To Be Argued By:
ANDREW G. CELLI, JR.
Time Requested: 15 Minutes

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New York Supreme Court

APPELLATE DIVISION—FIRST DEPARTMENT

In the Matter of the Application of
MARIE VINCENT, CAROLINA TEJEDA, MARY CRONNEIT, SUSAN ACKS,
on behalf of themselves and all others similarly situated,

Petitioners-Appellants,

For a Judgment Pursuant to Article 78 of The Civil Practice Law and Rules

—against—

MAYOR ERIC ADAMS, in his official capacity
as Mayor of the City of New York, THE CITY OF NEW YORK,

Respondents-Respondents.

CASE NO.
2024-05186

THE COUNCIL OF THE CITY OF NEW YORK,

Petitioner-Plaintiff-Appellant,

—against—

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

Respondent-Defendant-Respondent.

BRIEF FOR PETITIONER-PLAINTIFF-APPELLANT THE COUNCIL OF THE CITY OF NEW YORK

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PRELIMINARY STATEMENT

In its Decision and Order dated August 2, 2024, the Supreme Court, New York County (Frank, J.) held that the New York City Council is legally prohibited from passing laws to assist the City's residents, including those who are homeless or housing insecure, with City money. The Trial Court's conclusion, summarily expressed in a few paragraphs, purports to rest on the doctrine of "field preemption." The Decision's analysis is not only sparse; it is also premised on fundamental errors of law. Unless it is reversed, the Decision threatens to undermine the legislative power of the City to help its residents in need of housing assistance and other forms of social services.

This case began with the act of law-making to support New Yorkers in need. In 2023, the Council passed four pieces of legislation expanding rental assistance to New Yorkers facing eviction or homelessness under a City program known as "CityFHEPS."[1] Over the years, the CityFHEPS program has helped thousands of New Yorkers move out of shelters into permanent housing. The Council's laws ("CityFHEPS Reform Laws" or "Reform Laws") were adopted with the purpose of addressing three concurrent emergencies the City faces: a rising number of evictions, a dramatic increase in the rate of homelessness, and an overstretched homeless shelter system. The Reform Laws removed barriers to the CityFHEPS

[1] "CityFHEPS" stands for the City Family Homelessness and Eviction Prevention Supplement.

program, doing away with bureaucratic requirements that essentially trapped applicants in the shelter system. Crucially, the laws employed a proactive approach to assist low-income renters at risk of eviction and to prevent them from entering the shelter system in the first place by allowing them to remain in their homes. Because rental assistance is less costly than housing New Yorkers in shelters, some policy experts projected that the Reform Laws would save the City money. R.259-60 (Pet. ¶¶ 62-63).

These important laws were approved by a supermajority of the Council and became law over the Mayor's veto. When the Mayor refused to implement them, the Council went to court seeking an order under Article 78 compelling implementation.

Faced with this issue, the Trial Court—with scarcely a citation to the statutory text—held that the New York State Social Services Law ("SSL") preempted the field of provision of social services to families in need. The Court held that such preemption rendered local laws in this area, including the CityFHEPS Reform Laws, invalid. The Court found that only the City's mayoral agency, the New York City Department of Social Services ("City DSS") can make social services policy in New York City, and the Council, the branch of government vested with the legislative power of the City, has no role.

The Decision is erroneous—egregiously so—in three critical respects.

First, it reflects a fundamental misunderstanding of field preemption and the SSL. For state law to preempt a subject matter's field and preclude local law-making, the State Legislature must clearly evince a "desire for across-the-board uniformity," statewide, within that particular field. *Jancyn Mfrg. Corp. v. Suffolk County*, 71 N.Y.2d 91, 98 (1987). Here, the SSL evinces exactly the opposite intent, especially with respect to rental assistance benefits. The statute, by its terms, *encourages* local innovation and problem-solving—*specifically* in the area of rental assistance—recognizing that different geographic areas, different populations, and different housing markets necessitate different solutions. The Trial Court's claim of field preemption is belied by the statute itself.

Second, the Decision rests upon a patent misreading of the SSL. The SSL denominates "social services districts" as the local entities empowered to provide supplemental rental assistance benefits to the unhoused and housing insecure. The "social services district" for the five boroughs is "the city of New York," SSL §§ 56, 61, a municipal corporation with both an executive branch (the Mayor and his agencies) and a legislative one (the Council). Ignoring the language of the SSL, the Trial Court held that the relevant "social services district" is not the City of New York as a whole but rather City DSS, a mayoral agency. The effect of this misreading is to deprive the Council of its law-making power in this critical arena. Given the plain language of the SSL, this conclusion cannot stand.

Finally, *Beaudoin v. Toia*, 45 N.Y.2d 343, 347 (1978), upon which the Trial Court heavily relied, does not support a finding of preemption. *Beaudoin* is not a case about local lawmaking or preemption at all. *Beaudoin* is a case about administrative eligibility determinations and standing. It stands for the unremarkable proposition that an eligibility determination by the State's social services department ("State DSS") [2] is binding upon a local social services commissioner and the local commissioner lacks standing to challenge it. That holding in no way supports the Trial Court's sweeping and baseless conclusion that the State Legislature intended to disempower every local legislature, including the Council, from caring for its residents in need.

The Trial Court's Decision is contrary to settled law and threatens to upend decades of governmental precedent—to say nothing of constitutional municipal home rule and the Charter-mandated separation of powers in New York City. For years, the Council has enacted legislation on the issue of housing assistance, including by setting eligibility criteria for and funding CityFHEPS. To correctly apply the doctrine of preemption and basic plain-language statutory interpretation, and to protect the integrity of the New York City Charter, this Court must reverse and swiftly grant the Council the relief it has sought—the enforcement of its laws.

[2] The State's social services department is currently known as the Department of Family Assistance and was formerly known as the Department of Social Services. This brief uses the term "State DSS" for clarity when referring to the state agency.

QUESTIONS PRESENTED

1. Whether the Supreme Court erred in denying the Council's Article 78 Petition by refusing to order the Mayor to implement the CityFHEPS Reform Laws. Answer: YES

2. Whether the Mayor's refusal to implement the CityFHEPS Reform Laws violates the separation of powers arrangement of New York City Government. Answer: YES

3. Whether the Supreme Court erred in holding that the State Social Services Law preempts the CityFHEPS Reform Laws. Answer: YES

4. Whether the Supreme Court should grant Article 78 or declaratory relief and order that the CityFHEPS Reform Laws are not preempted and that the Mayor must implement them. Answer: YES

FACTS AND PROCEDURAL HISTORY

I. THE NEW YORK STATE SOCIAL SERVICES LAW

The State Social Services Law has existed in various iterations since the 1920s. R.1269-75 (Ejebe Reply Aff. ¶¶ 2-32). It covers an array of subject matter areas, including housing and rental assistance, foster care, veterans' assistance, assistance to people with disabilities, residential programs for adults and children, and services for victims of domestic violence and human trafficking. The SSL also establishes State DSS and delineates its powers. SSL §§ 5-20.

Recognizing the role of localities in administering and delivering social services to its citizens, the SSL divides the State up into "social services districts." New York City is designated as a "city social services district." SSL § 61. Each of the other counties in the state is designated as a "county social services district[]."

Id. All cities other than New York City are part of the "county social services district" for the County in which they are located. SSL § 57.

The SSL also recognizes that each "social services district" must have within it a "social services department," a government office whose function includes the delivery of state-funded public assistance benefits (i.e., transfer payments, or what is commonly called "welfare"). *See* SSL §§ 66, 77. The law defines a "social services department" as "the division or officer of city government or the office or official or board charged with the authority to administer public assistance or care in the county social services district." SSL § 2(17).[3] It is the duty of social services officials operating these departments "to provide adequately for those unable to maintain themselves." SSL § 131.

Notably, the SSL delineates separate powers and duties for city social service districts and county social service districts. Title 3 of Article 3 of the SSL discusses County social service districts. SSL §§ 65-73. Title 4 of Article 3 of the SSL discusses City social service districts. SSL §§ 76-79. An important distinction between the two types of social services districts is that Section 65 expressly states that a *county* commissioner of social services "shall act as the agent of the [State] department of social services in all matters relating to assistance and care administered or authorized by the town public welfare

[3] "Social services officials" are the commissioners or officers of these departments. SSL § 2(14).

officers." SSL §§ 65(3), 2(1). In Title 4, which relates to city social services districts, the word "agent" appears nowhere.

Finally, as relevant to this appeal, the SSL empowers local "social services districts," including the City of New York, to "provide additional monthly shelter supplements to public assistance applicants and recipients who will reside in private housing, or who currently reside in private housing and are facing eviction." 18 NYCRR § 352.3. Such payments are known as "rental assistance." Where a "social services district" conceives of a plan to provide supplemental rental assistance for public assistance applicants and recipients, the "social services district" must submit the plan to the New York State Office of Temporary Disability Assistance ("OTDA") for review and approval. *Id.* § 352.3(a)(3)(i).

II. THE COUNCIL HAS LONG LEGISLATED ON MATTERS AFFECTING THE DELIVERY OF SOCIAL SERVICES GENERALLY, AND HOUSING SUPPORT IN PARTICULAR

For decades, the New York City Council has enacted legislation that falls broadly within the ambit of "social services" covered by the SSL. Some such laws have defined eligibility for City-funded benefits and programs, while others have directed City DSS to enforce specific policies and take particular actions in these arenas. The Council has been especially active in seeking to address New York City's housing and homelessness crisis, including through local laws regarding the provision of rental assistance.

Local laws enacted and implemented to address homelessness and housing insecurity include:

- *Local Law 18 of 1990*, a law that prohibits the City of New York from using so-called "Tier I shelters" to house families within the five boroughs. Notably, Local Law 18 was passed and implemented in New York City, even though Tier I facilities were otherwise permitted by state law statewide. R.2175 (Ejebe Reply Aff. ¶ 34).[4]

- *Local Law 57 of 1998*, which, established the City Department of Homeless Services ("DHS") within City DSS, set population limits for shelters for adults, required that beds be available for individuals seeking assistance at Emergency Assistance Units, and directed DHS to provide case management services. R.2176 (Ejebe Reply Aff. ¶ 35).

- *Local Law 6 of 1999*, a law that permits homeless shelters to operate in excess of the 200-person limit under certain circumstances. R.2176 (Ejebe Reply Aff. ¶ 36).

- *Local Law 43 of 2002*, a law that requires City DSS to provide emergency shelter and services to victims of domestic violence—and prohibits City DSS from denying services solely based on lack of documentary evidence of the domestic violence incident. R.2176 (Ejebe Reply Aff. ¶ 37).

- *Local Law 62 of 2014*, a law requiring DHS to grant a presumption of eligibility for shelter applicants exiting Human Resources Administration ("HRA") domestic violence shelters. R.2176 (Ejebe Reply Aff. ¶ 38).

- *Local Laws 53 and 54 of 2021*, laws that requires City DSS's Office of Civil Justice to implement access to legal services for tenants facing eviction in all City zip codes, and for the Office of Civil Justice Coordinator—a City DSS officer—to work with community groups to educate tenants about their rights in housing court. R.2176 (Ejebe Reply Aff. ¶¶ 39-40).

- *Local Law 35 of 2023*, a law that directs the City's DHS to maintain a ratio of one full-time mental health provider per fifty families with children in

[4] When large numbers of migrants arrived in New York City in 2023, Mayor Adams issued an executive order suspending this law and permitting the use of Tier I shelters in New York City. *See* Emergency Executive Order No. 402, May 10, 2023; R.2175-76 (Ejebe Reply Aff. ¶ 34).

each shelter for families with children. R.2176-77 (Ejebe Reply Aff. ¶ 41). Mayor Eric Adams signed this legislation into law.

Local laws enacted that direct City DSS and its sub-agencies to take particular actions to protect New Yorkers in other areas of public assistance include:

- *Local Laws 81 and 82 of 2005***,** which require City DSS to increase the number of eligible New Yorkers enrolled in the federal food stamp program, and direct City DSS to waive the face-to-face interview requirement and develop an online application system for the program. R.2177 (Ejebe Reply Aff. ¶¶ 43-44).
- *Local Laws 160, 164, 165 of 2019*, laws that require City DSS and HRA to: (1) provide systems for clients to reschedule appointments by phone; (2) provide spaces for children at job and SNAP centers; (3) establish a pilot program for providing social work services at job centers run by City DSS; and (4) establish an office of constituent services within City DSS, Local Law 160 of 2019. *See* R.2177 (Ejebe Reply Aff. ¶¶ 46-49).

III. THE CITYFHEPS PROGRAM AND THE COUNCIL'S PREVIOUS LEGISLATIVE MODIFICATIONS

One of the most comprehensive social services programs in the City's suite of aid to families in need is a rental assistance program known as CityFHEPS. Launched by the de Blasio Administration in 2018, CityFHEPS consolidated several pre-existing local rental assistance programs under a single programmatic umbrella. R.310-11 (Ex. A to Ejebe Aff. at 5-6). The program is funded by City tax dollars and designed to provide rental assistance vouchers to New Yorkers residing in shelters or facing eviction from private housing. R.100 (Zuiderveen Aff. ¶ 16); R.310-11 (Ex. A to Ejebe Aff. at 5-6). CityFHEPS is tailored to assist

people who currently reside in private housing but are vulnerable to eviction, or who live in shelters and are seeking more stable housing. Through the application of these and other eligibility criteria, CityFHEPS provides targeted assistance to some of the direst cases of homelessness in the City. *See* R.311 (Ex. A to Ejebe Aff. at 6). The program is administered by City DSS, in conjunction with HRA and DHS. R.251 (Pet. ¶ 22).

For years, the Council has used local legislation to shape the contours of CityFHEPS. In 2021, the Council enacted *Local Law 71 of 2021*, which modified the maximum rent toward which a CityFHEPS voucher could be applied, directing that it must be set—and increased annually—at the same rate as levels utilized by the Section 8 program. R.252-53 (Pet. ¶ 29). The same year, the Council enacted *Local Laws 157 and 170 of 2021*. These laws directed City DSS to change CityFHEPS eligibility requirements for youths in foster care and those living in runaway and homeless-youth shelters. R.253 (Pet. ¶¶ 30-32). Then-Mayor de Blasio signed all three pieces of legislation into law. Finally, in 2023, the Council passed *Local Law 64 of 2023*, which requires City DSS to provide CityFHEPS rental assistance payments through an electronic funds transfer. R.253 (Pet. ¶ 33). Mayor Adams signed this bill into law. R.253 (Pet. ¶ 34).

IV. THE CITYFHEPS REFORM LAWS AND THE MAYOR'S REFUSAL TO IMPLEMENT THEM

In 2022 and 2023, in response to the City's escalating homelessness, eviction, and shelter-capacity crises, the Council considered whether the CityFHEPS program needed reform. Homeless services providers and advocates argued that the program's income and maximum rent requirements were overly restrictive, and that CityFHEPS, if revised, could do more to prevent homelessness. R.253-54 (Pet. ¶¶ 35-39); R.257-60 (Pet. ¶¶ 49-63). Over the course of three public hearings debating possible reforms, Council Members listened to a combined total of seven hours of live testimony from over seventy witnesses, including service providers, policy experts, Adams Administration officials, CityFHEPS recipients, and unhoused New Yorkers. R.257 (Pet. ¶ 50).

The Council's response was to enact **Local Laws 99, 100, 101, and 102 of 2023**, the CityFHEPS Reform Laws, which were designed to loosen eligibility requirements and provide more and better city-funded rental assistance.[5] The Council approved each of the four bills by a vote of 41 to 7.

[5] These laws increased the income eligibility threshold to 50% of the area median income (up from 200% of the federal poverty limit), eliminated the 90-day shelter residency requirement, eliminated the work requirements, prohibited City DSS from deducting a utility allowance from the maximum rental allowance for a CityFHEPS voucher, and made an expanded category of individuals at risk of eviction—not just those already living in a shelter, evicted or in eviction proceedings—eligible for assistance. R.255-56 (Pet. ¶¶ 41-48).

The Mayor vetoed all four bills on June 23, 2023, R.260 (Pet. ¶ 65), citing budgetary impacts and policy differences with the Council. R.260 (Pet. ¶ 68). The Mayor also suggested that the laws were invalid because, he claimed, the SSL exclusively delegates policymaking authority to City DSS. R.1687 (Ex. I to Ejebe Aff., App. A at 2). The Council overrode the veto for all four bills by supermajority votes (42 to 8)—well in excess of the two-thirds majority required by the Charter. R.261 (Pet. ¶ 70).

All four bills became law, and, by their terms, went into effect January 9, 2024. R.261 (Pet. ¶ 73).

To date, the Mayor and his executive appointees, including those at City DSS, have refused to implement the CityFHEPS Reform Laws as enacted. On December 15, 2023, a top Administration official wrote that these laws "cannot be implemented at this time" due to "substantial financial, operational, and legal issues," reciting the Mayor's disagreements with the laws as a matter of policy and budget priorities. R.1776 (Ex. N to Ejebe Aff.); R.262-63 (Pet. ¶¶ 77-78). On January 9, 2024, the date the laws went into effect, Speaker Adrienne Adams wrote a letter to Mayor Adams and City DSS Commissioner Park, reminding them that it was the Administration's responsibility to implement local laws. R.264 (Pet. ¶¶ 80-81). Speaker Adams received no response. R.264 (Pet. ¶ 82).

V. THE COUNCIL'S LEGAL CHALLENGE AND THE OPINION BELOW

Faced with the Mayor's refusal to enforce the CityFHEPS Reform Laws, the Council filed the Petition at issue pursuant to CPLR Article 78. It seeks an order directing the Mayor to implement the CityFHEPS Reform Laws or, in the alternative, a declaration that the Reform Laws are valid.[6] The Mayor opposed the Petition, arguing that the CityFHEPS Reform Laws are preempted by the SSL.

The Trial Court (Frank, J.) denied the Council's Petition in a Decision and Order dated August 2, 2024. The Trial Court held that the CityFHEPS Reform Laws were preempted by the SSL under the doctrine of "field preemption." R.9 (Decision & Order at 4). The Court also held that the "social services district" with exclusive authority to make social services policy for the five boroughs was the City DSS, the mayoral agency, not the City of New York as a municipality. R.10 (Decision & Order at 5). And, in reliance upon a 1978 Court of Appeals decision, *Beaudoin v. Toia*, 45 N.Y.2d 343 (1978), the Trial Court found that City DSS is an "agent" of State DSS such that it cannot be directed by local law. R.9-10 (Decision & Order at 4-5). The Trial Court also found that failure of the current or previous Mayoral administrations to object to prior similar legislation on

[6] The Council moved to intervene in an action filed by individual New Yorkers who were newly eligible for CityFHEPS under the Reform Laws but had yet to receive any assistance because of the Mayor's inaction. R.236 (Proposed Order to Show Cause). The Mayor stipulated to the Council's intervention, and the Trial Court so-ordered the stipulation. R.7 (Decision & Order at 2).

preemption grounds did not "waive[] respondents' rights from raising the issue of preemption now." R.10 (Decision & Order at 5). The Trial Court's "Discussion" of these legal issues consumes barely a page and a half. R.9-10 (Decision & Order at 4-5).

This appeal followed. *See* R.2-3 (Council's Notice of Appeal).

ARGUMENT

I. THE TRIAL COURT ERRED IN HOLDING THAT THE CITYFHEPS REFORM LAWS ARE FIELD PREEMPTED

The Trial Court's conclusion that the CityFHEPS Reform Laws are "field preempted" by the SSL is erroneous as a matter of law and must be reversed.

First, the Trial Court misapplied well-settled principles of preemption and ignored governing case law, all of which preclude the argument that the SSL preempts the field of rental assistance. In the Decision, the Trial Court failed to offer any meaningful analysis of these issues at all; instead, it simply stated that "[t]he SSL does not provide a role for local legislation in the administration of social services programs." R.9 (Decision & Order at 4). As a result, the Decision leaves the impression that the SSL preempts the entire field of "social services"—a vast array of services and benefits for people in need, including programs funded by City dollars alone—disempowering the Council in one of the most important areas of municipal policymaking. Such a conclusion is not only wrong as a matter

of law; it portends a radical reorientation of City government that is inconsistent with long-standing practice.

Second, the Trial Court ignored the plain language of the Section 61 of the SSL in concluding that the term "social services district" refers to the City DSS, a Mayoral agency, not to "the city of New York." The SSL explicitly contemplates a role for a social services district, which is defined as "the city of New York"—including its legislative branch—in supplementing social services benefits in general, and in providing rental assistance in particular. *See* SSL §§ 56, 61, 77; 18 NYCRR § 352.3(a)(3)(i). As such, the SSL cannot preempt the field of rental assistance since it expressly empowered the City to innovate in this area. The Trial Court's error in interpreting the SSL—ignoring numerous aspects of the statute, and the statutory distinction between a "social services *district*" and a "social services *department*"—was material; it cannot stand.

Third, the Trial Court's reliance on *Beaudoin v. Toia*, 45 N.Y.2d 343 (1978), is reversible error. *Beaudoin* is a case that explores the principal-agent relationship between State DSS the and a county social services district as applied to an eligibility determination in an individual public assistance case. It has nothing to do with preemption, rental assistance, or the powers of the City of New York, or even a *city* social services district. *Beaudoin* in no way precludes the Council's

authority to set policy and adjust eligibility requirements in a rental assistance program created and funded by the City of New York.

In all of this, the Trial Court ignored decades of past practice that make clear that the Council and successive mayoral administrations have always viewed the SSL as carving out a role for local legislation, both to direct City DSS to act in particular ways, and to manage eligibility for rental assistance under the CityFHEPS program. If affirmed, the Trial Court's poorly reasoned and unsupported decision will upend these decades of established practice in City government. This decision would prevent the Council from accomplishing some of its most important work: ensuring that New Yorkers most in need receive proper aid and shelter.

A. Legal Framework

The New York Constitution's home rule provision "authorizes municipalities to adopt local laws pertaining to the 'government, protection, order, conduct, safety, health and well-being' of their citizens, so long as such local laws are 'not inconsistent' with the constitution or general state laws." *Police Benevolent Ass'n of the City of N.Y., Inc. v. City of New York*, 40 N.Y.3d 417, 423 (2023) (quoting N.Y. Const., Art. IX, § 2(c)(10)). As a threshold matter, "a strong presumption of validity attaches to legislative enactments." *Metro. Package Store Ass'n, Inc. v. Koch*, 89 A.D.2d 317, 324 (3d Dep't 1982). To overcome that

presumption, the challenging party must show "beyond a reasonable doubt" that the statute is legally defective, and even then, "only as a last resort should courts strike down [the] legislation." *Lighthouse Shores, Inc. v. Town of Islip*, 41 N.Y.2d 7, 11 (1976); *see also Metro. Package*, 89 A.D.2d at 324 (explaining the "heavy burden" to establish invalidity); *Council for Owner Occupied Hous., Inc. v. Koch*, 119 Misc. 2d 241, 243 (N.Y. Sup. Ct. 1983) ("[A] court should strike down a statute only . . . where the invalidity of the statute is apparent on its face."), *aff'd*, 61 N.Y.2d 942 (1984).

It is against this backdrop that the doctrine of preemption acts as a check on the home rule power. State law can preempt local law—and thus render the local law invalid under some circumstances—where the Legislature has clearly intended to preclude localities from acting in a particular arena ("field preemption"), or where local law is in conflict with a state law ("conflict preemption"). *Police Benevolent Ass'n*, 40 N.Y.3d at 423, 425-26. "Local laws may be inconsistent with and preempted by state law either because the legislature has occupied the relevant field of regulation or because the local law conflicts with state law." *Id.* at 423 (citing *Albany Area Bldrs. Ass'n v. Town of Guilderland*, 74 N.Y.2d 372, 377 (1989)).

For field preemption to apply, a court must first determine that the state "has clearly evinced a desire to preempt an entire field thereby precluding any further

local regulation." *Jancyn Mfg. Corp. v. County of Suffolk*, 71 N.Y.2d 91, 97 (1987) (emphasis added); *see also Albany Area Bldrs Ass'n*, 74 N.Y.2d at 377. This occurs where "the State Legislature has assumed full regulatory responsibility" for a particular subject matter area, either by specifically precluding local action in that area, or by enacting a detailed regulatory scheme that allows no space for innovation or local control. *DJL Rest. Corp. v. City of New York*, 96 N.Y.2d 91, 95 (2001); *People v. Torres*, 37 N.Y.3d 256, 265 (2021) (same).

The Court of Appeals has described the field preemption analysis as follows: when "the State has . . . preempted the entire field, 'a local law regulating the same subject matter is deemed inconsistent' with state law for purposes of the home rule provision if it either 'prohibits conduct which the [s]tate law, although perhaps not expressly speaking to, considers acceptable or at least does not proscribe, or . . . imposes additional restrictions on rights granted by [s]tate law.'" *Police Benevolent Ass'n*, 40 N.Y.3d at 423 (quoting *Jancyn*, 71 N.Y.2d at 97) (alterations in original); *N.Y. State Club Ass'n v. City of New York*, 69 N.Y.2d 211, 217 (1987) (explaining that such inconsistency "inhibit[s] the operation of the State's general laws").[7]

[7] Conflict preemption, by contrast, does not demand that the legislature occupy a particular field—rather, a "local law is conflict preempted only if it directly or expressly conflicts with state law." *Police Benevolent Ass'n*, 40 N.Y.3d at 426 (citing *DJL Rest. Corp*, 96 N.Y.2d at 95). A local law that flatly prohibits conduct that is "specifically permit[ted]" by state law would be conflict preempted. *N.Y. State Club Ass'n*, 69 N.Y.2d at 222. Sometimes referred to as requiring

B. Field Preemption Does Not Apply Here

None of the conditions required for field preemption to apply exist here. Far from evincing an intent to preclude local action, the SSL invites local action and innovation on the issue of rental assistance—and CityFHEPS Reform Laws are fully consistent with the SSL.

The SSL provides that "[e]ach [social services] district shall be responsible for the assistance and care of any person who resides" there. SSL § 62.[8] In the area of rental assistance, 18 NYCRR § 352.3(a)(1) sets a baseline requirement for social services districts, of which New York City is one, to provide a monthly allowance for rent to certain families in need. The SSL specifically authorizes social services districts to "provide additional monthly shelter supplements to public assistance applicants and recipients who will reside in private housing, or who currently reside in private housing and are facing eviction." 18 NYCRR § 352.3(a)(3). The social services district may develop its own "plan" for this

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a "head-on collision" between state and local law, *Lansdown Ent. Corp. v. N.Y.C. Dep't of Consumer Affairs*, 74 N.Y.2d 761, 764 (1989), this standard requires far greater inconsistency than what is necessary for field preemption before a law will be invalidated.

[8] When the then-extant Public Welfare Law was renamed the Social Services Law in 1967, the term "social services district" replaced "public welfare district" in most provisions of the SSL, *see* R.2173-74 (Ejebe Reply Aff. ¶¶ 19-26), but the term "public welfare district" survives in some sections. The terms are synonymous and interchangeable. For consistency, this brief uses the term "social services districts" throughout.

supplement and, to the extent it impacts public assistance recipients, the social services district submits the plan to the State OTDA for approval. *Id.*[9]

This explicit endorsement of local action in the field of rental assistance precludes a finding that the State has preempted the field of rental assistance. What is "entirely absent" from the SSL, at least insofar as rental assistance is concerned, is "any desire for across-the-board uniformity." *Jancyn*, 71 N.Y.2d at 98. Far from demanding uniformity, the SSL affords "social services districts" the flexibility necessary to respond to local conditions. Different localities in this diverse state have different populations, different housing markets, and different abilities to assist their residents. The needs of people in Rochester and Plattsburgh differ markedly from those of people living in Yonkers or New York City. The SSL recognizes those differences and allows local governments to address them; indeed, it expressly encourages localities to provide supplements that make sense for their particular housing market.

Jancyn is instructive. There, the Court of Appeals concluded that the State Environmental Conservation Law did not manifest the State Legislature's intent to

[9] The fact that the SSL reserves for OTDA approval rights over local rental supplements that impact persons on public assistance is just more evidence that local innovation is expected under the SSL, not forbidden. In this case, should City DSS determine that this provision (or any other state approval requirement) applies to the CityFHEPS Reform Laws, it will submit its plans for implementation to the OTDA for approval; the Council has no issue with that. But this requirement, should it apply, is in no way a barrier to the Council actually passing those laws in the first place.

preempt the field of regulation of sewage system cleaners. Plaintiffs there, manufacturers of certain cesspool additives, argued that a Suffolk County local law prohibiting the sale of cesspool additives without prior approval of the County Health Commissioner was field preempted by a state law that prohibited the sale and use of certain sewage cleaning systems. *Jancyn*, 71 N.Y.2d at 94-95. Although the language of the state law declaring its public policy of "prevent[ing] the pollution of water resources in restricted geographic areas through use of sewage system cleaners and additives," was "expansive," the Court of Appeals emphasized that "entirely absent" from the statute was "any desire for across the board uniformity." *Id.* at 98; *see also Consolidated Edison Co. of N.Y., Inc. v. City of New Rochelle*, 140 A.D.2d 125, 129 (2d Dep't 1988).

In exactly the same way, the SSL establishes a floor for rental assistance and also evinces the State Legislature's clear intent that municipalities can and should fill in any gaps and provide supplemental housing assistance tailored to their unique needs. 18 NYCRR § 352.3(a). A state law so structured is antithetical to a finding of field preemption. *Cf. Garcia v. N.Y.C. Dep't of Health & Mental Hygiene*, 31 N.Y.3d 601, 842 (2018) (holding that even where the State "has enacted a relatively comprehensive statutory scheme for school vaccinations," the field was not preempted where the State simply "set the floor for public health regulations while permitting localities to adopt stricter measures"); *N.Y. State*

Ass'n for Affordable Hous. v. Council of City of N.Y., 141 A.D.3d 208, 214 (1st Dep't 2016) (declining to hold the Private Housing Finance Law and General Municipal Law preempted "the entire field of affordable housing," given the legislature's intent to "create a framework for the financing of affordable housing projects and to defer operational functions to local municipalities" and *not* to "pre-empt the possibility of varying local regulations").[10]

Moreover, the CityFHEPS Reform Laws are not preempted because they are fully consistent with state law. The SSL demands that local social services districts provide for their residents in need, and it specifically invites localities to address the local housing conditions by supplementing rental assistance to those in need. The CityFHEPS Reform Laws do both. There is no argument that these laws "prohibit conduct which the State law . . . considers acceptable or at least does not proscribe," or that they "impose additional restrictions on rights granted

[10] *N.Y.C. Health & Hosps. Corp. v. Council*, 303 A.D.2d 69 (1st Dep't 2003) illustrates the other end of the spectrum—*i.e.*, where the State has clearly evinced its intent to occupy a field, to the exclusion of local law-making. In *N.Y.C. Health & Hosps. Corp*, this Court interpreted the state Health and Hospitals Act, which governs the conduct of the New York City Health and Hospital Corporation ("HHC"), to give HHC "compete autonomy" in all matters, *id.* (quoting *Brennan v. City of New* York, 59 N.Y.2d 791, 792 (1983)), "free from control by city authorities," *id.* (quoting *Harlem Hosp. Ctr. Med. Bd. v. Hoffman*, 84 A.D.2d 272, 280 (1st Dep't 1982)). Under *those* circumstances, this Court concluded that state law preempted the relevant field of control over HHC operations. *Id.* And, on that basis, Council legislation requiring HHC use security guards with particular qualifications was preempted by State law. *Id.* at 77-78 (citing *Haynes v Guiliani*, 238 A.D.2d 257, 257 (1st Dep't 1997)). Here, by contrast, there is no evidence of field preemption found in the statute, and certainly no portion of the law grants City DSS exclusive authority over rental assistance programs. To the contrary, 18 NYCRR § 352.3(a) specifically affords the City of New York, as a social services district the authority to supplement rental assistance programs.

by State law." *Jancyn*, 71 N.Y.2d at 97; *Police Benevolent Ass'n*, 40 N.Y.3d at 423. Indeed, the Reform Laws actualize the goal of the SSL—providing rental assistance to permit residents to enter into or remain in private housing.

Notably, in *Hernandez v. Barrios-Paoli*, 93 N.Y.2d 781 (1999), the Court of Appeals rejected a City DSS argument that Council legislation directing City DSS to take action in a specific way was inconsistent with the SSL. The local law at issue in *Hernandez* directed that a sub-agency of City DSS take certain specific steps to determine whether individuals with HIV or AIDS were eligible for certain public benefits and services. In response, City DSS had argued that, as an "agent" of the state, only it (City DSS) could make City policy in a particular area of social services—the Council could not. *See* R.1814, 1817 (Ex. U to Ejebe Aff., at 15, 18).[11] However, in ruling against City DSS and concluding that the Council could lawfully pass legislation consistent with the State's aims, the Court of Appeals implicitly rejected this argument. *Hernandez*, 93 N.Y.2d at 788. Instead, the Court of Appeals emphasized that the Council is permitted to pass this legislation that was consistent with the State's goals and "effectuate[d] the intent of the State statutes." *Id.*

[11] There, like here, City DSS invoked *Beaudoin v. Toia*, 45 N.Y.2d 343 (1978), an entirely distinguishable case discussed *infra* I.D.

Because the Trial Court's analysis of field preemption is deeply flawed, reversal is required.

C. The State SSL Authorizes and Contemplates Council Legislation to Provide Social Services—Including Rental Assistance—to New Yorkers in Need

The SSL, by its terms, recognizes that New York City as a municipality has a role to play in providing rental assistance to City residents. Its definition of the term "social services district," along with other statutory provisions, makes it clear that local legislation on rental assistance is not just permitted, but encouraged.

1. The City of New York is a "Social Services District"

We begin with the statute. The SSL empowers local "social service districts" to be "responsible" for those in need and to provide them with "assistance." SSL § 62. The statute, in black and white, designates that, for the geographic area covered by the five boroughs, "the city of New York is hereby constituted a city social services district." SSL § 61. SSL Section 56 makes the point a second time: "[t]he city of New York shall have all the powers and duties of a social services district insofar as consistent with the provisions of the special and local laws relating to such city." SSL § 56.

The "city of New York" is a municipal corporation organized under the New York City Charter; it includes both an executive branch (the mayoralty) and a legislative one (the Council). N.Y.C. Charter §§ 3, 21. Accordingly, wherever the

SSL empowers or acknowledges the "social services district," it is, by definition, talking about the City of New York, in all of its constituent parts. The Trial Court's holding that City DSS—not the "city of New York"— is a "social services district" is contrary to the plain language of the statute.

Elsewhere, the SSL continues to make clear that the "city of New York" refers to the municipality as a whole, including its legislative branch, and is not limited to City DSS, a mayoral agency. In Section 91, the law refers to "*the legislative body of* the city [social services] district"—a clear statement that a "social services district" *has* a "legislative body." SSL § 91 (emphasis added). Likewise, in the definitions section of the SSL, the statute distinguishes between a "social services *district*" and a "social services *department*." The former (as it relates to the five boroughs) is statutorily defined as "the city of New York," while the latter is defined as "the division or officer of city government or the office or official or board charged with the authority to administer public assistance or care in the county social services district." SSL §§ 2(7), 2(17), 78.

None of this statutory language would make any sense whatsoever if the State Legislature intended, as the Trial Court held, to limit the term "social services district" to City DSS. City DSS is not "the city of New York" and it does not have a "legislative body." It is, instead, a "division . . . of city government." SSL § 2(17). Thus, City DSS is plainly a "social services *department*," consistent with its

name, *not* a "social services district." The Trial Court's conclusion that the "entity that serves as the 'social services district' that has received authority from the State to set social services policy is City DSS," R.10 (Decision & Order at 5), is obviously wrong.[12]

The consequences of the Trial Court's error are dispositive of this appeal. The statute designates the City of New York—not City DSS—as a "social services district," and thus the regulations plainly authorize the City itself, not DSS alone, to develop rental assistance supplements to suit the needs of City residents. 18 NYCRR § 352.3(a)(3)(i) ("A *social services district* . . . may provide additional monthly shelter supplements to public assistance applicants and recipients who will reside in private housing, or who currently reside in private housing and are facing eviction." (emphasis added)). This ends the matter. There being no preemption, and the City of New York being the relevant "social services district," the SSL affirmatively authorizes City itself, in all of its constituent parts, to act as it did in reforming CityFHEPS, its own city-funded program. More fundamentally, the City as a social services district has the authority—indeed, the responsibility—to provide for City residents in need.

[12] The SSL not only does not designate City DSS as the "social services district," it expressly provides that the powers and duties of City DSS's head, the city commissioner of social services, can be distributed among agencies of the Council's choosing. *See* SSL § 77(3).

2. Decades of Past Practice Reaffirm this Interpretation of the SSL

The Trial Court held that the entity "that has received authority from the State to set social services policy is City DSS," R.10 (Decision & Order at 5), and that the "SSL does not provide a role for local legislation in the administration of social services program." R.9 (Decision & Order at 4). This sweeping holding, if left to stand, would have the effect of writing the Council out of legislating not only on rental assistance programs, but on anything relating to City DSS or "social services." This interpretation of the law is as unsupported by the statute as it is ahistorical and antithetical to the structure of City government.

The role of the Council in aiding New York City residents and developing social services policy is not theoretical; it is rooted in experience. Since the 1990s, the Council has been deeply involved in social services policy-making, especially around the fight to end homelessness and housing insecurity. Among other things, the Council has: (i) regulated City DSS's use of housing shelters, including prohibiting City DSS from using Tier I shelters, *see* Local Law 18 of 1990; Local Law 6 of 1999; Local Law 43 of 2002; Local Law 62 of 2014; (ii) established sub-agencies within City DSS, including DHS, Local Law 57 of 1998; (iii) required City DSS to implement access to counsel for all New Yorkers facing eviction, Local Laws 53 and 54 of 2021; and (iv) expanded eligibility for the CityFHEPS program itself. *See* Local Law 71 of 2021; Local Laws 157 and 170 of 2021;

Local Law 64 of 2023. Mayor Adams and his predecessors implemented much of this legislation unquestioningly. *See, e.g.*, R.253 (Pet. ¶ 34). The CityFHEPS Reform Laws are just the latest in this long history of the Council using its legislative power to provide for City residents.

The Trial Court misconstrues the significance of this pattern of past practice. It is not that a prior administration's practice necessarily *binds* a future administration's choice, or that a previous failure to assert preemption constitutes a *waiver* by the Mayor or his predecessors; the Council proposes no such rule. *Contra* R.10 (Decision & Order at 5) ("The Court is also not persuaded by petitioners' contention that the Mayor's own prior practice somehow waives respondents' rights form raising the issue of preemption now."). Rather, the history shows that prior mayoral administrations, and each respective session of the Council, all understood that the SSL did *not* broadly preempt Council legislation in the area of assistance to families, but instead encouraged the Council to act.[13] The Council and previous mayors acted accordingly, including passing

[13] In a few instances, courts have concluded that the SSL preempts specific, narrowly defined "fields" under the SSL. However, none of these cases had anything to do with the field at issue in *this* case, namely, rental assistance. *See Killett-Williams v. Bloomberg*, 2003 NY Slip Op. 30217(U), 2003 WL 26090789 (Sup. Ct. N.Y. Cnty. May 5, 2003) (concluding that the state preempted the field of "regulat[ing] subsidized employment programs"); *Mayor v. Council*, 2004 NYLJ LEXIS 5254 (Sup. Ct. N.Y. Cnty. Dec. 1, 2004) (same for "welfare to work" programs); *City of N.Y. v. Town of Blooming Grove Zoning Bd. of Appeals*, 305 A.D.2d 673 (2d Dep't 2003) ("Regulation of adult-care facilities has been preempted by the state."); *Matter of Adkins v. Bd. of Appeals*, 199 A.D.2d 261 (2d Dep't 1993) (same); *Bloomberg v. Liu*, 43 Misc.3d 1203(A)

and signing, respectively, reams of legislation in areas covered by the SSL and that direct City DSS to act, just as the CityFHEPS Reform Laws do. The Trial Court breaks with these decades of past precedent—and provides no analysis for why all of those past administrations had the wrong interpretation of the SSL, but suddenly this administration now has the correct one.

D. *Beaudoin v. Toia* Has No Bearing on Whether the CityFHEPS Reform Laws Are Field Preempted

The Trial Court's misapplication of the law of preemption, its misreading of the SSL, and its decision to devalue the history of Council action in providing for City residents, is more than sufficient to warrant reversal. Its reliance on *Beaudoin v. Toia*, 45 N.Y.2d 343 (1978)—a case that has nothing to do with the issues raised here—provides an additional basis.

Beaudoin arose out of an unremarkable circumstance: a Rensselaer County resident, Shirley Jorczak, took custody of her Massachusetts-born step-niece and sought public assistance benefits on the child's behalf. *Id.* at 345. The Rensselaer County Department of Social Services denied the application, citing a provision of the SSL that establishes that any person bringing "into the state of New York any child not having state residence . . . shall be responsible for the care and maintenance of such child." SSL § 382(1); *see Matter of Beaudoin v. Toia*, 58

(Sup. Ct. N.Y. Cnty. 2014) (same); *cf. DeStefano v. Emergency Hous. Grp.*, 281 A.D.2d 449 (2d Dep't 2001) (same).

A.D.2d 393, 394 (3d Dep't 1977), *rev'd* 45 N.Y.2d 343 (1978). Ms. Jorczak contested this decision and requested a fair hearing before State DSS—in effect, appealing the Rensselaer County DSS's determination to the State. *Beaudoin*, 45 N.Y.2d at 346. At the hearing, State DSS concluded that the girl was entitled to benefits, reversing the county department's determination and directing the Rensselaer County DSS to provide Ms. Jorczak the child's benefits. *Id.* When the County still refused to comply, Ms. Jorczak filed an Article 78 petition seeking to compel the County "to comply with the fair hearing determination"; Rensselaer County DSS "commenced a parallel Article 78 proceeding to annul the State commissioner's fair hearing decision." *Id.* at 346-47.

On these facts, and citing SSL § 65(3) (delineating the powers of county social services commissioners), the Court of Appeals held that, "[i]n the administration of public assistance benefits," local social services districts like the Rensselaer County DSS are "agents" of State DSS and cannot substitute their own interpretation of state law for that of the State Commissioner. *Id.* at 347. Accordingly, the Court held, the "local County Department of Social Services has no standing to challenge the State commissioner's ruling" on the statutory question. *Id.*

In what can only be described as an unjustified leap in logic, the Trial Court deemed *Beaudoin* "binding precedent" whose holding "ends the inquiry" in this

case. R.9 (Decision & Order at 4). The Trial Court held that, under *Beaudoin*, "the SSL does not provide a role for local legislation in the administration of social services programs," R.9 (Decision & Order at 4), and thus that the CityFHEPS Reform Laws—indeed, arguably *all* local laws that touch on "social services"—are field preempted. To describe the Trial Court's reliance on *Beaudoin* as an over-reading of the case would be charitable. By any rational reading, the decision in *Beaudoin* simply does not support the conclusions reached by the Trial Court.

In the first place, at a broad level, *Beaudoin* has nothing to do with "local legislation," the role of a local legislative body, or principles of home rule. It involved an *administrative* finding by State DSS, based on an interpretation of *state* law, and a statutory question as to whether a county commissioner of social services had standing to challenge that interpretation. *Beaudoin*, 45 N.Y.2d at 346. Likewise, the case is not even about preemption. It does not hold that the State has preempted any particular field, and it does not find that any particular local legislation conflicts with state law. Rather, it is a case about eligibility determinations, standing, and how county social services departments interact with the State in a very specific context—"fair hearing" appeals from the denial of

benefits—that has no bearing on the issues in this case, which is about the powers of a legislative body in a *city* social services district. [14]

None of this is controversial—or relevant—here. *Beaudoin* has nothing to do with local laws that set eligibility requirements for City-funded rental assistance at large. The "agency" language that the *Beaudoin* Court cites has nothing to say about the role of local legislatures enacting local laws to adjust locally-created rental-assistance programs like CityFHEPS, or whether such laws can control how administrative agencies, like City DSS, implement local programs.

II. THE MAYOR ABDICATED HIS DUTY TO IMPLEMENT DULY-PASSED COUNCIL LEGISLATION

Just like our State and Federal governments, New York City government is characterized by robust separation of powers principles. The City Charter "unequivocally provides for distinct legislative and executive branches of New York City government." *Matter of N.Y. Statewide Coal. of Hisp. Chambers of*

[14] The Trial Court's decision to use *Beaudoin* to arrive at its conclusion about the City's legislative powers was ill-advised for yet another reason. *Beaudoin* involved actions taken by a County DSS, not a City DSS—entities subject to different statutory schemes in the SSL. For example, in Section 65, the SSL explicitly designates county DSS commissioners as "agent[s] of the [state] department in all matters relating to assistance and care administered or authorized by the town public welfare officers" and it makes no reference to local lawmaking. SSL § 65. However, Sections 56 and 77, which set out the powers of a City DSS commissioner, say nothing about a City DSS commissioner being an "agent" of the State and both provisions explicitly contemplate that the Council will use its legislative power to shape the City DSS commissioner's powers and duties. SSL §§ 56, 77. To be sure, City DSS carries out directives from State DSS. But it also regularly carries out directives from the Council. The City Charter acknowledges that the City DSS commissioner's authority to provide certain forms of public assistance is governed by *both* state and local law. N.Y.C. Charter § 603.

Com. v. N.Y.C. Dep't of Health & Mental Hygiene, 23 N.Y.3d 681, 693 (2014). The Council is the "legislative body of the city" vested with "the legislative power of the city," N.Y.C. Charter § 21, and the Mayor is the "chief executive officer of the city." N.Y.C. Charter § 3. The Mayor is thus responsible for—and required to—implement laws duly passed by the Council. *Giuliani v. Council of City of New York*, 181 Misc. 2d 830, 834-35 (Sup. Ct. 1999) ("[T]he City Council's role is to create generalized standards while the Mayor's or his appointee's role, *inter alia*, is to enforce those standards in making individualized determinations."); *Under 21, Catholic Home Bur. For Dependent Child. v. City of New York*, 65 N.Y.2d 344, 356 (1985) (explaining the Mayor's "duty to enforce" valid Council laws).

The government's functioning requires that the legislative and executive bodies adhere to these roles. This arrangement "requires that the [l]egislature *make* the critical policy decisions, while the executive branch's responsibility is to *implement* those policies." *Greater N.Y. Taxi Ass'n v. N.Y.C. Taxi & Limousine Comm'n*, 25 N.Y. 3d 600, 609 (2015) (alteration in original) (emphasis added) (quoting *Borquin v. Cuomo*, 85 N.Y.2d 781, 784 (1995)). The Mayor therefore possesses "a duty to implement valid legislation passed by the City Council, whether over his veto or not." *Council of the City of New York v. Bloomberg*, 6 N.Y.3d 380, 389 (2006). Thus, once a bill becomes law, the Mayor must do his

duty and effectuate it. *Bloomberg*, 6 N.Y.3d at 389. Failure to do so violates "the doctrine of separation." *Clark v. Cuomo*, 66 N.Y.2d 185, 189 (1985). Therefore, once this Court determines that the CityFHEPS Reform Laws are valid, the result is simple: the Mayor must implement them, and can no longer abdicate his duty to give life to the Council's determination that certain New Yorkers are eligible for assistance.

Having erroneously held that the CityFHEPS Reform Laws are preempted, the Trial Court never addressed these basic principles. Ultimately, the CityFHEPS Reform Laws are valid pieces of duly passed Council legislation, not preempted by any state law, and the Mayor must do his charter-mandated duty to enforce them.

CONCLUSION

Ultimately, the Mayor's failings have left New York's lowest-income residents at increased vulnerability to homelessness and housing insecurity. The housing and shelter crises in New York City have reached a breaking point. New Yorkers are struggling to get by as the cost of housing in the City has ballooned. The CityFHEPS program offers frontline assistance. See R.257 (Pet. ¶ 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."). By enacting the Reform Laws, the Council has taken proactive steps to lessen the

burden on the City's overstretched shelter system and enable many residents in need to remain in their homes and receive rental assistance rather than requiring them to go through the trauma of eviction and enter the shelter system before they can receive assistance. R.253-54 (Pet. ¶ 35-39).

In this case, the Council seeks only that the Mayor be directed *to* take action to implement the CityFHEPS Reform Laws. R.266-67 (Pet. ¶ 97, Prayer for Relief). *How* the administration implements the CityFHEPS Reform Laws is within the administration's discretion. *See Klostermann v. Cuomo*, 61 N.Y.2d 525, 540 (1984) ("A subordinate body can be directed [by a court] *to act*, but not *how to act*, in a manner as to which it has the right to exercise its judgment." (quoting *People ex rel. Francis v. Common Council*, 78 N.Y. 33, 39 (1879)) (emphasis modified)). As always, City DSS retains discretion, consistent with its expertise in the field, to decide the procedures necessary to carrying out the dictates of the CityFHEPS Reform Laws. What the Mayor and his agency cannot do is what they have done so far: refuse to act on these matters at all. In this situation, the Court must intervene. For the foregoing reasons, this Court should reverse the Trial Court's denial of the Council's Article 78 petition because the CityFHEPS Reform Laws are not preempted by the SSL. The Mayor must be directed to implement these valid, duly-passed Council laws.

Dated: September 30, 2024
New York, New York

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STATEMENT PURSUANT TO CPLR 5531

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION—FIRST DEPARTMENT

In the Matter of the Application of
MARIE VINCENT, CAROLINA TEJEDA, MARY CRONNEIT, SUSAN ACKS, on behalf of themselves and all others similarly situated,

Petitioners-Appellants,

For a Judgment Pursuant to Article 78 of The Civil Practice Law and Rules

—against—

MAYOR ERIC ADAMS, in his official capacity as Mayor of the City of New York, THE CITY OF NEW YORK,

Respondents-Respondents.

THE COUNCIL OF THE CITY OF NEW YORK,

Petitioner-Plaintiff-Appellant,

—against—

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

Respondent-Defendant-Respondent.

New York County Clerk's Index No. 450563/24

Appellate Division Case No. 2024-05186

1. The index number of the case is 450563/24.

2. The full names of the original parties are as set forth above. There has been no change in the parties.

3. The action was commenced in Supreme Court, New York County.

4. The action was commenced on February 14, 2024 by service of petition; the answer of Defendant was served on March 26, 2024.

5. The nature and object of the action is Administrative Review and Declaratory Judgment.

6. This appeal is from a Decision and Order of the Honorable Lyle E. Frank, entered in favor of Respondents, against Petitioners on August 2, 2024, which denied Petitioners' petition.

7. The appeal is on a full reproduced record.