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Via email to: caroline.downey@dhr.ny.gov

**Comments from New York Lawyers for the Public Interest Regarding
Proposed Regulation Section 466.15 to Title 9 NYCRR, I.D. HRT-15-21-00005-P:
Notice of Tenants’ Rights to Reasonable Modifications and Accommodations
for Persons with Disabilities**

Dear Ms. Downey:

Thank you for the opportunity to present comments regarding the above-referenced proposed regulations to implement New York Executive Law Section 170-d, “Disclosure of disabled tenants’ rights,” hereinafter referred to as the “Disability Rights Disclosure Law.”

Disability-Based Housing Discrimination is Common in New York State, Despite Protective Laws Existing for Decades

New York’s housing stock is vastly inaccessible to people with disabilities, and housing discrimination continues to be an issue for countless New Yorkers. Although the New York State Human Rights Law has prohibited disability discrimination since 1974, housing discrimination since 1991, and the federal Fair Housing Act was passed more than 50 years ago, countless people in New York continue to face housing discrimination based on a disability or medical issue.

Moreover, accessible housing issues affect numerous New Yorkers who have disabilities. The April 2020 Census found that of the over 20 million people who live in New York State, over 3 million New York State residents are over 65 and over 1.5 million New Yorkers identify as

having a disability.¹ The New York City Mayor’s Office for People with Disabilities (“MOPD”) estimates that in New York City alone, over 1 million people identify as having a disability.² In addition to these statistics, MOPD estimates that there are 1.23 million seniors living within just the five boroughs of New York City.³ With respect to access to housing, New York City has also found that “New Yorkers with disabilities tend to be concentrated (greater than 20%) in certain neighborhoods, many of which also have a high concentration of poverty. These areas include the Bronx, upper Manhattan, the Lower East Side, parts of east Brooklyn, Coney Island, and the Rockaways.”⁴

Reasonable accommodations can vary from modifications in shared or common areas to modifications in individual units. While landlords and other housing providers are required by law to provide reasonable accommodations and modifications, it is still a challenge for tenants to obtain these without seeking additional assistance. In NYLPI’s housing discrimination practice, we serve individuals who live within New York City, and frequently assist people who have repeatedly requested installation of grab bars, ramps, and changes to policies and procedures, among other issues.

State, federal, and local anti-discrimination laws are meant to protect tenants with disabilities and require that landlords provide reasonable accommodations to ensure that tenants with disabilities can enjoy accessible housing and services. However, many tenants are unaware of their rights under these laws or are afraid of retaliation by their landlords if they invoke these rights.

The Proposed Regulations Will Provide Important Notice to Both Tenants and Landlords

The Disability Rights Disclosure Law was designed to ensure that tenants know about their rights to reasonable accommodations and modifications, and to be free from housing discrimination, by providing notice to all tenants and prospective tenants, in writing, within thirty days of the effective date of their tenancy and upon lease renewal. Requiring that this information be provided to all tenants by their landlords serves to notify all tenants, including tenants with disabilities, about their right to request reasonable accommodations from their landlords and to be free of disability discrimination in their housing. It also serves to put landlords on notice of these rights and provides tenants instructions about how to request reasonable accommodations in their housing.

¹ United States Census Bureau, Quick Facts New York, <https://www.census.gov/quickfacts/fact/table/NY/DIS010219#DIS010219>.

² New York City Mayor’s Office for People with Disabilities annual report, *AccessibleNYC*, page 51 <https://www1.nyc.gov/assets/mopd/downloads/pdf/AccessibleNYC2020.pdf>.

³ Id.

⁴ Id at 47.

The Proposed Regulations Must Include a Requirement that Notice be Posted in Building Common Areas

While NYLPI wholeheartedly supports the passage of the Disability Rights Disclosure Law, and equally wholeheartedly supports promulgation of the corresponding New York State Division of Human Rights' ("NYSDHR") regulations, there is room for improvement. The NYSDHR must add a requirement that landlords also post notice of the rights of tenants with disabilities conspicuously in their buildings' common areas to ensure that these regulations meet the Disability Rights Disclosure Law's promise.

Having this information posted in common areas would ensure that all tenants are fully aware of their rights every single day. Disability can occur at any point of anyone's life, and posting the notice, in addition to providing notice at lease signing and renewal, is the best way to ensure that the rights of persons with disabilities are not trampled upon. While including notice in leases is an excellent step, it is easy to forget about these rights if they are only noticed at most once a year. The requirement to post this information would further ensure that tenants know about their rights and would signal that accessible housing is a priority in New York State.

The NYSDHR Has the Authority to Include this Proposed Change in its Final Regulation

N.Y. Executive Law Section 295.5 grants the NYSDHR broad authority to promulgate regulations to "carry out the provisions of" its laws, including adoption of our proposed notice posting, in order to ensure that New Yorkers are notified of their rights and responsibilities under the Disability Rights Disclosure Law.

Conclusion

Landlords are ultimately responsible to comply with anti-discrimination laws in New York. These laws are important because they provide penalties for landlords who do not adequately address reasonable accommodation requests or who otherwise discriminate against their tenants who have disabilities. The Disability Rights Disclosure Law will further ensure that both tenants and landlords have notice of their rights and responsibilities under this law. We urge the NYSDHR to include our recommendation, as detailed above, in order to ensure that all New Yorkers are aware of their rights under the New York State Human Rights Law.

About Us

For over 40 years, [New York Lawyers for the Public Interest](#) ("NYLPI") has led civil rights and legal services advocacy for New Yorkers, with a disability rights practice that works to accomplish equality of opportunity, self-determination, and independence for people with disabilities. We utilize a community lawyering model to bridge gaps between traditional civil legal services and civil rights advocacy, and to fortify capacity for both individual solutions and long-term impact. Our work encompasses comprehensive organizing, policy campaigns, impact

litigation, and individual legal services. Our organization is guided by the priorities of our communities as we strive to achieve equality of opportunity and autonomy for people with disabilities, as well as create equal access to health care, ensure immigrant opportunity, invigorate local non-profits, and defend environmental justice for low-income communities of color.

NYLPI's Disability Justice Program has represented thousands of individuals and triumphed in numerous campaigns improving the lives of New Yorkers with disabilities. We have long fought disability-based discrimination in housing, and our landmark housing victories include ensuring access to New York City Housing Authority housing for persons with disabilities, as well as ensuring that countless private landlords accommodate their tenants with disabilities. Housing advocacy for people with disabilities is an important part of our work. NYLPI represents tenants in matters involving the need for "reasonable accommodations" in housing, such as transfers to accessible apartments and protection against retribution for the use of service animals, and other housing discrimination issues. Our comments and recommendations are based on our advocacy and relationships with the clients and the communities that we serve.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Suhali Méndez".

Suhali Méndez

Senior Advocate, Disability Justice Program