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*****FOR IMMEDIATE RELEASE*****

***ECBAWM and Fair Housing Groups Urge New York's Highest Court to
Preserve Housing Discrimination Protections***

***Appellate Ruling Threatens Critical Protections for Hundreds of Thousands of
New Yorkers Who Rely on Housing Vouchers***

***Appellate Court's Decision Was Based on Hypotheticals and Ignored
Constitutional Safeguards Afforded to Landlords***

(ALBANY, NY) — Emery Celli Brinckerhoff Abady Ward & Maazel LLP (ECBAWM), together with the University at Buffalo School of Law Civil Rights & Housing Clinic, filed an [amicus brief](#) on behalf of six fair housing and legal services organizations urging the New York Court of Appeals to reverse an appellate court's ruling and preserve a critical provision of the New York State Human Rights Law prohibiting discrimination based on lawful source of income.

The amici are CNY Fair Housing, Fair Housing Justice Center, Housing Opportunities Made Equal, Long Island Housing Services, Westchester Residential Opportunities, and Legal Assistance of Western New York. Together, the six organizations serve communities across New York State, fighting housing discrimination and helping renters who rely on Section 8 and other forms of rental assistance to find and keep housing.

An appellate court's decision, if allowed to stand, would dismantle one of New York State's most important protections for hundreds of thousands of New Yorkers who rely on rental assistance programs, making it even harder for voucher holders to find safe, affordable housing and placing them at greater risk of homelessness.

The case, *People v. Commons West, LLC, et al.*, began when New York Attorney General Letitia James sued Ithaca landlord Jason H. Fane and his affiliated companies for allegedly refusing to rent to tenants with Section 8 or Housing Choice Vouchers (HCVs).

In 2023, a Tompkins County State Supreme Court judge dismissed the case, holding that the New York State Human Rights Law is "facially unconstitutional" because landlords who rent to Section 8 voucher holders might be required to allow inspections the court deemed warrantless. An appellate court upheld that ruling.

But the constitutional problem at the heart of those decisions has never happened. The landlords in this case have never been subjected to a warrantless inspection, never been threatened with one, and never been penalized for refusing one. In fact, an inspection was never even requested because the prospective tenants were allegedly turned away for using housing vouchers before the inspection process could begin.

The Human Rights Law itself does not require or authorize warrantless inspections — or mention inspections at all — and imposes no automatic penalty on a landlord for refusing one. If an inspection is requested, landlords have clear protections: an inspection can proceed with a tenant's consent, the government can seek a warrant, or a landlord can go to court to challenge it before it happens without facing a penalty while that challenge is considered. Yet an appellate court upheld the invalidation of a statewide civil rights protection based on hypothetical circumstances, despite these safeguards for landlords' constitutional rights.

“Both the lower court and the appellate court ignored reality and the constitutional protections already afforded to landlords, basing their decisions on a hypothetical harm that has never occurred,” said **Diane L. Houk, Partner at Emery Celli Brinckerhoff Abady Ward & Maazel LLP**. “The law is clear, and so is the reality on the ground: warrantless inspections are not required, and landlords have multiple avenues to protect their constitutional rights. Yet the fate of a critical civil rights protection for New Yorkers who rely on housing vouchers now hangs in the balance. The Court of Appeals must correct this injustice, reverse the lower courts' rulings, and uphold a law that protects voucher holders from discrimination while fully respecting landlords' constitutional rights.”

“Housing vouchers are critical to reduce homelessness and neighborhood segregation. State and local governments across the country have recognized this by adopting laws to protect renters with vouchers against discrimination,” said **Professor Heather Abraham of the University at Buffalo School of Law, who directs the Civil Rights & Housing Clinic**.

“LawNY serves a 14-county area across the Finger Lakes Region and Western New York. Many of the people we serve rely on rental assistance, including Section 8 Housing Choice Vouchers, to obtain and maintain safe, stable housing. Protections against source-of-income discrimination are essential to ensuring that these subsidies provide meaningful access to housing. LawNY joined this amicus brief to highlight the importance of these protections and their impact on the communities we serve,” said **Lori O'Brien, Executive Director of Legal Assistance of Western New York, Inc.**

“FHJC is proud to stand with New York's fair housing organizations in explaining why the Constitution cannot be weaponized to discriminate against voucher holders,” said **David Berman, Legal Director of the Fair Housing Justice Center**.

“As both a fair housing and housing counseling nonprofit, we hear every day from Long Islanders struggling to find affordable housing, and they should not be denied a home because of prejudice against a valid and reliable way of paying the rent,” said **Ian Wilder, Executive Director of Long Island Housing Services, Inc.**

“The New York State Human Rights Law affords vital protections that ensure all New Yorkers have an equal opportunity to live in the housing and communities of their choice by providing an effective means to combat source of income discrimination, which cruelly denies the fundamental right to housing that is safe and affordable,” said **DeAnna Eason, Executive Director of Housing Opportunities Made Equal**.

Kacy Brady, executive director of White Plains-based nonprofit Westchester Residential Opportunities, stated that WRO was signing this amicus brief “in full confidence in the constitutionality of the Human Rights Law’s anti-discrimination protections for persons who use Housing Choice Vouchers to rent (or purchase) their homes here in the State of New York.”

“As renters across New York State know, it is a struggle to find an affordable apartment in our current housing market and vouchers are a critical way to make housing more affordable for New York families. CNY Fair Housing is proud to join in support of the Attorney General in this critical action to affirm these families’ fair housing rights and remove unlawful barriers to their access to housing,” said **Sally Santangelo, Executive Director of CNY Fair Housing.**

Background

The stakes for New Yorkers who rely on housing assistance are real. Housing vouchers are in extremely short supply across the state, with only 25 to 30 percent of applicants ultimately receiving one. In New York City alone, more than 600,000 people applied for Housing Choice Vouchers in 2024, with only 200,000 were selected by random draw. Demand is so high that voucher waitlists in Buffalo and Syracuse remain closed.

Even after securing a voucher, renters generally have just 60 to 120 days to find a qualifying apartment before they risk losing it. Voucher holders are often members of marginalized and vulnerable communities who already face other forms of illegal discrimination, housing instability and homelessness. Source of income discrimination can make finding scarce affordable housing nearly impossible, even though much, and in some cases all, of a voucher holder’s rent is paid directly to the landlord.

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