

# Shelter from the Storm: Better Options for New York City's Asylum-Seeker Crisis

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## Introduction

Since the summer of 2022, more than 70,000 asylum seekers have arrived in New York City, stretching public resources to their limit. The massive influx has been particularly challenging given the city's "right to shelter," the result of a 1979 lawsuit, *Callahan v. Carey*, and corresponding consent decree, which required the city to provide immediate shelter to those who request it, regardless of the number of applicants or the availability of resources. In order to comply with this requirement, the city has housed some 40,000 migrants in shelters—which has led to an approximately 70% spike in the shelter population in a single year. NYC is currently supporting more than 170 emergency shelters and 10 additional large-scale humanitarian relief centers.

Shelters and relief centers simply cannot house all the newly arrived migrants, which has forced the city to procure approximately 4,500 hotel rooms in unionized facilities,<sup>1</sup> often through expensive contracts that provide bonanzas to owners and the city's hotel-worker unions. Most notably, on May 13, Mayor Eric Adams announced that the historic 1,025-room Roosevelt Hotel, located in the heart of Midtown East, would become New York City's central migrant intake center,<sup>2</sup> at a reported cost of \$225 million.<sup>3</sup> In addition to hosting hundreds of families and individuals on-site,

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the location will process all arriving asylum seekers and provide them with a range of city services, including government-issued ID cards, public-school and health-insurance enrollment, mental-health counseling, and more.

Mayor Adams's repeated pleas to the Biden administration for funding, greater border enforcement, and expedited processing of immigration cases have gone unanswered. Those to Governor Kathy Hochul have fared only slightly better, with the governor committing only \$1 billion to a crisis that is estimated to cost well over \$4 billion. Regardless, he should continue to call on Washington and Albany to alleviate New York's migrant-related burdens.

The federal government has several other options available to alleviate the short-term pressures on New York City. It should greatly expand the number of immigration judges to expedite the interminable case backlog. And given the Federal Emergency Management Agency's expertise in temporary housing, it could even create temporary shelter facilities on available land on nearby military sites. These include Fort Hamilton, Brooklyn; the 16,000-acre West Point Military Academy; and the 42,000-acre Fort Dix in nearby New Jersey.<sup>4</sup>

But absent an infusion of state and federal funds and the relocation of migrants to other jurisdictions, both of which are unlikely, New York needs immediate ways to arrest the inflow of those applying for shelter and find alternative, lower-cost mechanisms for the existing shelter population.

Unfortunately, some commonsense ways to limit the right to shelter—such as imposing a residency requirement—would likely run into legal and practical challenges. In the long term, the scope of this right will have to be reevaluated if the city is to cope with still-surging numbers of migrants from around the world seeking to make their home in one of the most expensive cities in the country, at government expense. But in the short term, the city can take measures, consistent with legal requirements, to address the migrant crisis. We propose two:

- Shelter eligibility should be restricted within the limits of the current right to shelter, which would increase the chances of surviving a court challenge. This can be done by limiting or eliminating family intake procedures that provide a lower bar for asylum seekers and asylees, or by extending this special asylum status only to those who have been granted asylum by a federal immigration court. The city could also impose more stringent need-based family eligibility requirements, such as by excluding those who have been offered long-term housing or shelter by an organization, family member, friend, or governmental entity (other than New York City) in the past two years and either declined or willfully left such a living arrangement.
- Mayor Adams should launch a New York City Welcome Corps to match asylum seekers with willing New Yorkers who would sponsor and host them, similar to the federal government's parole and refugee initiatives. All arriving asylum seekers should be required to register in the sponsorship program as a condition for shelter placement, and they must leave the shelter once a suitable sponsor is found.

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## New York City's Response Falls Short

When busloads of foreign migrants began arriving in the summer of 2022, New York City expanded its shelter capacity in several ways. The Adams administration turned to opening Humanitarian Emergency Response and Relief Centers (HERRCs) or temporary congregate-living facilities with access to city services, which are managed by NYC Health + Hospitals, the city-owned



public-health-care system.<sup>5</sup> But many of these centers have been the subject of controversy, with homeless-rights activists alleging that they fail to meet the standards required under the right to shelter. One center for single adult men asylum seekers—a large tent-like structure erected on Randall's Island—lasted only from October to November of last year before the city shuttered it and relocated its occupants to midtown's Watson Hotel.<sup>6</sup> In late January, the city transformed the Watson into a shelter facility for families, requiring the city to move the single men there to another HERRC located in the Brooklyn Cruise Terminal in Red Hook—once again sparking protests.<sup>7</sup> By March, the Red Hook location also had to be closed for cruise season and its occupants yet again relocated.<sup>8</sup>

In addition, as of early May, 122 hotels citywide have been converted to homeless shelters for asylum seekers.<sup>9</sup> Usually, the city contracts with nonprofit providers for shelter operations in hotels, but it directly runs others through entities like NYC Health + Hospitals.<sup>10</sup> These no-bid emergency hotel contracts, for both unionized and nonunionized locations, often yield higher per-day room charges than what the hotel could command in the market, despite the city booking every room. As a result, owners often enjoy an unexpected and substantial windfall. The mostly unionized hotel-worker force is partly responsible for the high price of the city's hotel rates, and hotel-to-shelter deals have thus benefited the union, whose members have guaranteed employment as long as the facilities continue to be used as shelters.

This shelter strategy has several major downsides. Given that immigration court asylum hearings take an average of 4.2 years to complete,<sup>11</sup> the city faces years of multibillion-dollar costs—with no end in sight, as to the number of new arrivals. As Manhattan Institute senior fellow Nicole Gelinas wrote recently in *City Journal*,<sup>12</sup> the practice reduces the supply of city hotel rooms, which discourages tourism through higher prices and eliminates sources of the city's 5.875% hotel-room occupancy tax.<sup>13</sup> With less revenue generated by sales, business, income, and hotel-room taxes, the city will be increasingly unable to support the high cost of shelter for migrants.

Locating the city's central asylum-seeker intake center at the former Roosevelt Hotel, in the heart of Midtown East, likewise comes with significant downsides. Most obvious is its incongruity with the area's commercial character, which depends on commuter and tourist foot traffic to support shops and restaurants.<sup>14</sup> Stretching from East 39th Street to 57th Street and between Third Avenue and Fifth Avenue, Midtown East is a critical part of New York City's central business district. It contains some of New York's iconic buildings, including the Chrysler Building and Grand Central Terminal. As the terminus of the Metro-North and Long Island railroads and a major hub of the subway system, Midtown East is New York City's most important transit hub, and its hotels offer a convenient location for tourists and business travelers.<sup>15</sup>

Midtown East's most significant challenge comes from its aging office-building stock, which largely dates from the 1950s to the 1980s and lacks the latest amenities and finishing. To spur redevelopment, the Bloomberg administration proposed a rezoning of the area in 2013,<sup>16</sup> which was approved after four years of planning and stakeholder input.<sup>17</sup> The rezoning promised new development of premier Class A office space and more pedestrian-friendly streetscapes.<sup>18</sup> By the end of 2019, one of the area's most ambitious projects—One Vanderbilt, a \$3.3 billion supertall skyscraper immediately adjacent to Grand Central, featuring public spaces and transit access—was nearing completion, signaling a revitalized Midtown East for the new decade.<sup>19</sup>

In 2020, the Covid-19 pandemic renewed serious doubts about the area's long-term vitality. Its offices hollowed out almost completely,<sup>20</sup> and retail followed soon behind, leading to entire blocks of vacant storefronts.<sup>21</sup> As a central business district that includes relatively little housing, Midtown East is particularly susceptible to the consequences of fewer daily commuters. As of the end of March, midtown office-vacancy rates remained above 16%,<sup>22</sup> well above pre-pandemic levels, and the wider area has struggled with increased crime and disorder.<sup>23</sup>



Using the Roosevelt Hotel to house and process thousands of migrants threatens to impede the area's already-fragile recovery. Increasing migrant-related activity to the area, including busing to and from the Roosevelt Hotel central intake center, is likely to disrupt traffic, further reduce commuter foot traffic, and cause other unintended consequences.

No matter where the central intake center is located, the city should expect the tide of asylum seekers to continue. Under federal law, asylum seekers are not permitted to work legally until at least 180 days after filing an asylum claim.<sup>24</sup> Of course, many will find unofficial unemployment; and the federal government could grant migrants expedited work authorization, as the city has urged them to do. But many migrants will still need assistance and will thus be drawn to the jurisdiction with the most generous suite of public benefits. NYC's right-to-shelter law thus serves as a magnet for newcomers. Unless it acts quickly to limit the size of the front door, it can expect thousands more. This requires a reevaluation of the city's right-to-shelter law.

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## Reevaluating the Right to Shelter in New York City

Given the immense challenges imposed on the city shelter system since last year, restricting the right to shelter is imperative. There are some intuitive, commonsense ways to do so—for example, by requiring that shelter applicants reside in NYC for 30 consecutive days, similar to requirements for voter registration,<sup>25</sup> certain welfare benefits,<sup>26</sup> and city jobs.<sup>27</sup> Unfortunately, such a policy would risk strong legal challenges and practical obstacles, due to interpretations of the state constitutional provision that underlies the right to shelter.

New York is one of the few states with a constitutional provision guaranteeing social welfare to those in need.<sup>28</sup> Passed in 1938 during the depths of the Great Depression,<sup>29</sup> Article XVII, Section 1 states: “The aid, care and support of the needy are public concerns and shall be provided by the state and by such of its subdivisions, and in such manner and by such means, as the legislature may from time to time determine.”

The state constitution, however, is silent about the nature and extent of such aid, care, and support. But in 1979, in *Callahan v. Carey*, six homeless plaintiffs sued the city and state of New York, arguing that Article XVII imposed upon the city and state an affirmative duty to provide shelter to homeless single men.<sup>30</sup> After the trial court agreed with the plaintiff and cited Article XVII, the city negotiated a consent decree with the plaintiffs' attorneys, which the court approved in 1981.<sup>31</sup>

Though plaintiffs filed suit against both the state and the city, the consent decree placed impositions only on the city defendants. Whether, and to what extent, Article XVII imposes a concomitant right to shelter on counties statewide has not been expressly adjudicated. While certain statutes and regulations imply that the legislature has established an intent to provide shelter,<sup>32</sup> this is a critical unresolved question. A ruling in the affirmative would effectively provide the Adams administration some legal cover for its recent practice of busing asylum seekers to hotels operated in counties north of the city.<sup>33</sup> Indeed, language in *Callahan* suggests as much:

The Court is of the opinion that the Bowery derelicts are entitled to board and lodging. However, there is no reason why these homeless and indigent men cannot be lodged and fed at institutions wherever available in the State, and it is incumbent on those public officials responsible for caring for the needy to find such lodgings.



Subsequent case law has enumerated a few additional affirmative duties on the state,<sup>34</sup> such as for the welfare of foster-care children<sup>35</sup> and the emergency needs of the disabled.<sup>36</sup> In *Tucker v. Toia*,<sup>37</sup> the Court of Appeals struck down a provision that barred aid to any person under 21 not living with a parent or guardian, unless that person prevailed in a support proceeding against the parent or guardian. Because this requirement had nothing to do with actual need, and was imposed on those who otherwise met the standard of need, the court reasoned, it ran afoul of Article XVII,<sup>38</sup> which makes provision of assistance “not a matter of legislative grace” but “a positive duty upon the State to aid the needy.”<sup>39</sup>

In *Alissea v. Novello*, the Court of Appeals again clarified that “overly burdensome,” non-need-based eligibility conditions violate Article XVII.<sup>40</sup> In that case, the court invalidated a state law that denied nonemergency Medicaid benefits to lawfully present aliens and those present under color of law—a provision mirroring a recently enacted federal law.<sup>41</sup> Because the eligibility criteria was based on immigration status, not need, the court invalidated the state law.<sup>42</sup>

Further, in *McCain v. Koch*,<sup>43</sup> the state high court held that once New York City began providing shelter to the homeless, shelter conditions had to meet minimum standards of habitability, as defined by state regulations.<sup>44</sup> Conditions that failed to meet these standards, the court reasoned, effectively fail to provide any relief to the homeless.<sup>45</sup> Regardless of whether the homeless are entitled to shelter under the state constitution, the court continued, state courts had the authority to require the city to provide minimally habitable shelter.<sup>46</sup>

At the same time, the Court of Appeals has made clear that Article XVII does not mean that the state is “required to meet every legitimate need of every needy person.”<sup>47</sup> In *McCain*, the court declined to take up the question of whether Article XVII “substantively guarantees minimal physical standards of cleanliness, warmth, space and rudimentary convenience in emergency shelter.”<sup>48</sup>

The state legislature, moreover, has discretion to define who is needy and allocate public benefits to those individuals.<sup>49</sup> The definition of “needy” depends on the nature of the benefit, not the characteristics of the prospective beneficiaries.<sup>50</sup> Where the legislature has provided means-tested benefits, for example, those defined as “needy” will be those whose income qualifies them for such benefits.<sup>51</sup>

In one of the most significant recent cases dealing with the provision of public benefits, *Khrapunskiy v. Doar*, the court held that lawfully present noncitizens were not entitled to receive state assistance that augmented federal Supplemental Security Income (SSI) because the state defined need based on eligibility for SSI, which was not available to all lawful aliens. The court reasoned that by establishing SSI, the federal government took over aid programs to the aged, blind, and disabled. New York, in repealing its old program, was therefore not compelled by Article XVII to assume the federal government’s obligations for those who became ineligible for SSI, even though the previous state program had provided for that same group of noncitizens.<sup>52</sup>

Further, in *Teytelman v. Wing*, a trial court considered the eligibility restrictions in the state’s Food Assistance Program (FAP), which was established “to assist certain groups of legal immigrants who had lost benefits as a result of the [federal] Welfare Reform Law.”<sup>53</sup> The court held that Article XVII did not bar the eligibility restrictions because the legislature had not determined that legal immigrants as a class were needy and had, in fact, left it up to counties as to whether to implement the program. This optionality implied that all legal immigrants were not deemed needy.

In *Bernstein v. Toia*, the court determined that though the government cannot exclude those whom the legislature has defined as needy, the method of distribution and sufficiency of the benefits granted to each eligible recipient was a matter of legislative discretion.<sup>54</sup> Indeed, the discretion



afforded to the state legislature implies that it could pass laws to expand or curtail the right to shelter and other benefits afforded under Article XVII.<sup>55</sup> The New York City Council could likewise define the scope of the city's shelter obligations.

Moreover, in *McCain v. Giuliani*, an intermediate appellate court upheld the Giuliani administration's regulations requiring that, as a condition to continue receiving shelter, applicants cooperate with the city to create an independent living plan, designed to get them out of shelter. The court reasoned that because "the regulation does not on its face permit the arbitrary, outright denial of temporary shelter, the regulation does not violate article XVII (§ 1) of the New York State Constitution or our prior rulings."<sup>56</sup>

Finally, in *Aumick v. Bane*, an upstate trial court held as unconstitutional a six-month durational residency requirement to obtain state assistance for those who would otherwise qualify as needy based on their inability to maintain themselves. The court explained that the eligibility criteria, "namely, residency for a period of six months, is unrelated in any way to the determination of need, and therefore, violates New York Constitution, article XVII, § 1."<sup>57</sup>

In sum, governmental entities in New York State must aid those the legislature has defined as needy by reference to the specific benefit at issue; and to survive judicial scrutiny, eligibility criteria cannot be overly burdensome, arbitrary, or unrelated to need. If a residency requirement for emergency shelter were challenged under Article XVII, it risks being invalidated on similar non-need-based grounds, as would alienage-related conditions (which would also likely run afoul of the Equal Protection Clause of the Fourteenth Amendment).

### **Some Specifics of New York City's Right to Shelter**

The specific requirements that NYC must meet in satisfying the right to shelter, including need-based eligibility requirements, are contained in the 1981 consent decree and its subsequent developments in court, as well as statutes and state and local regulations. The consent decree applies to those who "by reason of physical, mental or social dysfunction [are] in need of temporary shelter." It also specifically requires the city to provide shelter residents with a clean, well-constructed mattress, pillow, two clean sheets, a towel, soap, toilet tissue, a storage locker, and twice weekly laundry service.<sup>58</sup>

One consequence of this arrangement is that judges and homeless-rights attorneys have exerted more influence over the city's homelessness policies than many elected representatives.<sup>59</sup> Because of the judicial approval granted to the consent decree, amendments to it must be made with the court's approval.<sup>60</sup> And the decree established a court-appointed monitor of shelters for homeless adults, the Coalition for the Homeless, a nonprofit homeless-rights advocacy organization, which the de Blasio administration extended to cover homeless-family facilities.<sup>61</sup> Shelter monitors visit facilities on a scheduled and unannounced basis, and violations sometimes result in lawsuits against the city, usually filed in partnership with the Legal Aid Society.<sup>62</sup>

In 1983, following an equal protection challenge, a state intermediate appellate court held, in *Eldredge v. Koch*, that the consent decree applies equally to single adult homeless women.<sup>63</sup> However, the city shelter system treats singles, families with children, and families without children differently because of their varying needs. Intake centers are also divided on the basis of the type of applicant and are located in different parts of the city.<sup>64</sup>

Single adults are not subject to eligibility requirements for long-term placement, whereas families are,<sup>65</sup> in part because of the belief that unsheltered families are more likely to overcrowd apartments by doubling up, while unsheltered singles are more likely to wind up on the streets. Unlike in other jurisdictions, however, all those who apply for shelter must be granted temporary housing immediately on the day they apply for it.<sup>66</sup> To remain eligible for shelter, those receiving it must abide by clearly posted shelter rules, such as honoring curfew times and required appointments.<sup>67</sup>



For families with children, there had been protracted litigation regarding specific conditions of shelters, resulting in more than 40 preliminary court orders.<sup>68</sup> In 2008, after a quarter-century of this litigation, the city reached a permanent settlement with the Legal Aid Society that established comprehensive guidelines for shelter conditions and required the city to provide shelter to families demonstrating urgent need, provided that they meet eligibility criteria for permanent placement.<sup>69</sup>

For families with children to be eligible for permanent placement, they must provide documentation to the Department of Homeless Services (DHS) proving their homelessness. During this review, they receive up to 10 days of provisional shelter (though this is frequently extended).<sup>70</sup> As a condition for eligibility, families must actively seek housing other than temporary shelter. DHS also validates family members' identities and assesses whether the family may return to any of the places where it has lived within the past two years. If DHS finds that the family could return to any of these addresses, it denies the application. Between 2011 and 2017, some 35%–55% of family applicants were admitted to shelter.<sup>71</sup>

In late 2011, the Bloomberg administration proposed eligibility requirements for individuals similar to those for families, resulting in another round of litigation.<sup>72</sup> In March 2012, the trial court held that the administration failed to comply with the rulemaking process under the City Administrative Procedure Act; it did not reach the merits of whether the eligibility requirements violated the 1981 consent decree.<sup>73</sup> The ruling was affirmed in February 2013 by an intermediate appellate court, which also did not reach the merits of the eligibility requirements' legality.<sup>74</sup> With the election of Mayor Bill de Blasio, who was generally less concerned about conserving city resources than his predecessor,<sup>75</sup> the issue largely receded in importance. No court, therefore, has adjudicated the legality of eligibility requirements for individuals.

Although the majority of New York State's homeless are located in New York City and its immediate suburbs, counties across the state operate hundreds of homeless shelters of varying quality.<sup>76</sup> Title 18 of the New York State Codes, Rules, and Regulations (NYCRR) provides minimum state standards for shelter quality and the conditions of shelter applicable for each type of applicant.<sup>77</sup> The state's Division of Shelter Oversight and Compliance, a part of the Office of Temporary and Disability Assistance, is responsible for overseeing shelter conditions for compliance.<sup>78</sup> The state comptroller's office also conducts audits and issues reports about shelter conditions<sup>79</sup> and placements.<sup>80</sup> In addition, NYC has enacted local laws and regulations that govern the provision of shelter. Sections 21-312 through 21-315 of the New York City Administrative Code, which pertain to the administration of DHS, regulate shelter conditions.<sup>81</sup>

### **Shelter Rules Regarding Asylum Seekers**

Since at least October 2017, New York City has had a written policy regarding shelter for asylum seekers, asylees, and victims of human trafficking.<sup>82</sup> But in 2017, a mere 56,000 foreign migrants requested asylum in the U.S. as a whole<sup>83</sup>—far fewer than the number who have entered New York in just the last year. This policy was adopted, therefore, under circumstances wildly different from those of today.

The city's current policy document was last updated in March 2023.<sup>84</sup> At all times, the goal of the policy has been to protect potential asylum seekers from the potential danger of returning to previous addresses.

At intake, DHS social workers first ask those presenting as asylum seekers or asylees whether they have an appointment with Immigrations and Customs Enforcement (ICE) or a federal immigration court hearing. If they do, and have applied for asylum or claim that they have applied but cannot provide documentation, they are granted the status of an asylum seeker or asylee.



If they do not have an upcoming appointment with ICE or a federal hearing, intake staff ask whether they or their family members are afraid to return to their country of nationality or country of last residence. If they respond yes—which is presumably what many already told federal officials, in order to remain in the U.S.—they are also asked whether they have applied for asylum. Again, if they have applied for asylum or claim that they have applied but cannot provide documentation, they, too, are granted the status of an asylum seeker or asylee.

For those granted this status, intake staff may not investigate addresses outside the United States. Even if the city's Office of Refugee and Immigrant Affairs—which follows up with an investigation of the applicant's asylum status—cannot confirm that the applicant has been granted or applied for asylum, this bar on investigation of out-of-country addresses remains in place while applicants receive referrals to legal-services organizations that can help them apply for asylum.

Notably, intake staff must ask whether the applicant can stay with someone in the U.S., such as a friend or family member. But if the applicant responds in the negative, the employee must continue with the placement, without scrutinizing potential offers of shelter or housing that the applicant may have received.

Given existing eligibility requirements for families—again, which routinely turn away nearly half of applicants—the special treatment afforded to asylum seekers lowers the bar for eligibility, effectively prioritizing newcomers relative to longer-term New Yorkers who have a more established history of residency. This special treatment is understandable for those fleeing their countries out of a fear of serious injury or death if they returned. But many, if not most, of the recent newcomers are fleeing dire economic conditions in their home countries, not persecution or a genuine fear of persecution.<sup>85</sup>

Many of those seeking shelter in NYC as asylees thus meet neither the city's nor the federal government's definitions of asylum seeker. The city memorandum governing shelter-admission rules defines "asylum seekers" as "non-citizens in the U.S. seeking to remain in the U.S. due to persecution, or fear of persecution, in their home country on account of race, religion, nationality, membership in a particular social group, or political opinion." Economic matters are conspicuously absent from this definition.

Likewise, federal law limits asylum claims to those who have suffered past persecution or who have a well-founded fear of persecution in the future.<sup>86</sup> Because most of those in New York today have not suffered past persecution, they will instead seek to establish asylum on the second basis. To do so, they must meet three conditions: (1) a subjective fear of persecution in their country of nationality; (2) a reasonable possibility of suffering persecution; and (3) an inability or unwillingness to return to the country because of such fear.<sup>87</sup>

The second condition establishes an objective reasonability test. Therefore, even if economic migrants establish the other two conditions, they are unlikely to pass the second test and will likely face deportation. Despite this ultimate outcome, they will remain in places like New York until federal immigration courts establish their eligibility for asylum or continue the removal process. That will place years of strain on a shelter system that was already overburdened thanks to rising homelessness and New York's tepid recovery from Covid-19.

Returning home would doubtless result in severe economic privation in perhaps all of their situations, but that is not sufficient for an asylum claim. Indeed, fewer than 50% of asylum hearings result in a grant of asylum.<sup>88</sup> And because of immigration courts' years-long backlog, it stands to reason that this share will decline further as judges begin hearing cases of those claiming asylum on economic grounds.



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## The City's Attempts to Modify the Right to Shelter

The city could take several avenues to relieve its obligation to provide shelter. At one extreme, because the consent decree and its subsequent developments served to settle the *Callahan* litigation, if the city sought to set aside the consent decree wholesale, the ensuing litigation could establish the substantive requirements of shelter under Article XVII and legislative determinations of neediness.<sup>89</sup> Ultimately, such a case on the merits would wind up with a final judgment by the Court of Appeals. But there is little guarantee that the city would prevail, or even end up with less burdensome shelter requirements. Indeed, recent changes to the composition of the high court<sup>90</sup> suggest that the Adams administration would face difficulty in convincing four judges that the state constitution demands less of the city than what it has provided for over four decades.

The city has already started pursuing other, more incremental, avenues. On May 10, Mayor Adams signed Emergency Executive Order 402, temporarily suspending the requirement that the city provide shelter for families who request it by 10 pm.<sup>91</sup> A follow-up order on May 15 further suspended the city's Uniform Land Use Review Procedure (ULURP) for new homeless shelters meant to respond to the asylum emergency.<sup>92</sup> While these measures demonstrate that the city has some leeway in responding to the crisis, they do not seek to limit the number of those entering the front door; they merely give the city greater flexibility in finding suitable space for migrants.

The following week, though, the Adams administration sought permission to modify the consent decree to limit the numbers entering the shelter system. Specifically, the Law Department moved to amend paragraph 1 of the decree so that the city would not be required to provide shelter to both homeless adults and adult families when it “lacks the resources and capacity to establish and maintain sufficient shelter sites, staffing, and security to provide safe and appropriate shelter.”<sup>93</sup>

The level of resources necessary to maintain sufficient safe and appropriate shelter sites was not defined. Even assuming that the court grants this motion, the lack of such definition will almost invariably invite yet more litigation over the degree to which the city must be in distress before the obligation to provide shelter ceases. For example, must the city cut discretionary spending in order to free up resources for shelters? Would it have to sell public assets? If so, how much?

What's more, the city is not seeking to modify its shelter obligations to families with children.<sup>94</sup> Yet over 70% of the current migrant shelter population is composed of families with children,<sup>95</sup> meaning that the city's proposal, even if approved by the court, would have relatively modest results. It would likely reduce the number of HERRCs necessary to house singles but would address neither the majority of the shelter population nor the expensive provision of hotel rooms for families with children.



Finally, this modification will also likely face a legal challenge on the grounds of *Doe v. Dinkins*,<sup>96</sup> a 1993 appellate division decision that contains language running against this justification. In that case, the court affirmed the trial court's holding, which rejected the city's contention that it lacked the resources to reduce the population in homeless shelters below the maximum occupancy permitted under the New York Codes, Rules, and Regulations:

Section 1 of article XVII of the State Constitution imposes a duty on the State and its subdivisions to aid, care for, and support the needy. The NYCRR regulations were enacted to fulfill this obligation. Compliance is mandatory despite a purported claim of insufficient funds. The defense of lack of resources is "particularly unconvincing when uttered in response to a claim that existing conditions violate an individual's constitutional rights." The plaintiffs seek to have the municipal defendants comply with their statutory and constitutional obligations. Any inconvenience caused by compliance is outweighed by the harm which would be suffered otherwise.<sup>97</sup>

### **Proposed Modifications to Shelter Eligibility**

To cope with this unprecedented surge in shelter seekers, NYC sorely needs ways to reduce the flow of individuals and families entering its shelter system while simultaneously avoiding a legal challenge that might provide for an even more expansive right. The existence of eligibility requirements for families demonstrates that local and state entities can limit admission to shelters on need-based grounds.

First, the city could eliminate its special asylum-seeker shelter guidelines and treat all families alike, whether newcomers or long-term New Yorkers. Eligibility requirements would therefore consider previous addresses and the prospects of returning to them, whether in the U.S. or in a country of nationality, and would simply leave other existing procedures in place. If asylum seekers could return to any previous addresses within the past two years, they would be denied shelter, limiting their incentive to come to New York.

The downside of this approach is that it would fail to protect families fleeing genuine persecution and human trafficking. To safeguard these parties, the asylum-based procedures could alternatively be modified to grant asylum status only to those who have been found eligible for asylum following a hearing in federal immigration court, or, less restrictively, to those who produce documentation establishing that they are grounding their federal asylum claim on persecution or human trafficking, not economic deprivation.

Second, shelter eligibility requirements should be modified to exclude families from shelter if they have been offered long-term housing or shelter by an organization, family member, friend, or governmental entity (other than NYC) in the past two years and either declined or willfully left such a living arrangement. This would mirror the current two-year past-address lookback for family eligibility, broadening it to include offers of housing or shelter. Compared with the question currently asked in the intake procedure, of whether the applicant thinks that there is someone with whom the applicant can stay, the question about offers of shelter is simpler and more objective. While the definition of "long term" is subject to interpretation, one reasonable option is a term of 30 days or longer, given that city law grants a right not to be evicted without a court order to those who legally occupy a dwelling for at least 30 consecutive days.<sup>98</sup>

The city could also attempt to introduce these criteria for individuals, though doing so would almost certainly invite a lawsuit, effectively reopening the Bloomberg-era litigation on eligibility criteria for singles. Limiting this change to families would still be effective, given the high percentage of families with children in the shelter system.<sup>99</sup>



These limitations on the right to shelter would accomplish several goals. First, they would encourage asylum seekers to accept housing or shelter outside the city shelter system. Rather than board a bus for NYC, they might opt to remain in another jurisdiction that has offered housing or shelter. This is particularly important, given the uncertainty regarding migrants' ability to work in the U.S., which encourages those who cannot support themselves to seek the jurisdiction with the most generous government benefits. NYC's right to shelter, unique among American cities, would thus lose some of its gravitational attraction.

Second, unlike the city's attempt to limit the right to shelter altogether for homeless adults and adult families—and invite viable legal challenges—these measures operate within current need-based family eligibility criteria and processes for shelter, minimizing their disruptiveness for city workers. Unlike modifying the consent decree, amending a policy document likely would not require judicial approval.

Third, they would not affect the right to shelter for homeless individuals, the intended beneficiaries under the *Callahan* consent decree.

These requirements would remove eligibility for city-provided shelter to those who are eligible to be sponsored in the program that we propose below. Restricting access based on the availability of a sponsored home would represent a non-burdensome, reasonable, and need-based criterion that is likely to pass legal muster under Article XVII and its case law.

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# The New York City Migrant Sponsorship Program

Private migrant sponsorship isn't a new concept; it's the bedrock of our legal immigration system. More than eight in 10 legal immigrants are sponsored by a family member or company that commits to supporting the migrant in the United States.<sup>100</sup> The main immigration category where sponsorship has been rare in America is refugee resettlement. There, the government has taken the leading role in matching refugees with resources and support from nonprofit organizations, leading to suboptimal results for the money spent. On the other hand, peer nations like Canada have an active private refugee sponsorship program that allows regular citizens to welcome approved refugees into their homes, facilitating their integration into society and reducing government costs, all while improving the lives of refugees.

## **Biden Administration Initiatives**

The Biden administration has increasingly relied on private sponsorship to implement several immigration policy changes. First, in April 2022, it launched Uniting for Ukraine to quickly admit Ukrainians fleeing from Vladimir Putin's invasion, bypassing the red tape-filled U.S. refugee program. To do this, the president used his immigration parole authority to allow Americans to sponsor eligible Ukrainians and commit to bearing the cost of bringing them here for an initial two-year period if both sponsor and parolee pass security and health vetting.

In October 2022, the Department of Homeland Security launched the Process for Venezuelans, which allowed Americans to sponsor eligible Venezuelans in the same way as with Ukrainians. In January of this year, the Process for Venezuelans became the CHNV Process, after it was expanded to include Cubans, Haitians, and Nicaraguans. Through these programs, the U.S. government has admitted well over 200,000<sup>101</sup> migrants from countries where they faced danger—and in a quick and orderly way, at no taxpayer cost.



Through parole, individual Americans and others in lawful immigration status can sponsor an eligible Cuban, Haitian, Nicaraguan, or Venezuelan national of their choice. Sponsors must meet certain requirements, such as having a minimum income and not having a criminal history.

In January 2023, the Department of State launched the Welcome Corps, allowing Americans to sponsor regular refugees through the U.S. refugee program.<sup>102</sup> Now in the first phase of this initiative, groups of Americans can sign up to jointly welcome a preapproved refugee individual or family into their home and community. These groups of Americans can be family members, friends, church groups, companies, and nonprofit organizations. The State Department has said that this process will soon be open to individuals, without the help of others in a group; it also plans to allow universities to sponsor refugee students as well.<sup>103</sup>

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# Welcome to New York, Not the Shelter

New York City should learn from the federal government's use of private sponsorship of immigrants to reduce use of the city's shelters by asylum seekers. Thousands of New Yorkers have volunteered to welcome asylum seekers at the Port Authority Bus Terminal, shelters, churches, and in the streets. The city should make it as easy as possible for well-meaning citizens to help arriving migrants integrate and adapt to their new lives.

To this end, the mayor should establish a sponsorship program that pairs arriving migrant families and individuals with willing New Yorkers who would like to host them. This process would reduce demand for city shelters, conserve city resources, integrate migrants into NYC's numerous communities, and thus reduce newcomers' exposure to crime and other negative experiences.

### **Logistics and Advantages of New York's Welcome Corps**

As with the U.S. Welcome Corps, NYC should establish a website for its own welcome corps to collect data on both sponsors and migrants and match them. Prospective sponsors should submit their basic information, including, but not limited to, their legal name, New York identification, address, Social Security number, and income, as well as the names and information of each of their household members.

The city government will then vet them by running a background check on each member of the sponsor's household and verifying that their income is above the poverty line or some higher threshold that it wishes to set. If sponsors will house the migrant at their own home, they should certify that they own the property or provide written authorization from their landlord. Finally, sponsors should certify that their address has adequate space for migrant guests.

All sponsors should be allowed to select characteristics of migrants they'd like to host and be matched with. Nonprofits, religious groups, and corporate entities should also be allowed to become sponsors under this program. For instance, a sponsor family may wish to host only a married couple rather than a single male, a local synagogue may wish to sponsor only Jewish asylum seekers, and a Dominican or Venezuelan association may wish to sponsor only Dominican or Venezuelan asylum seekers. To this end, the city should allow as much preference personalization as possible in the welcome corps in order to attract as many sponsors as possible and guarantee that more migrants are matched with willing participants.



The city would do well to set up its sponsorship program in coordination with the federal government. This would not necessarily violate New York's sanctuary city policy, and it may grant the city access to existing federal infrastructure, information, and advice at no cost.

On the migrant side, city authorities welcoming migrants arriving at the central intake center should advise them to sign up for the sponsorship program as a condition of eligibility for residence in city shelters. If migrants refuse to sign up for private sponsorship, they should be informed that they won't be eligible for shelter residence. Once they sign up for NYC's Welcome Corps, they should provide all their personal information to social workers or city officials, who will create a profile for them on the website.

For now, New Yorkers shouldn't be able to specifically choose which migrant to sponsor, unless they can specifically name them and unless the migrant can also name the sponsor. Otherwise, the matching should occur based on sponsor preferences and migrant characteristics, with the sponsor and migrant having a final say of whether they want to continue together after being matched online and having an opportunity to meet in person. All migrants must be required to provide basic biographical information, including name, sex, birthdate, nationality, marital status, and household information. They should be given the option—but should not be required—to provide their religious affiliation, education level, health history, or other information potentially useful to match with a sponsor. Migrants should understand, however, that withholding this information may affect their chances of being successfully matched with a sponsor.

Over time, if the program is successful, not only newly arrived migrants but also current residents in shelters should be required to sign up for NYC's Welcome Corps as a condition for continued eligibility.

In the short term, a sponsorship program for migrants could save the city hundreds of millions of dollars in hotel and shelter costs. In some hotels, the city government is paying over \$300 per night per migrant family, but even at a low \$100 cost per night per family unit, the more than 40,000 migrants living in shelters in NYC are costing taxpayers over \$1.5 billion per year, enough to hire more than 10,000 police officers<sup>104</sup> or pay down city employee pension debt. But more important, private sponsorship may improve the quality of life of the migrants themselves. Living at a city shelter is often an unpleasant experience, one that pales in comparison with living with a family in an apartment or house with a kitchen and with people who can more easily guide them in how to enroll a child in school, use public transport, and learn the English language. Migrant sponsorship is good for city finances and even better for migrant integration.

This solution comes with some risks. Some sponsors may not fulfill their duties, and migrants who were matched at first could be left without housing months later, if a problem arises. Some migrants may abuse the arrangement with their sponsors; but those who commit a crime can and should face deportation. At the same time, some sponsors may abuse migrants—in which case, they, too, should face criminal penalties. Background checks and preference matching minimize these risks. Furthermore, separating migrants from the current shelter population and spreading them across the city should reduce their exposure to potential drug abuse, criminal recruitment, and other harms. The risks inherent to private migrant sponsorship are outweighed by the unsustainable status quo of migrants living in city shelters and private hotels.

Some might worry that such a sponsorship program would have no use because no New Yorker would volunteer his home or property to help asylum seekers. Yet hundreds of thousands of Americans have already signed up to sponsor migrants under the Biden administration's parole programs, as have tens of thousands under the Welcome Corps. The proposed NYC Welcome Corps combines the best of the national parole programs and Welcome Corps. It allows individuals to sponsor a specific migrant, yet it also allows groups and matches those who don't know whom to sponsor. The NYC Welcome Corps would be much less restrictive for sponsors than the national version,



allowing both individuals and groups to sponsor migrants, whereas the federal Welcome Corps only allows for sponsor groups. And such a program doesn't require an immigration application or flight; rather, it's for people already in NYC whom sponsors can meet.

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## Conclusion

New York City has served as the gateway to America for centuries, welcoming millions of immigrants from distant nations. But current policies have turned an otherwise manageable and unnoticed flow of immigration in a city with declining population into the greatest immigration challenge in a generation. NYC cannot realistically provide housing at no cost to a potentially limitless number of migrants. Its attempts to manage the crisis by converting hotels into shelters and establishing a migrant intake center in the center of midtown Manhattan reveal the extent of its tribulations. Although New York cannot alleviate the burdens of the crisis entirely on its own—the federal government must immediately expedite processes and clear asylum backlogs, among other things—local leaders can nonetheless take meaningful steps to limit the right to shelter and enlist the help of generous New Yorkers, rather than force the cost on all taxpayers.



## Endnotes

- <sup>1</sup> Laura Nahmias and Fola Akinnibi, “NYC Pays Over \$300 a Night for Budget Hotel Rooms for Migrants,” *Bloomberg*, June 9, 2023; Matthew Haag, “Despite Migrant Arrivals, There’s No Shortage of Hotel Rooms in New York,” *New York Times*, May 22, 2023.
- <sup>2</sup> NYC Office of the Mayor, “Mayor Adams Announces Launch of Asylum Seeker Arrival Center, Ninth Humanitarian Emergency Response and Relief Center to Continue to Respond to Asylum Seeker Influx,” press release, May 13, 2023.
- <sup>3</sup> Bernadette Hogan et al., “NYC Eyeing \$225M Deal to House Migrants in Famed Roosevelt Hotel: Sources,” *New York Post*, May 9, 2023.
- <sup>4</sup> U.S. Dept. of Defense, “Factsheet Joint Base McGuire-Dix-Lakehurst,” Oct. 21, 2021.
- <sup>5</sup> Katie Honan and Gabriel Poblete, “City Hospital System Takes on Migrant Emergency—with Blank Check from Mayor,” *The City*, Feb. 23, 2023.
- <sup>6</sup> NYC Office of the Mayor, “Mayor Adams Announces Placement of Humanitarian Emergency Response and Relief Center to Assist Single Adult Men Seeking Asylum, City Will Demobilize Randall’s Island Relief Center,” press release, Nov. 10, 2022.
- <sup>7</sup> Tim McNicholas, “Mayor Eric Adams Says Proposed Migrant Shelter at Brooklyn Cruise Terminal Will Be Heated Space,” *CBS New York*, Jan. 22, 2023.
- <sup>8</sup> Chris Sommerfeldt, “NYC Opening Two New Mega Shelters for Migrants as Brooklyn Cruise Terminal Site Closes This Month,” *New York Daily News*, Mar. 13, 2023.
- <sup>9</sup> NYC Office of the Mayor, “Mayor Adams Announces Program to Provide Shelter Option for Asylum Seekers Already in Care in Nearby New York Counties,” press release, May 5, 2023.
- <sup>10</sup> Karen Zraick, “How Manhattan Hotels Became Refuges for Thousands of Migrants,” *New York Times*, Mar. 23, 2023.
- <sup>11</sup> Alicia A. Caldwell, “Immigration Judges Are Moving Fast, but Case Backlog Keeps Growing” *Wall Street Journal*, Mar. 1, 2023.
- <sup>12</sup> Nicole Gelinias, “No Room at the Inn—Except in New York!” *City Journal*, May 16, 2023.
- <sup>13</sup> NYC 311, “Hotel Room Occupancy Tax.”
- <sup>14</sup> Kate King, Roque Ruiz, and Konrad Putzier, “Midtown Manhattan with Fewer Office Workers: Imagining the Unthinkable,” *Wall Street Journal*, Mar. 22, 2022.
- <sup>15</sup> Matt Chaban, “No Vacancies: Union, Pols Push for Hotel Restrictions in Midtown East Rezoning,” *Observer*, Sept. 27, 2012 (quoting a Dept. of City Planning spokeswoman as saying in 2012, “East Midtown is, in fact, the ideal location for hotels—it is centrally located with excellent access to mass transit, and is home to some of the city’s best business, landmark and tourist destinations. Hotels in East Midtown are key to the continuing growth of New York City’s tourism industry, and they have always been integral to Midtown’s identity and success”).



## Shelter from the Storm: Better Options for New York City's Asylum-Seeker Crisis

- <sup>16</sup> NYC Dept. of City Planning, “East Midtown Rezoning.”
- <sup>17</sup> NYC Dept. of City Planning, “Greater East Midtown,” Aug. 9, 2017.
- <sup>18</sup> Sarah Amar, “Photos: The Future Pedestrian-Friendly Plans for East 43rd Street,” *Gothamist*, Sept. 30, 2017.
- <sup>19</sup> Amy Plitt, “One Vanderbilt Tops Out at 1,401 Feet In Midtown East,” *Curbed New York*, Sept. 19, 2019.
- <sup>20</sup> Michael Wilson, “The Virus Turns Midtown into a Ghost Town, Causing an Economic Crisis,” *New York Times*, July 26, 2020.
- <sup>21</sup> Sharon Edelson, “Drop in Office Occupancy and Dearth of Tourists Ravage Midtown Manhattan Retail Corridors,” *Forbes*, Oct. 7, 2021.
- <sup>22</sup> Mark Hallum, “Manhattan Office Vacancy Rate Hits Record High as Leasing Still Struggles,” *Commercial Observer*, Mar. 30, 2023.
- <sup>23</sup> Kerry Burke and Larry McShane, “Midtown Manhattan Crime Surge Leaves Locals, Landlords Feeling Uneasy: ‘The Fear Is Real,’” *New York Daily News*, Nov. 20, 2022.
- <sup>24</sup> 8 U.S.C. § 1158(d)(2).
- <sup>25</sup> New York State Board of Elections, “Qualifications to Register to Vote.”
- <sup>26</sup> Community Service Society of New York, “Benefits Plus Screening Guide,” January 2023.
- <sup>27</sup> Annie McDonough, “New York City Government Lifts Residency Requirements for Some Lawyer Positions Amid Shortage,” *City & State NY*, Dec. 28, 2022.
- <sup>28</sup> NYS Constitution, Art. XVII, Sec. 1.
- <sup>29</sup> For a brief history of the provision, see Bradley R. Haywood, “The Right to Shelter as a Fundamental Interest Under the New York State Constitution,” 34 *Colum. Hum. Rts. L. Rev.* 157, 189–94 (2002).
- <sup>30</sup> Amended Complaint, Callahan v. Carey, No. 79-42582 (N.Y. Sup. Ct. 1979).
- <sup>31</sup> Coalition for the Homeless, “The Callahan Legacy: Callahan v. Carey and the Legal Right to Shelter.”
- <sup>32</sup> For example, Safety Net Assistance welfare benefits provide noncash assistance toward shelter. See also NY Social Services Law § 159(b)(1)(i).
- <sup>33</sup> Michael Gartland and Chris Sommerfeldt, “NYC to Send Some Asylum Seekers Upstate, Infuriating Local Leaders, After Only Securing \$30M in Federal Migrant Aid,” *New York Daily News*, May 5, 2023.
- <sup>34</sup> Steven Sacco, “In Defense of the Eligible Undocumented New Yorker’s State Constitutional Right to Public Benefits,” 40 *N.Y.U. Rev. L & Social Change* 181 (2016).
- <sup>35</sup> *Sinhogar v. Parry*, 74 A.D.2d 204, 214 (N.Y. App. Div. 1980); *Andrews v. Otsego Cnty.*, 446 N.Y.S.2d 169 (N.Y. Sup. Ct. 1982).
- <sup>36</sup> *Ingram v. Fahey*, 358 N.Y.S.2d 604 (N.Y. Sup. Ct. 1974).



- 37 371 N.E.2d 449 (N.Y. 1977).
- 38 See *Tucker v. Toia*, 371 N.E.2d 449, 452 (N.Y. 1977); Sacco, “In Defense,” 204.
- 39 *Tucker*, at 451.
- 40 *Aliessa v. Novello*, 754 N.E.2d 1085, 1099 (N.Y. 2001).
- 41 *Id.* at 1085.
- 42 *Id.* at 1099.
- 43 *McCain v. Koch*, 511 N.E.2d 62 (N.Y. 1987).
- 44 *Ibid.*, 65–67. See also Alan Jenkins and Sabrineh Ardalan, “Positive Health: The Human Right to Health Care Under the New York State Constitution,” 35 *Fordham Law Journal* 479, 501–2 (2008).
- 45 Jenkins and Ardalan, “Positive Health,” 501.
- 46 *McCain*, at 65–66.
- 47 *Aliessa*, at 1092 (quoting *Bernstein v. Toia*, 43 N.Y.2d 437, 448–49 (1977)).
- 48 *McCain*, at 65–66 (internal citations omitted); Jenkins and Ardalan, “Positive Health,” 502.
- 49 *Id.* Sacco, “In Defense,” 193.
- 50 *Ibid.*, 210.
- 51 *Ibid.*, 193.
- 52 *Khrapunskiy v. Doar*, 909 N.E.2d 71, 77–78 (N.Y. 2009).
- 53 773 N.Y.S. 2d 801, 810 (N.Y. Sup. Ct. 2008).
- 54 43 N.Y.2d 437, 449 (N.Y. 1977); Haywood, “The Right to Shelter as a Fundamental Interest,” 176.
- 55 Haywood, “The Right to Shelter as a Fundamental Interest,” 186.
- 56 676 N.Y.S.2d 151–2 (1998).
- 57 *Aumick v. Bane*, 161 Misc.2d 271, 278 (N.Y. Sup. Ct. 1994).
- 58 *Callahan v. Carey*, “Final Judgment by Consent,” at 3–4.
- 59 Stephen Eide, “Benchmarking Homeless Shelter Performance: A Proposal for Easing America’s Homeless Crisis,” Manhattan Institute, Oct. 4, 2018, 120–21.
- 60 See, e.g., Jim Wagstaffe, “Enforcing Settlements and Consent Decrees,” *LexisNexis Practical Guidance Journal*, Sept. 18, 2018.
- 61 Coalition for the Homeless, “Our History.”
- 62 Coalition for the Homeless, “Organizing and Shelter Monitoring.”



## Shelter from the Storm: Better Options for New York City's Asylum-Seeker Crisis

- <sup>63</sup> Eldredge v. Koch, 469 N.Y.S.2d 744, 744 (App. Div. 1983).
- <sup>64</sup> NYC Dept. of Homeless Services, “Accessing Homeless Services,” February 2016.
- <sup>65</sup> Eide, “Benchmarking Homeless Shelter Performance,” 120.
- <sup>66</sup> *Ibid.*, 125.
- <sup>67</sup> Coalition for the Homeless, “Single Adult Shelter System.”
- <sup>68</sup> Leslie Kaufman and David W. Chen, “City Reaches Deal on Shelter for Homeless,” *New York Times*, Sept. 17, 2008.
- <sup>69</sup> Final Judgment, *Boston v. City of New York*, No. 402295/08 (N.Y. Sup. Ct. 2008).
- <sup>70</sup> NYC Dept. of Social Services, “Families with Children: Applying for Temporary Housing Assistance”; Eide, “Benchmarking Homeless Shelter Performance,” 125.
- <sup>71</sup> Eide, “Benchmarking Homeless Shelter Performance,” 126.
- <sup>72</sup> David W. Chen, “City Delays Tighter Rules for Homeless People Seeking Shelter,” Nov. 10, 2011.
- <sup>73</sup> *Eldredge v. Koch*, Slip Op. 30405 (N.Y. Sup. Ct. 2012).
- <sup>74</sup> Marc Santora, “City Eligibility Policy for Homeless People Seeking Shelter Was Enacted Illegally, Court Says,” *New York Times*, Feb. 14, 2013.
- <sup>75</sup> See Annie Karni, “NYC Homeless Advocates Cheer Mayor de Blasio’s ‘Code Blue’ Shelter Policy,” *New York Daily News*, Jan. 4, 2014.
- <sup>76</sup> Office of the New York State Comptroller, “Homeless Shelters and Homelessness in New York State,” June 2016.
- <sup>77</sup> 18 NYCRR § 352.25, § 351.8; NYS Office of Temporary and Disability Assistance, “Shelter Oversight and Compliance.”
- <sup>78</sup> NYS Office of Temporary and Disability Assistance, “About ODTA.”
- <sup>79</sup> NYS Office of Temporary and Disability Assistance, “Oversight of Homeless Shelters Report 2018-S-52,” March 2020.
- <sup>80</sup> NYS Office of Temporary and Disability Assistance, “Oversight of Shelter Placements Report 2021-N-5,” December 2022.
- <sup>81</sup> NYC Admin Code, Sec. 21–312.
- <sup>82</sup> NYC Dept. of Homeless Services, “Shelter Intake Process for Asylum Seekers/Asylees and Victims of Human Trafficking DHS-PB-2017-04,” Oct. 17, 2017.
- <sup>83</sup> Ron Nixon, “Asylum Claims Jump Despite Trump’s Attempt to Limit Immigration,” *New York Times*, Dec. 10, 2018.
- <sup>84</sup> NYC Dept. of Homeless Services, “Intake Process for Asylum Seekers, Asylees, and Victims of Human Trafficking DHS-PB-2023-004,” Mar. 10, 2023.



- <sup>85</sup> Natalie Kitroeff and Julie Turkewitz, “What’s Driving Record Levels of Migration to the U.S. Border?” *New York Times*, May 11, 2023.
- <sup>86</sup> 8 C.F.R. § 1018.13(b).
- <sup>87</sup> 8 C.F.R. § 1018.13(b)(2).
- <sup>88</sup> See TRAC Immigration, “Asylum Decisions,” April 2023, which reveals that across immigration courts nationwide in FY 2021, 2022, and 2023, asylum was granted in 36.4%, 46.1%, and 45.9% of cases, respectively.
- <sup>89</sup> 18 NYCRR § 352.25, § 351.8.
- <sup>90</sup> Joshua Solomon, “Halligan Confirmed to Court of Appeals, Cementing Liberal Majority,” *Times Union*, Apr. 19, 2023.
- <sup>91</sup> Office of the Mayor, Emergency Executive Order 402, May 10, 2023.
- <sup>92</sup> Office of the Mayor, Emergency Executive Order 406, May 15, 2023.
- <sup>93</sup> Sylvia O. Hinds-Radix, “Letter Application for Modification of Provision of Final Judgment on Consent, Dated August 26, 1981,” May 23, 2023.
- <sup>94</sup> *Ibid.*, 3n4.
- <sup>95</sup> Elizabeth Kim, “Families with Children Make Up More than 70% of Migrants in City Shelters,” *Gothamist*, June 13, 2023.
- <sup>96</sup> 192 A.D.2d 270 (N.Y. App. Div. 1993).
- <sup>97</sup> *Ibid.*, 276 (internal citations omitted).
- <sup>98</sup> NYC Admin. Code, Sec. 26-521(a).
- <sup>99</sup> Kim, “Families with Children Make Up More than 70% of Migrants in City Shelters.”
- <sup>100</sup> U.S. Citizenship and Immigration Services, “Fiscal Year 2021 Naturalization Statistics”; Nicole Ward and Jeanne Batalova, “Frequently Requested Statistics on Immigrants and Immigration in the United States,” Migration Policy Institute, Mar. 14, 2023.
- <sup>101</sup> Daniel DiMartino, “Biden’s Immigration Parole Programs Are Working,” Manhattan Institute, May 25, 2023.
- <sup>102</sup> U.S. Dept. of State, “Fact Sheet—Launch of Welcome Corps, Private Sponsorship of Refugees,” press release, Jan. 19, 2023.
- <sup>103</sup> Welcome Corps, “Frequently Asked Questions.”
- <sup>104</sup> See NYC Police Dept., “Salary and Benefits.” The salary of a police officer after 5.5 years is \$117,510 per year; \$1.5 billion is therefore enough to pay 12,764 uniformed officers of all titles at this rate (excluding pension and benefit costs), not including lower-paid civilians. Even assuming overtime, differential pay, and other costs of \$30,000 per officer, these funds would be sufficient to compensate more than 10,000 officers.