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MEMORANDUM

TO: Sandra Thurman
White House Office of AIDS Policy

FROM: Keith Cylar
Housing Works, Inc.

DATE: January 27, 1998

RE: Housing Works' Notice of Claim to the New York City Comptroller

I am writing to update you on the status of Housing Works' lawsuit against the New York City Human Resources Administration (HRA) and a Notice of Claim which we have filed with the New York City Comptroller's Office.

As you are well aware, Housing Works is a minority-controlled, community-based, nonprofit agency providing housing, health care, advocacy, job training, and vital supportive services to homeless New Yorkers living with HIV and AIDS. Our mission is to reach the most vulnerable and under served among those affected by the AIDS epidemic: people who, in addition to struggling with homelessness and AIDS, are also burdened with chronic mental illness and/or chemical dependence. Housing Works has designed a comprehensive range of services to assist our clients in gaining stability, security, and independence so that they can live longer, healthier lives with hope and dignity.

As you may know, Housing Works' dispute with the New York City Human Resources Administration originally arose out of our negotiations with HRA for operating funding for our newly constructed East 9th Street and East New York residential facilities:

- After we successfully challenged a City demand that a US Department of Housing and Urban Development (HUD) grant for the projects be used to offset City funding, we were informed by HRA that they could go no further without an audit of our scatter site contract. Though the scatter site program received a "clean" opinion from HRA's auditor in August 1997, HRA challenged \$500,000 in program billings (out of \$12 million total billings). Housing Works has repeatedly demonstrated the validity of the challenged billings. However, each time requested records were provided, HRA raised the evidentiary hurdle. Meanwhile, HRA has used the challenged billings as an excuse for refusing to move forward with a promised extension of the Scatter Site contract, and refusing to reimburse Housing Works for over \$1 million in program costs incurred since July 1st.
- From July-October 1997, Housing Works continued to provide housing, utilities, case management and other program services to HRA's clients housed in the program in response to HRA personnel's repeated representations that the promised one-year contract extension would be processed and that Housing Works would be reimbursed for program rents and other costs. As late as October, HRA was still referring clients to the program, approving new staff for the program, requiring submission of program reports and otherwise acting as if the contract were in place. It was not until October 22, 1997, following the filing of a Notice of Claim with the City Comptroller demanding reimbursement of program costs, that HRA stated -- in a press release -- that the contract would not be extended due to unsubstantiated allegations of poor fiscal record keeping.

Over the past two and a half months, Housing Works has worked closely and cooperatively with the Comptroller's Office in their efforts to conduct an audit of our disputed Scatter Site Housing contract (which spans only a four-month period). While we understand that this audit must be an exhaustive one, and while we are prepared to continue providing all necessary documentation and records to facilitate its completion, *it is quite difficult for us to understand why a determination about certain*

fixed and indisputable expenses for which we are demanding reimbursement (such as payroll) cannot be agreed upon and released immediately.

We realize that there are "less easily verifiable" program expenses for which Housing Works billed HRA and for which we are seeking reimbursement, and that the Comptroller may not yet be prepared to make a ruling on these allocated costs. However, while the Comptroller's Office busies itself with the minute details of each expense, Housing Works is reaching a crisis point with respect to cash flow.

Until now, we have been able to manage cash flow through a variety of mechanisms including stretching out payables, leaving job vacancies open, etc. But our end-of-month payroll may be delayed by as much as one week and our cash flow situation is becoming more critical each day. We estimate that the fixed expenses which we are urging the Comptroller's Office to reimburse us for immediately may be as much as \$400,000-\$500,000. Needless to say, receipt of these funds would alleviate our short-term cash flow emergency, and would enable us to avoid layoffs, continue to provide the life-saving services our clients need, and pursue a more long-term solution to the damages caused by the City's breach of contract and tortuous interference.

For your information, in addition to filing a Notice of Claim with the Comptroller, Housing Works has undertaken a variety of activities to resolve the short- and long-term financial and programmatic difficulties caused by HRA's refusal to reimburse us for services we rendered as part of our Scatter Site Housing Program for the period July through October 1997 (the contract ended in June).

- We have commenced an Article 78 proceeding.
- We have filed a lawsuit against the City's HRA for breach of contract and tortuous interference, and various other claims under the Charter and State Constitution.

(NOTE: The lawsuit against HRA seeks immediate restoration of clients' benefits lost as a consequence of HRA's actions, payment of rental arrears to prevent eviction, payment of program costs and other injunctive relief and damages. Housing Works has won a Temporary Restraining Order compelling HRA to stop damaging housing programs operated by Housing Works and to restore benefits lost by program residents as a direct result of the City's improper actions. The Temporary Restraining Order was upheld in the Court of Appeals. This has kept our clients in their apartments and has preserved our relationships with landlords.)

- We have transferred all clients formerly served through the Scatter Site contract into other programs so that they can continue to receive the support they need.

After seven years, Housing Works' conviction remains that a home to call one's own, a diverse and comprehensive range of supportive services, and a safe, healing community form the foundation upon which individuals can transform their lives. I am confident that you will continue to support Housing Works' efforts to provide for the most vulnerable of those affected by the AIDS epidemic.

Please do not hesitate to contact me at (212) 966-0466 x 275 or to page me at (800) 759-8888 PIN# 46335 with any questions or concerns you might have about this ongoing situation.