



NEW YORK CITY COUNCIL COMMITTEE ON AGING

Tuesday, March 14, 2022, 10:00 a.m.
SUBJECT: Preliminary Budget Hearing

Good morning. My name is Peter Kempner. I am the Legal Director and Senior Law Project Director at Volunteers of Legal Service (VOLS). VOLS was established in 1984 and our purpose is to leverage private attorneys to provide free legal services to low-income New Yorkers to help fill the justice gap.

Our largest program is the VOLS Senior Law Project which serves low-income New Yorkers age 60+ primarily by providing Last Wills and Testaments, Powers of Attorney, Health Care Proxies, and other essential advance directives free of charge. These life planning documents enable our clients to properly prepare for possible incapacity and death. They allow our clients to maintain income, avoid homelessness, ensure that their dying wishes are fulfilled, and empower our clients' caregivers to obtain services necessary for our clients to access health care and age in place in the community.

While we strongly believe that all older adults should have the right documents in place as they plan for the future, we also have several initiatives that focus on vulnerable sub-sets of the older adult population. These include veteran, Spanish speaking, women identifying, and LGBTQIA+ older adults. We have created these initiatives because we know that it is important to deliver culturally competent services that are tailored to the communities we seek to serve.

The VOLS Senior Law Project also provides legal services on a range of other civil legal issues including landlord tenant matters, access to benefits, consumer matters, and other civil legal needs. We provide training and ongoing support to social workers, older adult center staff, and pro bono attorneys to address our clients' legal issues. Another important part of our program is our efforts to educate older New Yorker about the value of planning for the future and how to access our free services.

Investing in services for older adult New Yorkers is more essential than ever. According to the Center for an Urban Future¹, over the last decade the number aged 65+ older adults in New York City has increased by over 360,000 to more than 1.3 million people. They now represent 16.2% of the population, up from 12.3% of the population a decade ago. While the population of older New Yorkers has grown, so has poverty rates. It is estimated that 17.9% of the 65+ population in New York City lives below the federal poverty level, compared to 12.3% statewide. In addition, the poverty rates for Black, Hispanic, Asian, and immigrant older adults is even higher. The older adult population has also grown more diverse, in New York City, the older immigrant population has increased by 49% over the past decade.

¹ <https://nycfuture.org/research/keeping-pace-with-an-aging-new-york-state>

These numbers show that it is imperative that we must support a wide range of services to support the growing low-income older adult population in New York City, including access to free legal services. Free legal service providers are a critical component to ensuring that the needs of older New Yorkers are met. Legal services organizations are there to represent clients in eviction proceedings, fight the unlawful denial of benefits, and help obtain the documents older adults need to live in the community securely as they age.

Sadly, too few seniors have properly planned for the future. Among the U.S. population, it is estimated that only one-third have completed an advance directive. Many low-income older adults think that because they do not have resources or wealth to pass on to the next generation, they do not need to have advance directives in place. Instead of thinking about planning for the future in these terms, we encourage our clients to think about protecting what they have and accessing what they may need during their lifetime.

There are many examples of why low-income seniors experiencing cognitive or physical decline would need to have the right documents in place to stabilize their lives. A senior who has executed a Power of Attorney authorizes their agent to seek government benefits to pay for housing costs, to sign leases, to do their annual recertification for their NYCHA tenancy, to apply for and recertify for SCRIE benefits, and to deal with any issue that may arise with their apartment. A caregiver without Power of Attorney may find themselves powerless and forced to file for guardianship through the courts. Guardianship is an expensive, lengthy legal proceeding. Most low-income families cannot afford to retain counsel for a guardianship filing and it is very difficult to represent oneself in these matters. Even if a caregiver petitions successfully for guardianship, at that point the senior may have already lost their home or much needed public benefits. Documents like Power of Attorney mitigate the risk of an older adult losing their benefits, their housing, and their ability to age in place.

The Power of Attorney is just one tool we equip our clients and their caregivers with. A Health Care Proxy and Living Will can prevent unnecessary and unwanted medical interventions at the end of life. A Last Will and Testament can ensure that a family home is passed to the next generation and serve to preserve and build intergenerational wealth in communities of color. A Control of Remain form can ensure that an older adult is laid to rest according to their beliefs and wishes.

We want our clients and their caregivers to have all the tools in their toolbox that they may need. This is why the New York City Council's financial support for our program is so crucial and we thank the Council for the funding you have given to our work for older adult New Yorkers. Volunteers of Legal Services looks forward to working with the members of the City Council and the administration to ensure that New York City can best support older New Yorkers in need.

Peter Kempner, Esq.
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