

Vulnerable Adults Urgently Need the City to Renew Funding of the Guardianship Project

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The Guardianship Project serves as court-appointed agency guardians to a vulnerable, mostly indigent population—elderly and disabled people who lack family or other supports. Our services enable clients to live as independently as possible. The COVID-19 pandemic and looming budget cuts are now threatening the lives of Guardianship clients: many have already died, mostly in nursing homes.

As this brief explains, without renewed funding from the city for the Guardianship Project, hundreds of New Yorkers could be shunted from their own apartments into nursing homes and other institutions. The total cost of the Guardianship Project to the city is only \$750,000 a year—a tiny fraction of its \$89.3 billion annual budget. Without this funding, we at the Guardianship Project will be unable to continue to serve our clients, coordinating their care, monitoring their health, and delivering money, food, medications and other essential resources. By allowing the Guardianship Project to continue supporting vulnerable New Yorkers, keeping many of them out of costly, dangerous institutions, renewing city funding to the Guardianship Project will not only save taxpayer dollars, it will also save lives.

Guardianship Project background

The Guardianship Project casts a spotlight on a desperately missing element of the social safety net. Through the role of court-appointed guardian, the project humanely addresses the critical needs of highly vulnerable clients, saves public dollars, and allows key institutions to operate more effectively. The Guardianship Project provides services in New York City and accepts cases regardless of the client's economic status. We offer a highly regarded holistic guardianship-services model. Project staff include lawyers, social workers, finance associates, property managers, and benefits coordinators, who oversee an array of services and help clients remain independent and engaged in their communities. The Guardianship Project provides an essential support network

for people who require services—regardless of their ability to pay—and helps clients improve their quality of life.

Because there is no public guardianship system in New York State, judges typically appoint attorneys to serve as guardians for elderly people and people with disabilities who have no family member or friend willing and/or able to care for them. But few lawyers take cases when clients have high needs and limited assets. To ensure the highest possible quality of service, the Guardianship Project assigns to each client (according to the person's court-determined needs) an attorney, a case manager, and a finance associate, and always maintains a case manager-to-client ratio of 1:25. Staff visit clients as frequently as needed and are on call 24 hours a day, seven days a week, even now, during the coronavirus pandemic.

Guardianship during the COVID-19 crisis

Prior to COVID-19, our project was actively providing services to 175 clients in New York City. Of these people, 40 percent resided in nursing homes and 60 percent lived in their own residence or in an assisted living home. Once the crisis hit, the divergence in health outcomes between our clients in nursing homes and in community-based care was stark. Of the 39 clients who tested positive or were symptomatic of the COVID-19 virus, 32 were in nursing homes or a medical institution. Put another way, 82 percent of Guardianship Project clients with coronavirus symptoms were institutionalized. The comparative death figures are even more staggering. As of late May, 23 clients had died since the outbreak began. Twenty of them were in nursing facilities, compared to only two clients who had been living in their own homes. This means that to date, nearly 90 percent of our clients who have not survived the coronavirus pandemic were in nursing homes.

These tragic numbers are being investigated, but we know that, during the first weeks and months of the pandemic, nursing homes did not get the resources or the attention of policymakers that they needed. Administrators at nursing homes where Guardianship Project clients reside reported they were understaffed and lacked the appropriate personal protective equipment for staff and residents. One client who is ill from COVID-19 is completely bedbound and in a private room, indicating that a staff member transmitted the virus to them. Some of the nursing homes have also been difficult to reach for status updates on Guardianship Project clients. For example, on one day in April, a Guardianship Project staff member tried to get updates on 29 clients in facilities—calling several numbers and leaving multiple messages for each client—and succeeded at getting updates on only 12 clients (a 43 percent success rate). Personnel at many nursing homes stated early in the pandemic that they were not able to test or treat symptomatic residents, but were isolating and monitoring them until their condition worsened, at which point they would be sent to a hospital.

“We need to think about a time where more and more of the care given to our seniors is given to them at home.”
—Mayor Bill de Blasio¹

Since the COVID-19 crisis hit, at least one other guardianship organization has announced that it will cease operations. Integral Guardianship Services, based in Brooklyn, has handled as many as 370 cases annually. In terms of court resources, the cost of finding others to act as guardians for these clients will be extremely high in the near term. The clients are without family or friends to support them, and the list of private guardians taking new cases is dwindling. The Guardianship Project would need additional funding and staff resources in order to add to our caseload. At the same time—and in the middle of a pandemic—the project is facing budget cuts that would require us to downsize. Without city funding for the upcoming fiscal year, Guardianship Project

clients are likely to become further institutionalized at a higher cost to taxpayers down the road. In addition to greater fiscal costs, sending vulnerable seniors to nursing homes at this moment could be tantamount to a death sentence.

Medical decision-making during COVID-19

The Guardianship Project's multidisciplinary team model is particularly well-suited to the challenges of the COVID-19 pandemic. Since the coronavirus outbreak, the Guardianship Project has cared for clients remotely and has quickly adjusted the services we provide. We have advocated for clients to get medical treatment, made decisions about their treatment, and convinced medical professionals that our clients' lives have value. This is especially important because people without family, friends, or guardians are routinely prioritized last when decisions are being made about who gets what level of care in overtaxed medical settings.

This crisis highlights the need for a strong guardianship safety net for those without family or friends and with limited financial resources. Guardians serve as surrogates for medical decision-making and end-of-life care; the Guardianship Project's 15 years of experience working with doctors and nurses in hospitals and with care teams in nursing facilities has prepared us to navigate these decisions during the uncertain and constantly changing COVID-19 environment in New York City.

COVID-19 has changed how medical decisions are made, relating to when to send someone to the hospital and when to avoid the hospital; about intubation and ventilator use; and about feeding tubes and do-not-intubate/-resuscitate orders (DNIs/DNRs). The importance of advanced directives and prepaid funeral arrangements—especially for those who are poor or alone or both—has become apparent. The Guardianship Project makes sure that prepaid funeral contracts are in place for all elderly clients and, when a client dies, we notify relatives and make funeral and burial arrangements.

Guardianship facts

Through an intensive case-management model, the Guardianship Project designs and implements an individualized care plan for each of our clients. But many Guardianship clients are elderly people who would be forced to move into nursing homes or institutions if funding disappears.

These key facts illustrate the impact of the COVID-19 crisis on the Guardianship Project and what is at stake if funding is eliminated:

Annual number of Adult Protective Services cases:	Approximately 2,200
Annual number of Guardianship Project active cases:	200
Annual cost of Guardianship Project case management:	\$2 million
Total number of clients who are COVID-19 positive or symptomatic:	39
Number of clients who are COVID-19 positive or symptomatic and reside in a nursing home or medical institution:	32
Number of clients who have died since the COVID-19 pandemic began:	23
Number of deceased clients who were in nursing homes:	20
Increase in the client rate of death over the previous one-year average:	1,200 percent
Current city funding for Guardianship Project's 200 cases:	\$266,500
Estimated taxpayer savings to Medicaid annually for 200 Guardianship Project clients:	Approximately \$3.7 million ²
Request to the city to cover the upcoming fiscal year:	\$750,000

Guardianship case studies

A financially stable married couple in their early 80s were living together in a nursing facility after they were both diagnosed with dementia. They had no children and no immediate family. Unable to make decisions about finances or health care, the court assigned guardianship to help return the couple to their longtime residence. The Guardianship Project quickly developed a sustainable budget and resolved outstanding debt to save the clients' apartment. After a year of monthly visits with the couple, the wife was hospitalized again and was declining rapidly. Along with hospital physicians, the Guardianship Project was able to have her discharged—to return home with hospice care. In the comfort of her home, she dramatically improved; though bedbound and frail, she no longer required hospice care. During the initial weeks of COVID-19, she fell ill again. Having no way to obtain her prescribed medication via usual procedures, one of our case managers immediately drove to Queens, got the prescription filled by Pills-On-Wheels, and delivered it to her. She is again stable and doing well at home.

One of the Guardianship Project's clients—Ms. R, a 93-year-old woman with dementia—tested negative for COVID-19 after she was diagnosed with COVID-19 in March 2020 and spent more than a month in Mount Sinai Hospital. Due to the Guardianship Project's intervention, she returned home with 24-hour care in late April instead of being sent to a nursing home facility. Ms. R, perhaps one of the oldest survivors of COVID-19 in New York State, has fully recovered from the virus.

Ms. L had lived in a New York City Housing Authority (NYCHA) apartment for nearly 50 years with her son, who has a developmental disability. When Ms. L's condition declined and she could no longer maintain the apartment on her own, NYCHA moved to terminate her tenancy and evict her. The community guardian appointed to care for Ms. L and her son was unable to save the tenancy and agreed to forfeit the apartment. Before NYCHA could proceed with the eviction, the Guardianship Project was appointed successor guardian of Ms. L and worked relentlessly to bring about a heavy-duty cleaning of her apartment. Prior to the COVID-19 outbreak, the Guardianship Project was able to obtain necessary home care services and work with Ms. L's home care team to keep the apartment clean and sanitary. After many years of battling NYCHA to stop the eviction of the family, our staff ultimately succeeded. By using novel case law pertaining to reasonable accommodation for people under guardianship, our legal staff negotiated a settlement with NYCHA that allowed Ms. L to remain in her apartment with her son indefinitely.

Endnotes

- 1 Shant Shahrigian, "NYC to Boost Testing, Staffing at Nursing Homes: Mayor de Blasio," *New York Daily News*, May 20, 2020, <https://www.nydailynews.com/coronavirus/ny-coronavirus-nursing-homes-bill-de-blasio-20200520-lrulqxf3nht3dt3zaf77cxdye-story.html>
- 2 Extrapolated from: *The Guardianship Project, Medicaid Savings Estimate 2014-2015* (New York: The Vera Institute of Justice, 2015), on file with authors.

For more information

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