

**Vincent v Adams**

2024 NY Slip Op 32696(U)

August 1, 2024

Supreme Court, New York County

Docket Number: Index No. 450563/2024

Judge: Lyle E. Frank

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**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

**PRESENT: HON. LYLE E. FRANK PART 11M**

*Justice*

-----X INDEX NO. 450563/2024

MARIE VINCENT, CAROLINA TEJEDA, MARY CRONNEIT,  
SUSAN ACKS,

Plaintiff,

- v -

MAYOR ERIC ADAMS, THE CITY OF NEW YORK,

Defendant.

02/14/2024,  
02/21/2024,  
04/22/2024,  
06/07/2024,  
06/21/2024  
MOTION DATE

001 002 004  
005 006  
MOTION SEQ. NO.

**DECISION + ORDER ON  
MOTION**

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 001) 4, 10, 42, 46, 47, 50, 51, 52, 53, 54, 55, 56, 65, 66

were read on this motion to/for ARTICLE 78 (BODY OR OFFICER).

The following e-filed documents, listed by NYSCEF document number (Motion 002) 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 48, 57, 58, 59, 60, 61, 62, 63, 67, 68, 69, 70, 71, 72

were read on this motion to/for MISCELLANEOUS.

The following e-filed documents, listed by NYSCEF document number (Motion 004) 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83

were read on this motion to/for LEAVE TO FILE.

The following e-filed documents, listed by NYSCEF document number (Motion 005) 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 111, 112, 124

were read on this motion to/for PREL INJUNCTION/TEMP REST ORDR.

The following e-filed documents, listed by NYSCEF document number (Motion 006) 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 125, 127, 128, 129, 130, 131, 132

were read on this motion to/for PREL INJUNCTION/TEMP REST ORDR.

This petition arises out of allegations that respondents are refusing to implement new laws enacted by the City Council. Petitioners seek an order certifying a class of all New York City households that are eligible to receive a City Family Homelessness and Eviction Prevention

Supplement (“City FHEPS”) voucher under the newly enacted laws, Local Laws 99, 100, 101, and 102 of 2023, (the “City FHEPS Reform Laws”) and directing respondents and their agencies to immediately implement the City FHEPS expansion by offering vouchers to petitioners and all similarly situated applicants who are eligible under the newly enacted laws. Petitioners are New York City tenants who are in jeopardy of eviction and families or individuals who reside in shelter or are otherwise homeless.

Respondents, Mayor Eric Adams and the City of New York, contend that the City Council’s enactment of the City FHEPS Reform Laws is unlawful based on preemption by state law. Respondents also argue that to the extent the Court declines to find that the subject laws are preempted, mandamus is inappropriate, and the appropriate remedy is declaratory judgment as to the validity of the new laws.

The City Council passed the City FHEPS Reform Laws which were ultimately vetoed by Mayor Eric Adams. The Council then overrode the Mayor’s veto by a supermajority, pursuant to its powers granted by the New York City Charter § 37(b). Respondents refused to implement those laws guided by the belief that the laws are legally invalid and are preempted by the New York State Social Services Law (the “SSL”) and should have been passed through referendum. The issue is not whether the Council’s action of overriding the Mayor’s veto was lawful but rather whether the subject of the legislation is preempted by state law.

### Intervention

First, the Court will address the multitude of parties seeking to intervene in this special proceeding, motions sequences 002, 003, 005, and 006. As to, motion sequence 002, the parties consented to the City Council’s intervention in this action as per a stipulation between the parties. *See* NYSCEF Doc. 49.

As to the remaining motions of the proposed petitioners and respondents, the Court does not find that intervention is appropriate in this matter. The sole issue before this Court is whether the respondents are required to implement the laws, as passed by the City Council, not whether the proposed intervenors would be eligible for such benefits. To the extent the proposed intervenors already have matters pending in Housing Court, that is the appropriate venue for those matters. A determination here that the respondents are not implementing the laws as passed by the City Council is not a determination that any of the proposed petitioner intervenors would be entitled to the benefits that the laws seek to provide. It is for those same reasons that the Court finds class certification inappropriate.

*The Underlying Petition*

Preliminarily, it appears undisputed that once the City Council has passed valid legislation the Mayor has a duty to implement the legislation (*Council of City of New York v Bloomberg*, 6 NY3d 380, 389 [2006]). “[A] strong presumption of validity attaches to legislative enactments, imposing upon a party who challenges the constitutionality of a statute a heavy burden of establishing unconstitutionality beyond a reasonable doubt” (*Metro. Package Store Assn. v Koch*, 89 AD2d 317, 324 [3d Dept 1982]).

Petitioners’ position is that the City FHEPS Reform Laws are neither preempted by the SSL, and further contend, that the Mayor’s argument of preemption is violative of the Municipal Home Rule, which provides, pursuant to the New York State Constitution, that localities may adopt and amend local laws for the well-being of its citizens. Petitioners contend that the City FHEPS Reform Laws are an exercise of that power.

The parties primary focus on preemption involves language in the SSL, specifically “social services districts.” Petitioners contend that the local legislature, the City Council, not

only the City Department of Social Services is meant to be included in the definition of a social service district, thus it is with equal authority to supplement the public assistance programs pursuant to the SSL. Petitioners argue that the NYS SSL contemplates that local legislatures will fill in the gaps and supplement rental assistance programs.

In opposition, respondents contend that the entity serves as the “social services district” is the City DSS, not the City Council, that has received authority from the State to set social services policy. For this reason, the Council’s new laws conflict with that state law delegation of policymaking authority and are preempted.

### Discussion

The Court finds that respondent have, beyond a reasonable doubt, established that the City FHEPS Reforms Laws are invalid, based on field preemption. The Court agrees with respondents, that the Court of Appeals holding in *Beaudoin*, is binding precedent and ends the inquiry regarding the state delegation of authority.

In New York State, the social services program is a State program, administered through the 58 local social services districts under the general supervision of the State Department of Social Services and the State Commissioner of Social Services. (NY Const, art XVII, § 1; Social Services Law, §§ 17, 20, 34.) The county commissioners are denominated by statute "agents" of the State department (Social Services Law, § 65, subd 3). In the administration of public assistance funds, whether they come from Federal, State or local sources, the authority and responsibility is that of the county commissioners of social services, not the counties; the local commissioners act on behalf of and as agents for the State. Each is a part of and the local arm of the single State administrative agency.

(*Beaudoin v Toia*, 45 NY2d 343, 347 [1978]). The SSL does not provide a role for local legislation in the administration of social services programs.

“The doctrine of preemption acts as a significant restriction on the home rule powers of municipalities. Local laws may be inconsistent with and preempted by state law either because

the legislature has occupied the relevant field of regulation or because the local law conflicts with state law” *Police Benevolent Ass’n of City of New York, Inc. v City of New York*, 40 NY3d 417, 423 [2023] (citing *Albany Area Bldrs. Assn. v Town of Guilderland*, 74 NY2d 372, 377 [1989]).

The Court finds that entity that serves as the “social services district” that has received authority from the State to set social services policy is City DSS, and consequently the Council’s new laws conflict with that state law delegation of policymaking authority and is preempted.

The Court is also not persuaded by petitioners’ contention that the Mayor’s own previous practice somehow waives respondents’ rights from raising the issue of preemption now. The Court does not find that while this current mayoral administration, and possibly prior administrations, failed to raise this issue, that failure is an admission that the subject matter here is not field preempted. The Council provides no legal basis for this proposition and the Court declines to adopt it in this context, where, to this Court, both statutory and binding Court of Appeals precedent mandates the result that this Court adopts. Based on the foregoing, the petitions are denied.

Accordingly, it is hereby

ORDERED that the petitions, motions sequences 001 and 002, and motions sequences 003, 005, and 006 are hereby denied.

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LYLE E. FRANK, J.S.C.

<u>8/1/2024</u> DATE										
CHECK ONE:	<input checked="" type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	DENIED	<input type="checkbox"/>	NON-FINAL DISPOSITION	<input checked="" type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>	OTHER
APPLICATION:	<input type="checkbox"/>	GRANTED	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	REFERENCE
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN								