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ACL
Association for Community Living

JOINT SENATE/ASSEMBLY
LEGISLATIVE HEARING ON THE 2015/2016 BUDGET
February 27, 2015

Thank you, Senator DeFrancisco and Assemblyman Farrell for this opportunity to submit testimony. We would also like to acknowledge the participation and interest of the Senate and Assembly committee members present and in particular the newly appointed Senate Mental Health and Developmental Disabilities Committee Chair, Senator Robert Ortt, and Assembly Mental Health Chair, Assemblywoman Aileen Gunther.

The Association for Community Living represents more than 110 not-for-profit community mental health agencies that provide mental health housing and other community-based rehabilitative services. Our member agencies operate over 30,000 housing units that are funded and regulated by the New York State Office of Mental Health. Virtually all of the people living in these housing units rely on Medicaid for mental health and other health related services.

I will address only budget issues in this testimony, although I added other legislative priorities at the end of this testimony for your information. These will be discussed in more detail with individual legislators at our Legislative Day on March 9th, when hundreds of staff from non-profits across the state will join us.

We thank Governor Cuomo, the Division of Budget, and the OMH team for this budget proposal, which makes important investments in housing for the most vulnerable as well as in new programs that will bring new and added services to people in their community settings.

While we applaud the executive proposal's $10 million to enhance Supported Housing rates in targeted areas of the state, and the 2% COLA for Direct care and Clinical workers, more needs to be done immediately.

Housing is the cornerstone of a successful community behavioral health service system. Without safe and affordable housing coupled with supports, very few individuals with serious psychiatric disabilities would successfully make it long-term in the community. Over the past 30 years, New York State has heavily invested to create a robust community based housing system for people with psychiatric disabilities that is larger than any other mental health

system in the country. These community based housing options allow us to transition people from costly state run hospitals; provide an appropriate alternative to jails, prisons, adult homes and nursing homes; and provide a place to live and recover for individuals that are homeless.

There are basically four OMH housing models that go from highly supervised to nearly independent. The state has focused on developing the most independent model of housing over the past 30 years, i.e. Supported Housing, so that now there are approximately 18,000 of these beds in the state. However, it continues to fund and oversee approximately 4,100 licensed congregate community residences, and 4,600 licensed supervised apartment units (combined, these are called the Community Residence Program). There are also approximately 6,100 units in larger licensed and unlicensed apartment buildings that can be permanent and provide high levels of privacy in that tenants have their own studio apartments, called CR-SROs (3,032) and SP-SROs (3,075). This array of housing has served the state's citizens well over many years, providing choice as well as an appropriate level of care for each individual. We also believe that maintaining each level of housing is very much within the letter and spirit of the Supreme Court's Olmstead decision. (However, as people are more and more physically ill, we find we need a higher level of care – above the Community Residence model. This will certainly be a discussion that we will have in the coming years with both the executive and legislative branches of government.)

Although New York State has continued to build capacity every year, and intends to continue that practice, it has not done enough to sustain the existing housing programs. When compared to inflation, OMH funded and licensed mental health housing programs have lost approximately $99 million over the past 25 years. This issue is so significant that almost all mental health advocacy groups, as witnessed by my colleagues' testimonies, have taken on housing infrastructure as a primary issue this year. We all want more beds, particularly as the homelessness crisis continues to grow, however, jeopardizing the existing beds to create new beds is not a rational policy. We need to do both.

Types of Housing:

- **Supported Housing** was originally designed to serve people who needed minimal supports to remain in the community; therefore, only minimal services were funded. However, more and more new beds are set aside for high users of Medicaid; people coming out of long-term stays at Psychiatric Centers, prisons and jails; those actively using drugs and alcohol; the chronically homeless and the chronically institutionalized in adult homes and nursing homes. These individuals require more frequent and intensive services for behavioral as well as medical problems. OMH Supported Housing is an extraordinarily inexpensive (too inexpensive) rent stipend and service program when

compared to the other alternatives. The yearly rates for Supported Housing range from $7,692 to $15,068 PER YEAR depending on what region of the state the bed is located. In many counties, the current Supported Housing rate is often inadequate to just cover rent, let alone the 24 hour on-call, staff, staff offices, furniture, utilities, help with budgeting and landlord/tenant issues as well as the other services that providers are obligated to provide. Yet, as the populations being served become more challenging, the funding for OMH-Supported Housing continues to erode year after year

- **The Licensed Community Residence Treatment Program** has two parts, congregate treatment homes from 8 to 48 beds and treatment apartments for 2-3 people. They serve people with high levels of service needs, particularly people who cannot negotiate the larger community or manage their medications. There is full medication supervision in these programs for those who need it, and most do. There has been no new development of these programs in many years – in fact, some are being transformed into more independent settings (in 2008, the non-profits operated 4,683 congregate community residence beds while in 2014, they operated 4,111). ACL is supportive of the policy to focus new development on the more independent settings, however, the higher level of service is still needed and should be resourced at higher levels. These programs may have one staff person working on a shift at very low pay so that many providers can only attract people with a high school diploma. These are jobs that need highly trained and skilled staff because they are expected to work with many seriously psychiatrically disabled people.
- **Licensed Community Residence Single Room Occupancy (CR-SRO):** These are large apartment buildings with studio apartments, however, they are licensed by the State Office of Mental Health and are required to meet all the same regulatory requirements of the smaller Community Residence Treatment Programs. These programs also admit the most disabled in the mental health system but operate with fewer and fewer staff due to erosion of funding. Some operate with two staff for 65 clients.
- **Supported Single Room Occupancy (SP-SRO):** These are also large apartment buildings with studio apartments but are not licensed. They also are expected to admit clients with higher levels of need. These programs are some of the oldest in the state and have had fewer increases than any of the other programs - some of the other programs have received one time increases. They are very much in need.

We have attached two charts. One chart shows the county by county Supported Housing shortfall in each county in the state. The other shows funding increases over 25 years in each of the four programs and how they have fared against inflation.

The aforementioned $99 million deficit for mental health housing programs would be reduced to $82 million if the additions in the executive proposal remain in the final budget agreement, i.e., $10 million for Supported Housing and the 2% COLA. However, more needs to be done now.

We are asking for the remaining $82 million, which is comprised of the following:

- $29 million for Supported Housing statewide to make up for losses from inflation and to ensure that Supported Housing is sustained, basing future rates on a reasonable formula. OMH created new SH Guidelines that will place extra financial burdens on providers, while Health Home care coordinators do not and will not take the place of housing staff.

- $23.2 million for CR-SROs to make up for losses from inflation and so that they can better serve those with challenging needs. These provide a high level of service and can be very long-term stay or permanent.

- $17 million for the CR program (includes both CRs and Treatment Apartments) to make-up for losses from inflation and to incentivize providers to admit the most challenging clients safely, particularly those from state institutions, adult homes and nursing homes – or others that need hands-on medication supervision. This would have the added value of ramping up the model's ability to rehabilitating people more quickly, most likely an outcome that the MCOs will expect when this model is moved into Managed Care. This number subtracts the estimated federal Balanced Incentive Program (BIP) revenue that will be provided for some beds for a limited amount of time.

- $12.7 million to SP-SROs, permanent housing with supports, to make up for losses from inflation and to better equip them to serve clients with more challenging service needs.

Moving behavioral health service operations to non-profits must be part of any long term plan to right size the system.

- Please support the Governor's plan to reinvest savings from closing beds at state hospitals. The savings from these closures, valued at $110,000 per bed, will result in $7.5 million this year ($15 million annualized) reinvested in new community based services.
- In addition to reinvestment, we recommend turn-keying State-Operated Community Residences to not-for-profits. These programs are identical to the ones operated by non-profits now. ACL wrote a report in 2012 that conservatively estimated a savings of $40 million per year just on personnel costs if the non-profits operated these programs, which has surely increased since then. In addition, while the state reduces the number of Community Residence beds that the

non-profits operate, it has increased the number that the State operates. In 2008, the non-profits operated 4,683 congregate community residence beds while the state operated 794. In 2014, the non-profits operated 4,111 of these beds while the state operated 1,060. So, our numbers are going down while the state's numbers are going up. We urge the legislature to look into this and support a planned move to non-profit providers.

NY/NY IV: ACL supports the recommendation of the Campaign 4 NY/NY Housing which calls for a commitment to develop 30,000 new units of supportive housing in addition to the 5,000 that are identified in the executive proposal. The previous NY/NY agreements have resulted in reduced use of shelters, hospitals, psychiatric centers and incarceration: and also provided stability with more than 75% of NY/NY III tenants remaining housed after 2 years.

SUMMARY OF ACL's BUDGET PRIORITIES

- Support the $10 million enhancement in the executive budget proposal for OMH Supported Housing programs.
- Support the 2% COLA. Redirect this COLA so that it is not specific to any staff positions, but is flexible in use.
- Add $29 million to the Supported Housing rate statewide
- Add $23.2 million for CR-SROs
- Add $17 million for the CR program (includes both CRs and Treatment Apartments)
- Add $12.7 million to SP-SROs
- Support the Governor's proposal of $22 million in Wrap-Around Supports for Persons Discharged from Prisons.
- Support an expanded NY/NY IV.

SUMMARY OF ACL's LEGISLATIVE PRIORITIES

- Prohibit Solitary Confinement for people with psychiatric or physical disabilities by passing A.1346A. Symptoms associated with these conditions are often viewed as antagonistic behavior by officers and result in inhumane 23 hour-a-day isolation for people with serious disabilities. Solitary confinement exacerbates trauma for persons with pre-existing psychiatric disabilities and has been shown to cause serious psychiatric symptoms and conditions for people with no such past histories. The state must offer treatment not torture to its most vulnerable.

- **Presumptive Medicaid Eligibility**: Presumptive eligibility for New Yorkers with behavioral health conditions leaving the prison system will extend 60 days of access to critically needed Medicaid funded community services and supports at the time an individual is released. This is critical in facilitating safe and healthy community

transitions before a more formal application and approval for full Medicaid benefits occurs. This policy will greatly reduce avoidable relapses and re-incarcerations while saving the state considerable money from the preventable use of criminal justice or inpatient facilities.

- Approve Mental Health Tax Check off Bill - A.833/S.632. Stigma is the number one reason why two out of every three people who need mental health services never seek them. Combating stigma can promote recovery for New Yorkers by providing education and resources about mental health diagnoses and services, reinforcing dignity through media campaigns, and promoting community inclusion (access to housing, jobs) by humanizing people with psychiatric disabilities. Supporting a tax check off bill is recognition of the need to combat stigma for New Yorkers with mental health needs, the proceeds of which will be utilized for public awareness campaigns to work against negative stigmatization.

- Restore the Prescriber Prevails Rule: Prescriber Prevails policies put doctor and patient choice ahead of decisions that would otherwise be made by Medicaid payers. Many ACL members require very specific medications (brand name over generic drugs at times) in order to get and stay well and to avoid harmful side effects. For the third year in a row, the Executive Budget proposes to eliminate this important protection that ensures safety and choice.

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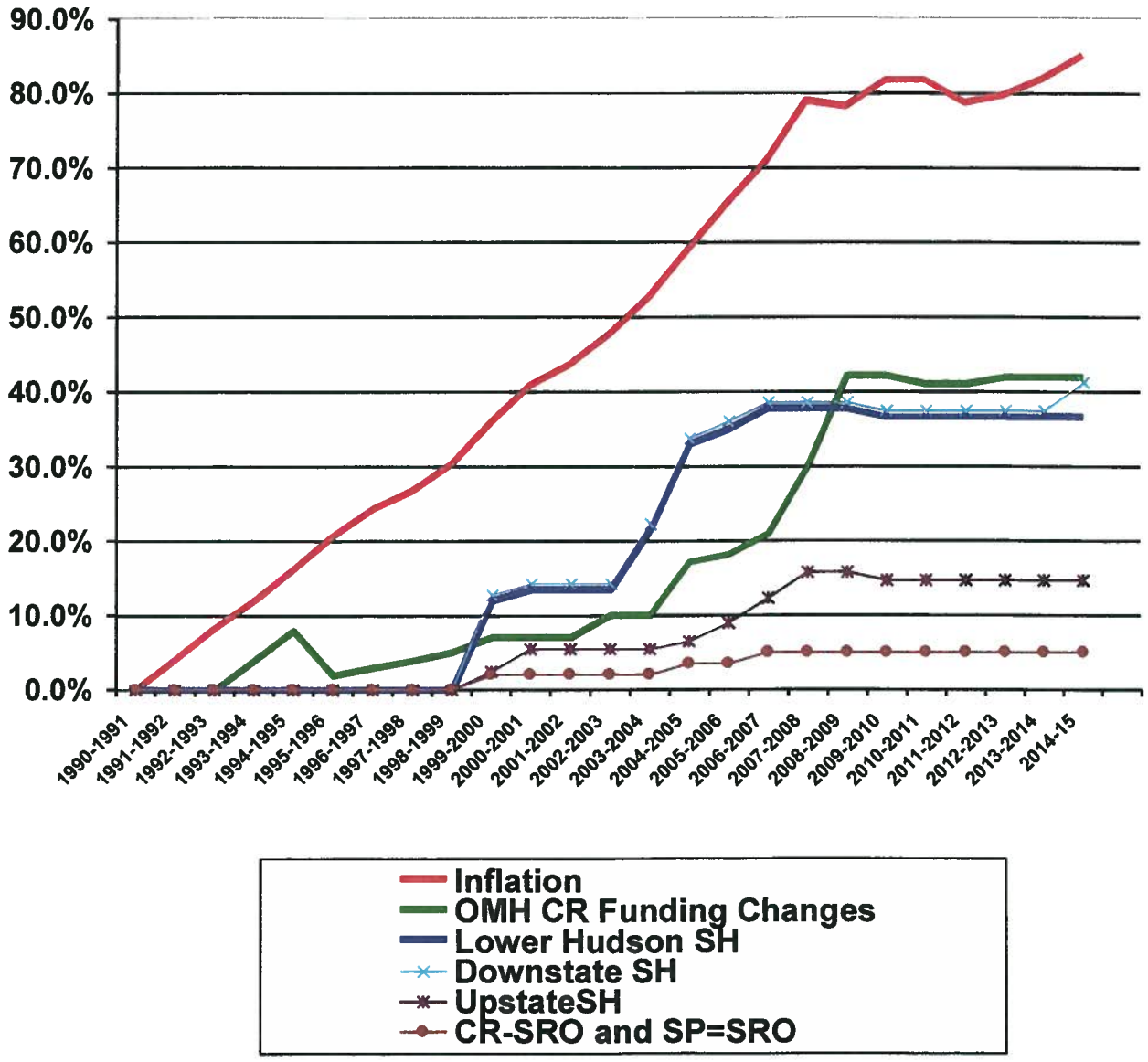
OMH RESIDENTIAL FUNDING EROSION DUE TO INFLATION

1991 to 2015



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OMH Funded Supported Housing – 2015 Adequate Rate

The Following Explains the Accompanying Chart
That Computes an Adequate SH Rate for Each County

This chart was first compiled in 2002. Each year it is updated reflecting new HUD FMR, new SSI rates, OMH increases/decreases and changes in policy.

A. **RENT**: Based on HUD Fiscal-Year 2015 Fair Year Market Rents for a **Studio apartment**

B. **RENT PAID BY RESIDENTS**: Residents pay 30% of income, typically the SSI living alone rate of $808/month, which is $242 per month or $2,904 per year.

C. **TOTAL PROPERTY COST TO AGENCY**: Column A minus column B.

D. **CONTINGENCY FUNDING**: $500. Based on current OMH minimum of $500 per recipient annually to resolve housing situations that put the resident at risk of losing his/her housing including non-collectable rent payments due to various reasons, minor maintenance not the responsibility of the landlord, furniture storage, and any other housing related emergency problems that, if not addressed, could cause loss of housing. This number has not changed since 1991.

E. **OTHER THAN PERSONAL SERVICES (OTPS)**: $1500 per SH slot - Based upon a realistic estimate of costs that includes travel, insurance, office supplies, telephone, office rent, etc.

F. **CASE MANAGER**: $30,000 for a supported housing case manager with a caseload of 20, the standard set in the most recent NYS-SH guidelines. An additional 15% was added to the base salaries in New York City, Long Island, and Westchester and Rockland counties. The rate includes 30% for fringe benefits.

G. **SUPERVISOR**: $40,000 for a supported housing supervisor with a caseload of 100 consumers or 5 case managers. An additional 15% was added to the base salaries in New York City, Long Island, and Westchester and Rockland Counties. The rate includes 30% for fringe benefits.

H. **ADMINISTRATION and OVERHEAD (A&OH)**; at 12% on columns D through G – well under the mandated 15% required under Executive Order #38.

I. **ADEQUATE SUPPORTED HOUSING RATE**: Total of cost columns C-H.

J. **CURRENT SUPPORTED HOUSING RATE**: This is the rate SOMH pays by region for each supported housing unit in each county as of January, 2014. This rate received a 1.1% **Reduction** in 2011.

K. **SHORTFALL**: This number is the difference between column I and column J per bed.

L. **NUMBER OF SH BEDS:** The actual number of beds in each county. This number is from the December 2013, OMH Residential Program Indicators Report.

M. **TOTAL COUNTY SHORTFALL**: The shortfall per bed (Column K) multiplied by the number of beds in the county (Column L) equals the actual shortfall in dollars specific to each county.

	HUD FAIR MARKET RENT	RENT PAID BY RESIDENTS	TOTAL PROPERTY COST TO AGENCY	CONTINGENCY FUNDING	O.T.P.S.	HOUSING DIRECT CARE STAFF	SUPERVISOR	A&OH at 12%	ADEQUATE SUPPORTED HOUSING RATE PER BED/YEAR	CURRENT SUPPORTED HOUSING RATE	SHORTFALL PER BED PER YEAR	NUMBER OF S.H. BEDS	TOTAL COUNTY SHORTFALL
	A	- B	= C	+ D	+ E	+ F	+ G	+ H	= I	- J	= K	x L	= M
ALBANY	8280	2909	5371	500	1,200	1950	659	1162	10,842	9299	1,543	270	416,502
ALLEGANY	6336	2909	3427	500	1,500	1950	659	1205	9,241	8448	793	39	30,943
BRONX	14,352	2909	11443	500	1,000	2243	757	2391	18,334	15068	3,266	1974	6,447,972
BROOME	6588	2909	3679	500	1,200	1950	659	1198	9,186	7692	1,494	161	240,566
CATTARAUGUS	6204	2909	3295	500	1,500	1950	659	1186	9,090	8448	642	109	69,934
CAYUGA	6648	2909	3739	500	1,500	1950	659	1252	9,600	7692	1,908	61	116,400
CHAUTAUQUA	6192	2909	3283	500	1,200	1950	659	1139	8,731	8448	283	89	25,169
CHEMUNG	5772	2909	2863	500	1,200	1950	659	1076	8,248	8448	-200	135	-27,027
CHENANGO	6240	2909	3331	500	1,500	1950	659	1191	9,131	7692	1,439	51	73,389
CLINTON	7068	2909	4159	500	1,500	1950	659	1315	10,083	7692	2,391	60	143,472
COLUMBIA	8856	2909	5947	500	1,500	1950	659	1583	12,139	9299	2,840	39	110,776
CORTLAND	7128	2909	4219	500	1,500	1950	659	1324	10,152	7692	2,460	53	130,391
DELAWARE	6792	2909	3883	500	1,500	1950	659	1274	9,766	7692	2,074	30	62,214
DUTCHESS	10044	2909	7135	500	1,200	1950	659	1717	13,161	12902	259	236	61,030
ERIE	6972	2909	4063	500	1,200	1950	659	1256	9,628	8448	1,180	899	1,060,640
ESSEX	6636	2909	3727	500	1,500	1950	659	1250	9,586	7692	1,894	32	60,621
FRANKLIN	6732	2909	3823	500	1,500	1950	659	1265	9,697	7692	2,005	47	94,226
FULTON	6696	2909	3787	500	1,500	1950	659	1259	9,655	7692	1,963	30	58,902
GENESEE	5496	2909	2587	500	1,200	1950	659	1034	7,930	8448	-518	51	-26,398
GREENE	8028	2909	5119	500	1,500	1950	659	1459	11,187	9299	1,888	30	56,646
HAMILTON	6168	2909	3259	500	1,500	1950	659	1180	9,048	7692	1,356	4	5,425
HERKIMER	6612	2909	3703	500	1,200	1950	659	1202	9,214	7692	1,522	30	45,654
JEFFERSON	8424	2909	5515	500	1,500	1950	659	1519	11,643	7692	3,951	66	260,740
KINGS	14352	2909	11443	500	1,000	2243	757	2391	18,334	15068	3,266	2,621	8,561,365
LEWIS	6468	2909	3559	500	1,500	1950	659	1225	9,393	7692	1,701	53	90,164
LIVINGSTON	7020	2909	4111	500	1,200	1950	659	1263	9,683	8448	1,235	40	49,400
MADISON	6660	2909	3751	500	1,500	1950	659	1254	9,614	7692	1,922	28	53,816
MONROE	7020	2909	4111	500	1,200	1950	659	1263	9,683	8448	1,235	527	650,845
MONTGOMERY	7212	2909	4303	500	1,200	1950	659	1292	9,904	7692	2,212	37	81,837
NASSAU	13200	2909	10291	500	1,200	2243	757	2249	17,240	15068	2,172	925	2,008,776
NEW YORK	14352	2909	11443	500	1,000	2243	757	2391	18,334	15068	3,266	1512	4,938,872
NIAGARA	6972	2909	4063	500	1,200	1950	659	1256	9,628	8448	1,180	150	176,970
ONEIDA	6612	2909	3703	500	1,200	1950	659	1202	9,214	7692	1,522	228	346,970
ONONDAGA	6660	2909	3751	500	1,200	1950	659	1209	9,269	7692	1,577	389	613,453
ONTARIO	7020	2909	4111	500	1,200	1950	659	1263	9,683	8448	1,235	71	87,685
ORANGE	10044	2909	7135	500	1,200	1950	659	1717	13,161	12902	259	280	72,408
ORLEANS	7020	2909	4111	500	1,200	1950	659	1263	9,683	8448	1,235	29	35,815
OSWEGO	6660	2909	3751	500	1,500	1950	659	1254	9,614	7692	1,922	62	119,164
OTSEGO	7488	2909	4579	500	1,500	1950	659	1378	10,566	7692	2,874	34	97,723
PUTNAM	14352	2909	11443	500	1,200	1950	659	2363	18,115	12902	5,213	67	349,258
QUEENS	14352	2909	11443	500	1,000	2243	757	2391	18,334	15068	3,266	1871	6,111,528
RENSSELAER	8280	2909	5371	500	1,200	1950	659	1452	11,132	9285	1,847	118	217,946
RICHMOND	14352	2909	11443	500	1,000	2243	757	2391	18,334	15068	3,266	492	1,607,093
ROCKLAND	14352	2909	11443	500	1,200	2243	757	2421	18,564	13453	5,111	179	914,950
SARATOGA	8280	2909	5371	500	1,200	1950	659	1452	11,132	9299	1,833	48	87,984
SCHENECTADY	8280	2909	5371	500	1,200	1950	659	1452	11,132	9299	1,833	146	267,618
SCHOHARIE	8280	2909	5371	500	1,200	1950	659	1452	11,132	8448	2,684	23	61,732
SCHUYLER	6192	2909	3283	500	1,500	1950	659	1184	9,076	8448	628	7	4,395
SENECA	5832	2909	2923	500	1,500	1950	659	1130	8,662	8448	214	32	6,842
ST.LAWRENCE	6468	2909	3559	500	1,500	1950	659	1225	9,393	7692	1,701	98	166,718
STEUBEN	5772	2909	2863	500	1,500	1950	659	1121	8,593	8448	145	127	18,390
SUFFOLK	13200	2909	10291	500	1,200	2243	757	2249	17,240	15068	2,172	1455	3,159,751
SULLIVAN	8232	2909	5323	500	1,500	1950	659	1490	11,422	9299	2,123	66	140,105
TIOGA	6588	2909	3679	500	1,200	1950	659	1198	9,186	8448	738	27	19,931
TOMPKINS	9360	2909	6451	500	1,500	1950	659	1659	12,719	8448	4,271	78	333,138
ULSTER	8268	2909	5359	500	1,200	1950	659	1450	11,118	9299	1,819	150	272,880
WARREN	6660	2909	3751	500	1,200	1950	659	1209	9,269	9299	-30	11	-330
WASHINGTON	6660	2909	3751	500	1,200	1950	659	1209	9,269	9299	-30	49	-1,470
WAYNE	7020	2909	4111	500	1,200	1950	659	1263	9,683	8448	1,235	77	95,095
WESTCHESTER	14352	2909	11443	500	1,200	2243	757	2421	18,564	15068	3,496	907	3,171,280
WYOMING	5472	2909	2563	500	1,500	1950	659	1076	8,248	8448	-200	22	-4,404
YATES	6660	2909	3751	500	1,500	1950	659	1254	9,614	8448	1,166	11	12,826
												17,543	44,516,703

Jan. 2015 SUPPORTED HOUSING SHORTFALLS BY COUNTY – STUDIO APARTMENT