



The Public Advocate
for the City of New York

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VIA ELECTRONIC MAIL AND REGULAR MAIL

February 8, 2016

Mr. Zachary W. Carter
Corporation Counsel of the City of New York
100 Church Street
New York, NY 10007

Dear Mr. Carter:

I am writing concerning the alarming practices brought to light in the New York Daily News/Pro Publica article “*The NYPD is Kicking People Out of Their Homes, Even if They Haven’t Committed a Crime,*” February 4, 2016, available at www.propublica.org/article/nypd-nuisance-abatement-evictions. In particular, I am concerned that families are being dispossessed from their homes without adequate process.

New York City’s nuisance law permits the heads of agencies to seek the “closure” of nuisances. The City has chosen to use that law to evict whole families from their homes without their having the opportunity to appear before the Court to plead their case. If they were permitted to appear, arguably they could present a variety of defenses, including, to name but a few: 1) the premises were not used for illegal activity; 2) the offending party has left the household; 3) the alleged nuisance behavior has ceased; and 4) there are extenuating circumstances that militate against dispossession (including the age or infirmity of the tenants and residents).

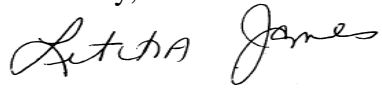
The City is exercising coercion by evicting first and litigating later. In these cases, a family who is likely not represented by counsel, may find itself homeless and bargaining with the City for the right to return. This turns the usual burden of proof in an eviction case, in which the evicting party must prove the harm, on its head. Our City can do better than this.

I understand that the law department is not acting in direct contravention of the existing law and that no evictions take place without a Judge reviewing the application and determining that sufficient evidence exists to sustain a *prima facie* charge that a nuisance is occurring. However, it is fully within the City’s power to determine that it will not seek such *ex parte* relief in cases seeking dispossession; and that in each and every case, it will give the residents the opportunity to present a defense to the Judge before whom the application is pending.

I urge the City to exercise its authority and to issue an executive directive discontinuing

the practice of evictions without process under the nuisance abatement laws.

Sincerely,

A handwritten signature in black ink that reads "Letitia James". The signature is written in a cursive style with a large, stylized initial "L".

Letitia James

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