been filed. As of December 2023, the total number of people residing in the City's shelter system was approximately 147,000, a 144 percent increase from January 2022. And one out of every three shelter occupants was a child.

8. The City's shelters are at their breaking point, and New Yorkers in unstable housing situations are suffering.

9. In response to this crisis, the Council passed a set of critical laws to reform the City's Fighting Homelessness and Eviction Prevention Supplement program ("CityFHEPS").

10. The CityFHEPS program is a rental assistance supplement that allows eligible individuals and families to find and keep private housing. Thousands of New Yorkers have used CityFHEPS vouchers to successfully move out of shelters and into permanent housing. The program also helps certain eligible households at risk of homelessness avert shelter entry.

11. Local Laws 99, 100, 101, and 102 of 2023 (collectively, the "CityFHEPS Reform Laws" or "Reform Laws") together remove eligibility barriers to the CityFHEPS program and eliminate unnecessary bureaucratic obstacles to accessing this relief.

12. On June 23, 2023, the Mayor vetoed this package of legislation.

13. Three weeks later, the Council overrode the Mayor's veto, the bills became laws, and on January 9, 2024, the laws went into effect.

14. The Reform Laws are a series of pragmatic, cost-effective solutions to the ever-growing housing crisis in the City. Every day, individuals and families in this City are struggling to find

or keep stable housing. Unhoused individuals, policy experts, and CityFHEPS voucher recipients passionately and persuasively advocated for these changes before the Council. Among other important innovations, the Reform Laws eliminated homelessness as a precondition for voucher eligibility and transformed CityFHEPS into a powerful preventive tool to keep more families housed in their current homes and out of the shelter system.

15. Despite their enactment, Mayor Adams and his Administration refuse to implement the CityFHEPS Reform Laws. Indeed, the Adams Administration expressly stated its intent to disregard the laws and has proactively imposed new work requirements on voucher recipients in direct contravention of Local Law 102.

16. The Mayor has abdicated his mandate under the Charter. Each day he fails to perform his job, it is New Yorkers who unnecessarily suffer.

PARTIES

17. Petitioner-Plaintiff, the New York City Council, is the sole “legislative body” of the City of New York and is vested with “the legislative power of the city.” N.Y.C. Charter § 21. The Charter vests the Council with wide legislative authority to adopt local laws, not inconsistent with State or Federal law, “for the good rule and government of the city; for the order, protection and government of persons and property; for the preservation of the public health, comfort, peace and prosperity of the city and its inhabitants.” N.Y.C. Charter § 28; *see* N.Y. Const. art. IX § 2(c)(10); *see also* N.Y. Mun. Home Rule Law § 10(1)(a)(12); General City Law § 20 subd.13 and 16. The Council’s principal place of business is City Hall, New York County, New York 10007.

18. Respondent-Defendant Eric Adams is the Mayor of the City of New York and as such is the “chief executive officer of the city.” N.Y.C. Charter § 3. The Mayor’s principal place of

business is City Hall, New York County, New York 10007. The Mayor is sued in his official capacity.

JURISDICTION AND VENUE

19. This Court has subject-matter jurisdiction to decide this Petition pursuant to Sections 3001 and 7803 of the CPLR and general original jurisdiction in law and equity as provided in Article VI, Section 7(a) of the New York State Constitution.

20. Venue is proper in New York County Supreme Court pursuant to Sections 504(3), 506(b), and 7804(b) of the CPLR because Petitioner brings its claims against the Mayor of New York City for actions taken in New York County, and because the Mayor’s principal offices are in New York City.

FACTS

A. The Council’s Previous Reforms to the CityFHEPS Program

21. On October 29, 2018, the de Blasio Administration consolidated several pre-existing rental assistance programs into the CityFHEPS program.

22. CityFHEPS is administered by the New York City Department of Social Services (“DSS”), which includes both the Department of Homeless Services (“DHS”) and the Human Resources Administration (“HRA”).

23. The program provides rental assistance to allow households to access or remain in private housing. Each household is obligated to pay 30 percent of its income towards rent, and the City pays the remaining portion of these households’ rent directly to the landlord.

24. The COVID-19 pandemic exacerbated the housing crisis in the City, spurring the Council to consider ways to improve the CityFHEPS program to keep residents housed in the face of urgent need.

25. At a committee hearing on September 15, 2020, experts, advocates, and specialists provided feedback, insight, and suggestions to improve the program.

26. They argued, for example, that the CityFHEPS maximum rent limits were too low compared to the higher rent limits used in the Section 8 housing voucher program, a highly successful rental assistance program based on Fair Market Rents (“FMR”) established annually by the federal government considering local housing market conditions. Ex. A, Sept. 15, 2020, Committee Report, at 8.¹

27. The City’s largest homeless services provider, Women in Need, explained to the Council that raising the monthly voucher limit from \$1,580 to \$1,951 (the FMR for the City) would make 68,000 two-bedroom recently-available apartments accessible to CityFHEPS voucher recipients. Ex. A, at 8.

28. Additionally, the Center on Budget and Policy Priorities reported that housing vouchers could lead to future costs savings by reducing shelter costs associated with housing homeless families with children enough to offset nearly the entire cost of the voucher. Ex. A, at 9-10.

29. To address the program’s impractically low maximum rent, on June 27, 2021, the Council enacted Local Law 71 of 2021, which requires that any individuals or families receiving rental assistance vouchers would continue to receive the assistance so long as the household continued to meet eligibility requirements. The law also requires that the maximum rent toward

¹ All citations to exhibits refer to exhibits attached to the Ejebe Affirmation. This Petition hereby incorporates by reference the Ejebe Affirmation and all exhibits attached to it.

which a CityFHEPS voucher could be applied must be set, and increased annually, at the same rate as levels utilized by the Section 8 program.

30. In response to other critical concerns raised by experts and members of the public, over the next few years, the Council also passed Local Laws 157 and 170 of 2021, and Local Law 64 of 2023.

31. Local Law 157 of 2021 provides that youth who have spent 90 days of the previous two years in foster care are eligible for CityFHEPS vouchers.

32. Local Law 170 of 2021 allows youth who have spent time in runaway shelters and homeless youth services funded by the Department of Youth and Community Development to be eligible for CityFHEPS vouchers.

33. Local Law 64 of 2023 requires rental assistance payments to be available via an electronic funds transfer.

34. The Adams Administration (in the case of Local Law 64 of 2023) and de Blasio Administration (in the case of Local Laws 71, 157, and 170 of 2021) participated at hearings for each piece of legislation, and while they occasionally raised policy objections, they never once raised any preemption or curtailment concerns. *See generally* Ex. B, September 15, 2020, Committee Hearing Transcript; Ex. C, December 15, 2022, Committee Hearing Transcript; Ex. D, November 24, 2020, Committee Hearing Transcript; Ex. V, October 25, 2021, Committee Hearing Transcript.

B. CityFHEPS Reform Laws: Local Laws 99, 100, 101, and 102 of 2023

35. In 2022 and 2023, the City's shelter system was tested like never before by the arrival of significant numbers of migrants to the City, many of whom lacked prearranged access to

housing. Moreover, an increasing number of longtime New Yorkers were facing eviction and slipping into homelessness because of the expiration of the State eviction moratorium.

36. Despite the Council's previous changes to the CityFHEPS programs, New Yorkers still faced significant hurdles to access housing vouchers, especially those who were currently not residing in a City shelter. *See* 68 R.C.N.Y. §§ 10-03, 10-04.

37. For such applicants, access to CityFHEPS vouchers was extremely limited. To be eligible, households had to have a gross income at or below 200 percent of the federal poverty level and the household had to either include a veteran; receive Pathway Home benefits; be referred by a qualifying program; or be facing eviction in court.

38. Households that were qualified as a result of facing eviction confronted additional eligibility hurdles: the household had to include someone who previously lived in a DHS shelter; or had an active Adult Protective Services case or in a community guardianship program; or had to be using the CityFHEPS voucher to remain in a rent-controlled apartment.

39. The program contained additional administrative obstacles even for applicants residing in shelters. Applicants had to have lived in a shelter for 90 days to be eligible. And, if utilities were not included in a unit's rent, DSS was permitted to deduct a utility allowance from the program's maximum rental allowance—meaning that, after the deduction, the unit might no longer qualify for CityFHEPS. Moreover, applicants with children were required to work 14 hours per week.

40. The Council enacted Local Laws 99, 100, 101, and 102, recognizing that further fundamental changes to CityFHEPS were needed to prevent increasing rates of homelessness. All four laws amended Section 21-145 of the New York City Administrative Code.²

² The text of each Local Law is reproduced in the July 13, 2023 Committee Report. *See* Exhibit. I, at 17-26.

Local Law 99

41. Local Law 99 prohibits DSS from deducting a utility allowance from the maximum rental assistance to be paid to landlords. In situations where utilities are not included in the rent and the actual rent is less than the maximum allowed by CityFHEPS, the tenant's rent contribution may be reduced under a formula described within Local Law 99. Local Law 99 also instructs DSS to conduct outreach to the community, including landlords, families, and individuals experiencing homelessness.

Local Law 100

42. Local Law 100 modifies the CityFHEPS program's definitions in several crucial ways. *First*, it eliminates the requirement that applicants must have lived in a shelter for a minimum of 90 days to be eligible for vouchers.

43. *Second*, it expands the definition of a "household at risk of eviction" as "an individual or family that has received: (i) a written demand for rent payment or a predicate holdover notice pursuant to sections 711 or 713 of the real property actions and proceedings law; or (ii) a notice of non-renewal of residential tenancy pursuant to section 226-c of the real property law." As described *supra*, prior to this expansion only a narrow category of individuals living outside a shelter had access to the CityFHEPS program.

44. *Third*, Local Law 100 modifies the definition of the term "income eligible" to require that an applicant's total gross income not exceed 50 percent of the area median income, as defined by the federal Department of Housing and Urban Development, which is higher than the prior eligibility standard of no more than 200 percent of the federal poverty level.

45. *Fourth*, Local Law 100 redefines a household "experiencing homelessness" as a household "(i) residing in a city-administered shelter; (ii) working with a department of homeless

services or department of youth and community development outreach team while receiving services in a safe haven, stabilization bed, drop-in center, or runaway and homeless youth services; or (iii) receiving case management services from a provider under contract with the department of homeless services.”

Local Law 101

46. Local Law 101 modifies eligibility criteria for a CityFHEPS voucher to include households at risk of eviction, as defined in Local Law 100, or a household experiencing homelessness as defined in Local Law 100.

Local Law 102

47. Local Law 102 modifies the employment and source of income requirements for CityFHEPS voucher applicants. The local law prohibits DSS from basing voucher eligibility on the applicant’s employment status or source of income, eliminating the previous work requirement.

48. Local Law 102 also applies the new definitions in Local Law 100, expanding eligibility for CityFHEPS vouchers to include households whose gross income does not exceed 50 percent of the area median income. In other words, applicants making up to 50 percent of the area median income—the midpoint of an area’s income distribution—are now eligible for a CityFHEPS voucher. For example, under the thresholds from fiscal year 2023, Local Law 102 would change the maximum income eligibility from \$29,160 to \$49,450 for individuals and from \$60,000 to \$70,600 for a family of four.

C. The Initial Passage of the CityFHEPS Reform Laws

49. The CityFHEPS Reform Laws were subjected to public scrutiny and debate for well over a year before they were passed.³ The Council met extensively with stakeholders in addition to opening the bills to public discussion. The Council's Committee on General Welfare held public hearings on the bills on September 13, 2022, January 18, 2023, and May 24, 2023.

50. At these hearings, Council Members listened to a combined total of seven hours of live testimony from over seventy witnesses, including service providers to the homeless, nonprofit organizations, Adams Administration officials, CityFHEPS recipients, unhoused New Yorkers, and others. The Council also received over 300 pages of written testimony, including statistical analyses, from homelessness and affordable housing policy experts.

51. From these hearings, the Council learned four key things that informed its policy judgment:

52. *First*, homelessness policy experts considered the CityFHEPS program a "godsend" in moving people out of shelters. Ex. G, January 18, 2023, Committee Hearing Transcript, at 13-15.

53. In fiscal year 2022, over 7,000 households and 15,000 individuals used CityFHEPS to either exit the shelter system or remain in their homes. In general, 78 percent of New Yorkers who exited the shelter system used a CityFHEPS voucher to do so.

54. Moreover, decades of research on federal rental assistance programs shows that rental assistance vouchers are a highly effective tool for reducing homelessness, housing instability, and improving overall outcomes for families and children. Ex. I, July 13, 2023, Committee Report, at 5.

³ Prior to passage, local laws are referred to by their "Introduction" numbers. Local 99, 100, 101, and 102 were referred to as Int. No. 229, Int. No. 878, Int. No. 893, and Int. No. 894, respectively. On April 28, 2022, Int. No. 229 was introduced and referred to the Committee on General Welfare. On January 19, 2023, Int. No. 878, Int. No. 893, and Int. No. 894 were introduced and referred to the same committee. All four bills were eventually amended and successfully voted out of Committee on General Welfare and sent for approval by the full Council under the names Int. No. 229-A, Int. No. 878-A, Int. No. 893-A, and Int. No. 894-A. Ex. I, July 13, 2023, Committee Report.

55. *Second*, CityFHEPS's strict eligibility criteria vastly limited the program's impact.

56. Juan Diaz, Policy and Advocacy Associate at Citizens Committee for Children, testified that “[m]any families in the community, you know, low-income communities do not qualify for CityFHEPS eligibility due to other eligibility program restrictions. Therefore, [we] support the following reforms: Permit accepting rent letter from landlords instead of housing court eviction to qualify for CityFHEPS. These eligibility requirements were temporarily implemented during the pandemic and it helped many families prevent eviction. This change should be made permanent.” Ex. G, at 184.

57. Jennie Stephens-Romero, Supervising Attorney at Make The Road New York, also testified that expanding eligibility would prevent eviction and homelessness. She explained that “[f]acing eviction and losing a home is a traumatic life event, and as some of our . . . colleagues have testified today, it has [] proven health and economic consequences that can last generations. Forcing families to experience eviction before giving them assistance is too late. Which can and should be stepping in before a family loses their home by offering them assistance like CityFHEPS. Expanding eligibility to tenants who have received a rent demand or can otherwise prove their risk of housing instability would prevent many New Yorkers from facing those long-lasting consequences of eviction and the loss of a home.” Ex. G at 182.

58. At a hearing, Council Member Pierina Ana Sanchez remarked that CityFHEPS should work “as an upstream prevention tool to keep families in their homes and out of shelters to begin with. An individual with \$46,000 in income, or a household of three people earning \$60,000. That’s not a rich household. And yet, you wouldn’t know that from CityFHEPS requirements, because those individuals are precluded at this time from applying...Right now, if you don’t have a job, and it causes you to fall behind on rent and become homeless. Then when you

become homeless you need to have a job to get an apartment. That doesn't make sense." Ex. G, at 34-35.

59. *Third*, organizations working directly with individuals affected by homelessness highlighted the impossibilities inherent in the preexisting CityFHEPS regime. The utility allowance was a point of particular concern.

60. For example, Nicole McVinua, Director of Policy at Urban Pathways, testified that "the [C]ity's application of the utility allowance has effectively decreased the value of the [CityFHEPS] voucher by requiring that the total rental amount include utilities and when utilities are not included, deducting the utility allowance off the top of the overall voucher value." This system effectively precludes CityFHEPS recipients from accessing qualified units "because most apartments don't include all the utilities." Ex. E, September 13, 2022, Committee Hearing Transcript, at 114-15.

61. Alexandra Dougherty, Senior Staff Attorney and Policy Counsel at the Civil Justice Practice at Brooklyn Defender Services, also discussed a situation faced by a client. After two years of searching, the client identified a unit \$200 under the maximum rental allowance, without utilities included. After the utility allowance deduction was applied, the unit exceeded the maximum rental allowance and was not eligible for the program. Ex. E, at 150-151; *see also* Ex. F, September 13, 2022, Committee Hearing Testimony, at 18-22.

62. *Fourth*, multiple experts submitted testimony demonstrating that expanding access to housing vouchers would reduce stays at homeless shelters and result in significant cost savings for the City. Ex. I, at 11-12; Ex. K, July 13, 2023, Committee Hearing Testimony, at 1-6; Ex. H, January 18, 2023, Hearing Testimony, at 16. It costs the City nearly \$8,773 per month to house a

family of two in the shelter system. A CityFHEPS voucher for the same family would cost a maximum of \$2,387, resulting in a lower total annual expense.⁴

63. Indeed, the Council heard testimony that the “homeless prevention” approach that the CityFHEPS Reform Laws codified would result in a net savings of more than \$730 million per year. Ex. J, July 13, 2023, Committee Hearing Transcript, at 10.

64. DSS and HRA attended these hearings and testified without making any reference to Council’s authority or the legality of the bills. *See generally* Ex. E; Ex. G.

65. The Council passed the four bills on May 25, 2023, by votes of 41 to 7. Ex. W, May 25, 2023, Stated Meeting Hearing Transcript, at 73.

D. The Mayoral Veto

66. On June 23, 2023, the Mayor vetoed the bills.

67. The Mayor transmitted his veto to the Council accompanied by a veto statement. Ex. I, Appendix A. Notably, in violation of Section 37(b) of the Charter, the Mayor failed to file his specific objections to Introduction Number 229-A (the bill that would become Local Law 99) in writing. *Id.*

68. The Mayor objected to the bills’ potential cost, complained that the Administration would need to create a waitlist for vouchers, and criticized the legislation for not addressing affordable housing supply instead.

69. In addition to these policy concerns, the Mayor asserted that Introduction Number 893-A, which would become Local Law 101, was “legally flawed as it seeks to legislate in an area in which authority is reserved to the State.” Ex. I, Appendix A at 2. The veto message posited that

⁴ *City Council, Homeless Services Providers and Advocates Denounce Mayor Adams’ Veto of CityFHEPS Bills, Passed by Veto-Proof Majority, as Political Act that Harms New Yorkers*, New York City Council (June 23, 2023), <https://council.nyc.gov/press/2023/06/23/2431/>.

the legislation was preempted by the State's Social Services Law which, he alleged "gives plenary authority to DSS to develop and administer these programs, subject to oversight by the State Office of Temporary and Disability Assistance." *Id.*

E. The Council's Override

70. On July 13, 2023, by a vote of 42 to 8, the Council overrode the Mayor's veto, pursuant to N.Y.C. Charter § 37(b). Ex. X, July 13, 2023, Stated Meeting Hearing Transcript, at 61.

71. In a press statement following the Council's override, New York City Council Speaker Adrienne Adams emphasized that the CityFHEPS Reform Laws were "aimed at removing barriers faced by the lowest income New Yorkers to accessing vouchers that can help them avoid losing their homes and becoming unhoused. During a time of record homelessness, it is critical that we respond with the urgency and strength needed to address the scale of this crisis."⁵

72. Similarly, Deputy Speaker Diana Ayala highlighted that "homelessness rates [have] experienc[ed] an eighteen percent increase compared to the previous year, accompanied by a record number of individuals and families seeking refuge in our shelter system, and a sharp surge in the cost of living."⁶ She praised the CityFHEPS Reform Laws as a "comprehensive solution that not only proves more cost-effective in the long run but also offers stable, long-term housing for vulnerable residents of New York City."⁷

F. The Mayor Refuses to Implement the CityFHEPS Reform Laws

73. By their terms, the CityFHEPS Reform Laws provided Mayor Adams and DSS six months to implement them before their effective date of January 9, 2024.

⁵ *Council Overrides Mayor's Veto on Legislation to Address Homelessness Crisis by Helping New Yorkers Move Out of Shelter and Avoid Evictions with CityFHEPS Vouchers*, New York City Council (July 13, 2023), <https://council.nyc.gov/press/2023/07/13/2444/#:~:text=%E2%80%9CThese%20bills%20are%20aimed%20at,the%20scale%20of%20this%20crisis.>

⁶ *Id.*

⁷ *Id.*

74. However, Mayor Adams has demonstrated that he does not intend to implement the laws and has even proactively worked to undermine them.

Permanent HRA Rule Violates Local Law 102

75. For example, on November 16, 2023, the Mayor and HRA issued a permanent rule that directly violates Local Law 102. 68 RCNY § 10-04; *see also* Ex. L, Notice of Adoption of Amendments. Instead of eliminating the work requirement for families (as required by Local 102), the Mayor decreased the work requirement from 14 hours to 10 hours per week. The Mayor also created a wholly new work requirement for single adults, now requiring that they work 10 hours per week to be eligible for the CityFHEPS vouchers.⁸

DSS Commissioner Park's Correspondence with the Council

76. On November 22, 2023, Deputy Speaker Diana Ayala made detailed inquiries with DSS's Commissioner Molly Wasow Park regarding implementation of the CityFHEPS Reform Laws. Ex. M, Deputy Speaker Ayala's Letter to Commissioner Park. The Deputy Speaker inquired whether DSS had submitted or was planning to submit an updated CityFHEPS plan to the State Office of Temporary and Disability Assistance pursuant to 18 NYCRR § 352.3(a)(3). She also asked if DSS had begun to work on a policy bulletin to distribute to staff explaining the changes to CityFHEPS or begun outreach campaigns on the CityFHEPS reforms.

77. Remarkably, on December 15, 2023, Commissioner Park responded stating that the "local laws cannot be implemented at this time" due to "substantial financial, operational and legal issues." Ex. N, Commissioner Park's Response to Deputy Speaker Ayala. Commissioner

⁸ In this same permanent rule, HRA also eliminated the 90-day shelter stay requirement for single adults, which was the objective of LL 100 of 2023. To the extent Respondent claims that this was done pursuant to executive authority and not a result of the passage of Local Law 100, the Council seeks an order from the Court compelling Respondent to fully effectuate Local Law 100.

Park made no mention of plans to revise relevant applications or policy bulletins in compliance with the new laws or any other steps to effectuate the laws. *See id.*

78. Instead, Commissioner Park recited the Administration's policy disagreements with the laws. In particular, she asserted that the laws would cost the City \$17 billion over five years. Ex. N. This estimate has been heavily disputed,⁹ and most recently, the City's Independent Budget Office questioned the metrics the Administration used to arrive at this number.¹⁰ In its Fiscal Impact Statements, the Council estimated the cost of the laws would be \$10.6 billion over five years. Exs. P, Q, R, S, Fiscal Impact Statements for Local Laws 99, 100, 101, and 102, respectively. The Council's estimate did not account for the potential social and economic benefits associated with an increased number of households who are stably housed, which would have decreased the cost estimate.

79. While Commissioner Park openly refused to implement Local Laws 100, 101, and 102, her letter indicated a willingness to effectuate Local Law 99. However, there is no evidence that the Administration has, in fact, implemented Local Law 99. To the contrary, on December 29, 2023, DSS updated the Landlord Utility Form on its website. The updated form still provides a "maximum rent amount" table that lists the payment amounts for units inclusive of and exclusive of utilities, in explicit contravention of Local Law 99.¹¹

⁹Cassidy Teminsky et al., *CityFHEPS Bills Could Save NYC Millions and House Thousands of Families*, Win (July 2023), <https://winnyc.org/wp-content/uploads/2023/07/CityFHEPS-Bill-Packagev5.pdf>; Debipriya Chatterjee et al., *To Fight Homelessness, House the People: Reforming the CityFHEPS Voucher Program Is the Need of The Hour*, Community Service Society (May 23, 2023), <https://www.cssny.org/news/entry/city-fheps-voucher-program-homelessness-housing>; Debipriya Chatterjee et al., *To Fight Homelessness, House the People (Part 2): A deeper dive into the costs, benefits and savings of the CityFHEPS reform and expansion*, Community Service Society (June 20, 2023), <https://www.cssny.org/news/entry/to-fight-homelessness-house-the-people-part-2-city-fheps-costs-benefits-savings-nyc>.

¹⁰ *Understanding the City Fighting Homelessness & Eviction Prevention Supplement (CityFHEPS) Program: Budget, Usage, Expansion Projections and Concerns*, New York City Independent Budget Office (January 2024), https://www.ibo.nyc.ny.us/iboreports/CityFHEPS_Jan2024.pdf.

¹¹ *Landlord Utility Information*, NYC Department of Social Services (Dec. 2023), [https://www.nyc.gov/assets/hra/downloads/pdf/cityfheps-documents/DSS-8q-\(E\)-FILLABLE.pdf](https://www.nyc.gov/assets/hra/downloads/pdf/cityfheps-documents/DSS-8q-(E)-FILLABLE.pdf).

Speaker Adrienne Adams's Correspondence with Commissioner Park and Mayor Adams

80. On the CityFHEPS Reform Laws' effective date, January 9, 2024, still lacking any assurance that the Mayor would implement the legislation, Speaker Adrienne Adams wrote in response to Commissioner Park and Mayor Adams. Her letter reminded them that “[u]nder the New York City Charter, DSS and the Administration are obligated to enforce and implement all laws duly passed by the Council regardless of policy disagreements.” Ex. O, Speaker Adams's Letter to Commissioner Park. Speaker Adams noted that the Council had not received an updated response from DSS regarding their plans to implement the City FHEPS laws and asserted that DSS's refusal to effectuate duly enacted laws passed by the Council was “unlawful and unacceptable.” *Id.*

81. Speaker Adams's correspondence stressed that if DSS does not show “concrete, verifiable steps to implement these local laws by February 7, 2024, the Council will have no other option but to take legal action.” Ex. O.

82. Speaker Adams has since received no response from anyone in the Adams Administration.

83. On February 8, 2024, the Council adopted Resolution 4, authorizing Speaker Adams to take legal action to compel the Mayor to implement the Reform Laws. Ex. T.

84. In recent days when responding to press inquiries about his failure to implement the CityFHEPS Reform Laws, Mayor Adams has offered policy reasons, not legal ones, for his inaction.¹²

¹² See, e.g., Sahalie Donaldson, *Council authorizes lawsuit over CityFHEPS housing voucher expansion*, City & State New York (Feb. 8, 2024), <https://www.cityandstateny.com/politics/2024/02/council-authorizes-lawsuit-over-cityfheps-housing-voucher-expansion/394048/>.

85. To date, the Administration has not applied the new criteria to adjudicate new CityFHEPS applications and has not issued vouchers to individuals who are newly eligible for CityFHEPS because of the Reform Laws.

G. The CityFHEPS Reforms Laws Are Valid and Must Be Implemented

86. Aware that his policy objections provide no legal justification for his failure to implement the four laws, Mayor Adams has offered another rationalization—he asserts that the CityFHEPS Reform Laws are invalid. Buried in his June 23, 2023 veto statement, in a one-paragraph allegation, the Mayor asserted that the State’s Social Services Law preempted Local Law 101. Ex. I at Appendix A.

87. In her December 2023 letter, Commissioner Park raised similar concerns, now also contending that Local Laws 100,101, and 102, are invalid and improperly curtailed the budgetary powers of the Council and the Mayor. Ex. N.

88. The Mayor’s arguments are unavailing and cannot justify the abdication of his duties.

89. Mayor Adams took an oath to support and uphold the Charter.

90. It is his legal duty to implement and effectuate duly passed legislation such as the CityFHEPS Reform Laws. He has broken his oath. He has abdicated his duties by unilaterally deciding not to implement these valid laws passed by the Council.

91. The Mayor’s continued insistence that his policy preference outweighs the duly enacted CityFHEPS Reform Laws is a clear violation of separation of powers principles and usurps legislative authority from the Council. This Court must compel the Mayor to follow the law.

FIRST CAUSE OF ACTION
(For Judgment Pursuant to CPLR § 7806)

92. Petitioner repeats and realleges each and every allegation in the preceding paragraphs as if set forth herein in full.

93. Respondent is required by the Charter, among other laws, to implement all laws duly passed by the Council.

94. The Council passed and duly enacted the CityFHEPS Reform Laws on July 13, 2023. The CityFHEPS Reform Laws became effective on January 9, 2024.

95. Respondent has failed to implement the CityFHEPS Reform Laws, notwithstanding their duty to do so.

96. CPLR §7801 *et seq.* provides a right of action against governmental officers and entities who have “failed to perform a duty enjoined upon [them] by law.”

97. Petitioner is entitled to a judgment under CPLR § 7806 ordering the Mayor to implement the CityFHEPS Reform Laws by their terms.

SECOND CAUSE OF ACTION
(Declaratory Relief)

98. Petitioner repeats and realleges each and every allegation in the preceding paragraphs as if set forth herein in full.

99. A controversy exists between the parties concerning whether the CityFHEPS Reform Laws are a valid exercise of the Council’s lawmaking authority bestowed by the N.Y.C. Charter § 28 and the N.Y. Municipal Home Rule Law § 10. *See Good Humor Corp. v. City of New York*, 290 N.Y.312, 317 (1943).

100. The CityFHEPS Reform Laws do not conflict with state or federal law. The State Social Services Law does not preempt the CityFHEPS Reform Laws.

101. The CityFHEPS Reform Laws do not curtail any budgetary powers. The laws do nothing to abolish, transfer, or diminish any budgetary powers. As such, the Reform Laws did not need to be passed by mandatory referendum.

102. As a result of the foregoing, Petitioner is entitled to a judgment pursuant to CPLR §3001 declaring that the CityFHEPS Reform Laws are not preempted and do not require passage through a mandatory referendum.

PRAYER FOR RELIEF

Wherefore, Petitioner demands judgment as follows:

- a) directing and compelling Respondent and his agencies, officers, and employees immediately to implement the CityFHEPS Reform Laws.
- b) declaring that the CityFHEPS Reform Laws are not preempted and do not curtail any budgetary powers.
- c) granting other such, further, or different relief as the Court deems just and proper, including reasonable costs and attorneys' fees.

Dated: February 21, 2024
New York, New York

OFFICE OF THE GENERAL
COUNSEL FOR THE NEW YORK
CITY COUNCIL

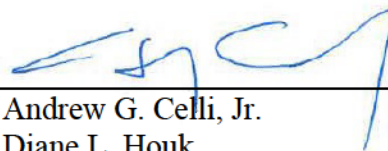


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*Attorneys for Proposed Intervenor-
Petitioner-Plaintiff Council of the City
of New York*

VERIFICATION

State of New York)
County of New York) ss:
County of New York)

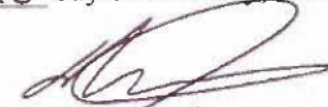
Jason Adolfo Otaño, being duly sworn, states that he is the General Counsel for the Council of the City of New York; that he is fully familiar with the facts of this proceeding; that he has read the foregoing Petition and Complaint and knows the contents thereof; that the same is true to his own knowledge, except as to matters therein that are stated upon information and belief, and as to those matters, he believes them to be true.

Dated: February 20, 2024
New York, New York



Jason Adolfo Otaño

Sworn to before me this
20th day of February, 2024



NOTARY PUBLIC

LEON K CHANG
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01CH6405389
Qualified in Queens County
My Commission Expires: 3-9-2028