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The Honorable Rosie Mendez
New York City Council
250 Broadway, Room 1734
New York, NY 10007

A handwritten signature in blue ink that reads 'Rosie'.

Dear Council Member Mendez:

You asked the New York City Independent Budget Office (IBO) to look into the Assigned Counsel Project at the Department for the Aging (DFTA), and to estimate the cost of expanding the program. As contemplated in Council Intro 96, all seniors 62 years of age and older with incomes of up to \$50,000 (the new threshold under the Senior Citizen Rent Increase Exemption) who are facing eviction in Housing Court would receive free legal counsel, along with related social services. Although Intro 96 also applies to seniors facing foreclosure or ejections in Housing Court or Supreme Court, due to data constraints we have limited our analysis to tenants facing eviction in Housing Court. Assuming an expanded program had the same per case cost as the current Assigned Counsel Project, IBO estimates that the annual cost of serving all qualifying tenants under Intro 96 would be about \$20 million.

Our analysis is based on information we obtained from DFTA on the operation of the Assigned Counsel Project in fiscal year 2013, as well as data on the total number of eviction cases calendared in New York City Housing Court in 2013. IBO also utilized results from surveys of tenants in Housing Court cases conducted for the Brennan Center by the Center for Human Environments at the CUNY Graduate Center in 2005 and 2006 (full report can be found at <http://www.brennancenter.org/publication/results-three-surveys-tenants-facing-eviction-new-york-city-housing-court>). The surveys were designed to capture information on the characteristics of tenants facing eviction in the New York City Housing Court. Based on the survey results, IBO assumed that 7 percent of tenants facing eviction are seniors age 62 or over and could be eligible for the expanded program if they fall within the income limits.

Assigned Counsel Project. DFTA works in partnership with the Civil Court of the City of New York to run the Assigned Counsel Project. This program currently has locations in Queens, Manhattan, the Bronx and Brooklyn. (While the current program does not serve Staten Island, our cost estimates below assume that an expanded version would cover all five boroughs.) In order to qualify, an individual must be 60 years or older and face eviction in Housing Court due to non-payment of rent or other alleged violations of lease agreements. The program offers a lawyer, as well as a social worker who helps access other services including financial help to cover past due rent, facilitating enrollment in the Senior Citizen Rent Increase Exemption (SCRIE) program, healthcare benefits, home care, Access-a-Ride, and Meals on Wheels. DFTA contracts with a variety of organizations to provide these services.

The department reports that the Assigned Counsel Project has a total annual budget of \$1 million and has served 3,586 seniors since the program began in 2005. The program successfully prevents evictions in about 99 percent of cases. In 2013, the program served 511 cases. Based on this information, IBO

estimated the cost per case to be about \$2,000. (The city runs a parallel assigned counsel program for low income tenants facing eviction where the Request for Proposal specifies a maximum cost of \$1,000 per case, although that program does not provide a social worker to help access services.)

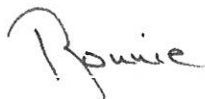
Cost of Expanding the Program. New York City Housing Court statistics indicate that there were a total of 156,941 eviction cases that were calendared (made it to court) in 2013 (<http://cwtfhc.org/case-filings-documents/>). This figure includes 128,477 cases of alleged non-payment of rent, as well as 28,464 cases involving holdover allegations (other types of violations of lease agreements). Intro 96 limits the eligibility of seniors in this program to those whose income does not exceed the new SCRIE income threshold of \$50,000. Based on the housing surveys mentioned above, we estimate that the income limit would reduce eligible cases by 10 percent. Applying the survey results showing that 7 percent of tenants facing eviction are age 62 or over, IBO estimates that a total of about 10,000 low-to-moderate income seniors would have been eligible for an expanded version of the assigned counsel program in 2013. If 10,000 seniors a year participate, the annual cost would total about \$20 million—\$19 million more than the current budget for DFTA's Assigned Counsel Project.

Legal services providers have stated that funding for these types of programs is often inadequate to cover their actual expenses. Increasing the funding per case would proportionately increase the overall cost of the program. For instance, increasing funding from \$2,000 to \$3,000 per case would increase the overall program cost from \$20 million to \$30 million.

Ejectments and Foreclosures. It is unlikely that there are many ejectment cases involving seniors 62 or older. The New York City Department of Investigation reports that city marshals conducted only 20 ejectments in 2013, including all age groups. While foreclosure cases are more numerous, we were unable to obtain information on the demographics of those facing foreclosure. In terms of foreclosures, in 2013 there were approximately 8,700 new *lis pendens* filed for one- to four-unit buildings and condominiums, about 1.4 percent of all New York City households with mortgages, according to the Furman Center for Real Estate and Urban Policy. (A *lis pendens* is the first step in a foreclosure proceeding.) However, because data on the ages and incomes of households facing foreclosure is unavailable, IBO was unable to estimate how many of these cases involved households that would qualify for services under Intro 96. Census data show that about 53,000 homeowners in New York City are age 62 or older, have household incomes of less than \$50,000 and hold a mortgage—about 8.4 percent of the roughly 633,000 New York City households with a mortgage. If the share of senior-headed households with a mortgage that are facing foreclosure equaled the share of all mortgage-holding city households facing foreclosure, this would add about 750 cases to our estimate.

If you have any questions regarding this request, please feel free to contact me at 212-442-0225 or Nashla Salas, who is IBO's senior budget and policy analyst for DFTA, at 212-341-6094.

Sincerely,



Ronnie Lowenstein