

# **Landlord Association of Greater Niagara Housing Assistance Reform Proposals for Niagara County Department of Social Services**

According to the Social Security Administration's web site, "From the earliest colonial times, local villages and towns recognized an obligation to aid the needy when family effort and assistance provided by neighbors and friends were not sufficient."

Life in America has evolved dramatically since colonial times and complex societal relationships have evolved between Landlords, Tenants and Local, County, State, and Federal Government. Each entity relies on the other for the peaceful coexistence of our communities.

The following are reform proposals submitted by the Landlord Association of Greater Niagara (LAGN) to the Niagara County Department of Social Services, Anthony Restaino and the Niagara County Legislature.

## **Premise**

These proposals are based on the following premise,

That under the TANF (Temporary Aid to Needy Families) structure, the federal government provides block grants to the State of New York, which Niagara County administers,

That these funds are used to operate their own programs in such ways designed to meet any of the four purposes set out in federal law, which are to:

1. Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives.
2. End the dependence of needy parents on government benefits by promoting job preparation, work, and marriage.
3. Prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and
4. Encourage the formation and maintenance of two-parent families.

## **Landlord / Tenant Relationship**

The Landlord /Tenant Relationship in it's most simple and purest form is symbiotic. It's a relationship built on trust. The landlord promises to provide a safe, clean dwelling, to maintain that dwelling, and to respond to the needs of his tenant. The tenant promises to pay his rent, to keep the dwelling clean and free from damage beyond normal wear and tear, and to get along with his neighbors. Each party needs the other. The tenant is important to the landlord and from the landlord's perspective, wants the relationship to continue for as long as possible.

## **Proposals**

1. Make mandatory the payment of Housing Vouchers directly to the Landlord.
2. Make mandatory and a condition of move in, the inspection of any rental unit a DSS Client/Tenant selects.
3. Institute accountability measures to reinforce behavior that will promote stability and discourage "waste".
4. Establish new outcome based performance metrics to modify policy to increase program success.

**Landlord Association of Greater Niagara  
Housing Assistance Reform Proposals for  
Niagara County Department of Social Services**

**1. Make mandatory the payment of Housing Vouchers directly to the Landlord.**

There is precedence here to support mandatory Housing Voucher payments to Landlords. One need only look to HUD's Section 8 Leased Housing Program. This housing program is designed to meet the needs of low-income families in finding and maintaining safe, clean housing.

When a DSS Client/Tenant is given the option to have his/her Housing Voucher sent directly to themselves it not only violates the intent of the grant but puts money into the hands of people who have not demonstrated good judgment as evidenced by decisions or conditions that have lead them to the program in the first place.

According to the Center on Budget and Policy Priorities. "Research has shown that many of these families have barriers to employment that likely impeded their ability to meet the state's expectations. These barriers include: mental and physical impairments; substance abuse; domestic violence; low literacy or skill levels; learning disabilities; having a child with a disability; and problems with housing, child care, or transportation."

When Housing Vouchers are redirected and not used for the DSS Client/Tenant's housing needs it is an event they can't recover from and eviction always follows. The results of evictions are as follows,

- 2-3 Months of lost rent to the landlord
- Court costs and possibly attorney fees to the landlord
- 1 Month lost rent to repairs and marketing
- Damages to the apartment of approximately \$2,000 per occurrence
- Moving and storage fees born by the DSS
- Short-term accommodation cost born by the DSS while Client finds a new apartment.
- New move in expenses born by the DSS

This sequence of events plays itself out many times over and the incidence is spreading. This is not only a financially unsustainable policy it undermines the first purposes of the TANF mission statement, to provide the stability to children that can best be found in their own home or the home of a relative.

# Landlord Association of Greater Niagara Housing Assistance Reform Proposals for Niagara County Department of Social Services

## 2. Make mandatory and a condition of move in the inspection of the rental unit each DSS Client/Tenant selects.

The New York State legislature codified the implied warranty of habitability in Real Property Law section 235-b,3.

*In every written or oral lease or rental agreement for residential premises the landlord or lessor shall be deemed to covenant and warrant that the premises so leased or rented and all areas used in connection therewith in common with other tenants or residents are fit for human habitation and for the uses reasonably intended by the parties and that the occupants of such premises shall not be subjected to any conditions which would be dangerous, hazardous or detrimental to their life, health or safety. When any such condition has been caused by the misconduct of the tenant or lessee or persons under his direction or control, it shall not constitute a breach of such covenants and warranties.*

According to the Center on Budget and Policy Priorities... (The Center is supported by a number of foundations, including the Annie E. Casey Foundation, the John D. and Catherine T. MacArthur Foundation, and the Ford Foundation, as well as individual donors. It accepts no government support.)

*"Research has shown that many of these families [recipients of TANF benefits] have barriers to employment that likely impeded their ability to meet the state's expectations. These barriers include: mental and physical impairments; substance abuse; domestic violence; low literacy or skill levels; learning disabilities; having a child with a disability; and problems with housing, child care, or transportation."*

In addition to impeding employment, several of the characteristics listed above also negatively impact good judgment and or are endemic of a lack of experience when selecting a habitable apartment. DSS Client/Tenants are seldom versed in what constitutes "Implied Warranty of Habitability".

### HQS – Housing Quality Standards – A working Model

Housing Quality Standards is a standard based list of criteria established by HUD. This list covers 13 aspects of housing quality and acceptability and is administered by the inspection arm of the local Section 8 Leased Housing office. The 13 major points are listed below.

- Sanitary facilities;
- Food preparation and refuse disposal;
- Space and security;
- Thermal environment;
- Illumination and electricity;
- Structure and materials;
- Interior air quality;
- Water supply;
- Lead-based paint
- Access;
- Site and neighborhood;
- Sanitary condition; and
- Smoke Detectors.

These are broad-brush strokes. HUD has a complete and detailed move in checklist, which is performed prior to the Client taking possession of the selected apartment. Items not meeting HQS necessarily do not meet the Implied Warranty of Habitability. Those items not meeting HQS must be repaired prior to occupancy.

We feel it unnecessary to go into details at this time as the Section 8 Leased Housing inspection program has a historic track record and can serve as an excellent starting point for program development.

On the face of it, mandatory inspections of housing units occupied by DSS Clients would appear to be another burden placed on an already taxed Social Services budget. We contend that units meeting the same HQS, as required by Leased Housing, would reduce administrative costs by reducing the incidence of conflict from legitimate claims of inhabitability and increasing stability of the DSS Client and subsequent savings to the client inherent with frequent moving.

**Landlord Association of Greater Niagara  
Housing Assistance Reform Proposals for  
Niagara County Department of Social Services**

**3. Institute accountability measures to promote  
stability and discourage “waste”.**

There is no shame in finding yourself in need of help. Taxpayers understand the need and have agreed to fund governmental assistance programs with their tax dollars. Non-profit organizations have made it their mission to lighten the load of those less fortunate. But this does not excuse the person in need from being accountable for their actions. If a needy person breaks the law they face the same penalties as everyone else.

The same holds true for Leased Housing Clients on a housing voucher. According to HUD Title 24 CFR Part 982.404(b) – HQS breach caused by the family.

(B) Family obligation. (1) The family is responsible for a breach of the HQS that is caused by any of the following:

(i) The family fails to pay for any utilities that the owner is not required to pay for, but which are to be paid by the tenant;

(ii) The family fails to provide and maintain any appliances that the owner is not required to provide, but which are to be provided by the tenant; or

(iii) Any member of the household or guest damages the dwelling unit or premises (damages beyond ordinary wear and tear).

(2) If a HQS breach caused by the family is life threatening, the family must correct the defect within no more than 24 hours. For other family-caused defects, the family must correct the defect within no more than 30 calendar days (or any PHA-approved extension).

(3) If the family has caused a breach of the HQS, the PHA must take prompt and vigorous action to enforce the family obligations. **The PHA may terminate assistance for the family in accordance with § 982.552.**

There is however an exception to this rule when it comes to the DSS. The DSS Client/Tenant can't be denied access to the housing voucher program even if he or she breached the HQS standard, as cited, by the Federal government or the most basic Landlord/Tenant relationship. This is a result of the landmark decision, CALLAHAN v. CAREY,<sup>1</sup> made on December 5, 1979 by the New York State Supreme Court, to provide beds for 750 homeless men. This decision by New York State Supreme Court Justice Tyler was the first time that the City and State governments were ordered to provide shelter from the elements for homeless individuals in New York City.

It is the belief of the LAGN that this decision has slowly morphed into a state wide, unsustainable, social support program, which includes the provision of publicly funded, state mandated housing in perpetuity. If we as landlords are to believe what we have been told, then unlike the HUD Leased

Housing program there is no consequence that can befall a DSS Client receiving housing vouchers who breaches a rental agreement. We further believe that the state of housing in Niagara County has deteriorated in large part due to this judicial decision and subsequent policy revisions.

It is the opinion of the LAGN that this decision has exacerbated housing conditions in at least two ways; the lack of care on the part of the TANF client as agreed to in the Landlord/Tenant relationship and no monetary consequence for a DSS Client's actions.

First, in the absence of any tenant accountability, penalty, or threat of program termination, the patterns of behavior with respect to care of the dwelling by some DSS Client/Tenants have degenerated into abuse. This represents a total disregard and abandonment of their responsibilities under the Landlord/Tenant relationship.

The second has to deal with the ability of the landlord to successfully exercise the remedies granted in court. When a landlord takes a tenant to court for breach of the rental agreement he files a Non Payment Petition to Recover Possession and makes a demand for monies owed. If successful the landlord is issued a warrant granting him the right to recover possession and is awarded compensatory damages.

In the case of the DSS Client/Tenant, it is historically improbable that the landlord will ever collect on the damages awarded. The DSS Client/Tenant is often referred to as "judgment proof" because in order to qualify for public assistance he must show a lack of financial resources. This renders the remedy of damages fruitless.

In effect, the result of behaving irresponsibly has no consequence. Without consequence there is no need to modify behavior. Society winds up supporting and funding a housing assistance program that endorses bad behavior.

It is interesting to point out that there is one known measure of accountability in the DSS. If the DSS Client does not report for a scheduled appointment with a caseworker, that client may be sanctioned. That sanction is to lose benefits for 45 days. The caveat with this sanction is that the landlord who rents to this individual is not notified of the sanction and is the one who financially suffers from the penalty. The Client remains in the dwelling and the landlord doesn't get paid.

The current system can't be what our state government intended and must be addressed.

## **Landlord Association of Greater Niagara Housing Assistance Reform Proposals for Niagara County Department of Social Services**

### **4. Establish new outcome based performance metrics to modify policy to increase program success.**

The goal of the AFDC program was to provide income support to needy, single parents in order to care for their children. By contrast the goal of the TANF program is to change the behavior of adults and end the entitlement to support. The 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), which established the TANF block grants, stated that the purpose of the program was to reduce dependence on public assistance by promoting job preparation, work and marriage; reduce out-of-wedlock births; and help poor children remain in their homes.

The recent public debate on welfare reform has primarily focused on measuring two outcomes: reducing the number of people who are on the welfare rolls and getting welfare clients into jobs. Early on in their meetings however, WELPAN, Welfare Peer Assistance Network members realized that these outcomes are not the only goals for which welfare agencies will be held accountable, by federal law or by others.<sup>2</sup>

Most states are under pressure to perform as Federal Aide is eliminated or drastically reduced after a client has been on TANF for 5 years. One possible outcome of New York State's mandate that public assistance be maintained in perpetuity greatly is that it reduces the incentive to move clients off the program. This is all the more reason for instituting or re-evaluating current performance based outcome metrics.

There is a question private business sector motivators use to stimulate business owners, "Are you too busy working IN your business to work ON your business?" What this question asks is, are you too busy with the day-to-day activities of your business that you are unable to look at the bigger picture. Creating a system of metrics to gauge the outcomes programs have on clients' lives is important and worthy because without them we have no idea how effective they are.


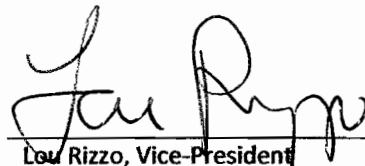
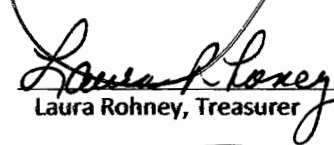
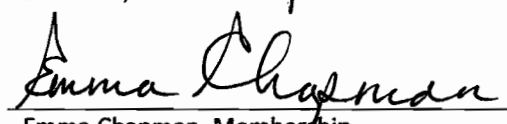

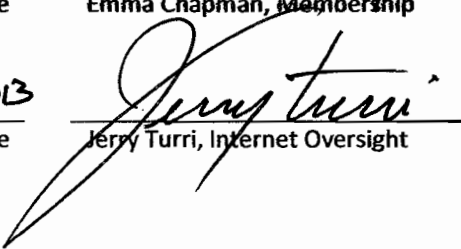
And example of measuring an outcome is being able to identify where and how you can do more with less. Measuring and using outcome data is essential for improving productivity (vs. simply cutting costs). There is a real risk that in squeezing too much on the resource side of the equation, e.g., by increasing the number a youth a case manager is serving, you can inadvertently cross a threshold where you actually end up lowering productivity by undermining outcomes for all the youth in the stretched case load.<sup>2</sup>

Establishing a system of metrics that is clear and understandable is vital to success and should be welcomed as a tool to improve any organization.

**Landlord Association of Greater Niagara  
Housing Assistance Reform Proposals for  
Niagara County Department of Social Services**

**LAGN Executive Board Endorsement**

The following members of the Executive Board of the Landlord's Association of Greater Niagara, Inc. endorse the proposals contained herein.

 _____ Robert Pascoal, President	6/11/13 _____ Date	 _____ Lou Rizzo, Vice-President	6/13/13 _____ Date
 _____ Laura Rohney, Treasurer	6-11-13 _____ Date	 _____ Emma Chapman, Membership	6/11/13 _____ Date
 _____ Paul Hutchins, Law Enforcement Liason	6/11/2013 _____ Date	 _____ Jerry Turri, Internet Oversight	6-11-13 _____ Date

**Bibliography**

1. "CALLAHAN v. CAREY." *Caselaw.findlaw.com*. N.p., 4 June 2009. Web. 21 May 2013.  
<<http://caselaw.findlaw.com/ny-court-of-appeals/1102948.html>>.

2. "Welfare Reform: How Will We Know If It Works?" *Welfare Reform: How Will We Know If It Works?* Institute for Research on Poverty, Jan. 1998. Web. 21 May 2013.